ous Materials Transportation Act to authorize additional appropriations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. DEVINE):

H.R. 5359. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to discharge obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances; to the Committee on Interstate and Foreign Commerce.

H.R. 5360. A bill to increase benefits provided to American civilian internees in Southeast Asia; to the Committee on Interstate and Foreign Commerce.

H.R. 5361. A bill to amend the Consumer Product Safety Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE:

H.R. 5362. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 5363. A bill to amend chapter 641 of title 10, United States Code, so as to require certain proceeds from the disposition of lands within the naval petroleum reserves to be made available to the States within which such lands are located; to the Committee on Armed Services.

By Mr. BROOMFIELD:

H.J. Res. 346. Joint resolution proposing an amendment to the Constitution of the United States relative to the assignment of public school students; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts (for himself, Mr. JAMES V. STANTON, Mr. DENT, and Mr. ROLAND):

H.J. Res. 347. Joint resolution to designate April 24, 1975, as "National Day of Remembrance of Man's Inhumanity to Man"; to the Committee on Post Office and Civil Service.

Mr. FITHIAN:

H.J. Res. 348. Joint resolution providing for the designation and adoption of the American marigold as the national floral emblem of the United States; to the Committee on House Administration.

By Mr. HELSTOSKI (for himself, Mr. O'NEILL, Mr. CONYERS, and Mr. MAGUIRE):

H.J. Res. 349. Joint resolution to designate April 24, 1975, as "National Day of Remembrance of Man's Inhumanity to Man"; to the Committee on Post Office and Civil Service.

By Ms. HOLTZMAN (for herself, Mr. BADILLO, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mrs. SPELLMAN, Mr. STARK, Mr. CHARLES H. WILSON of California, and Mr. WOLFF):

H.J. Res. 350. Joint resolution proposing an amendment to the Constitution of the United States with respect to the pardon power; to the Committee on the Judiciary.

By Mr. KEMP:

H.J. Res. 351. Joint resolution requesting the President to issue a proclamation designating the last schoolday in April as "National Pledge of Allegiance to Our Flag Day"; to the Committee on Post Office and Civil Service.

By Mr. MADIGAN (for himself, Mr. HYDE, Mr. MCCLORY, and Mr. RAILSBACK):

H.J. Res. 352. Joint resolution to authorize the President to designate the period from June 8, 1975, through June 15, 1975, as "National Wheelchair Athletes' Week"; to the Committee on Post Office and Civil Service.

By Mr. MAHON:

H.J. Res. 353. Joint resolution to provide for the reappointment of Dr. John Nicholas Brown as a citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

H.J. Res. 354. Joint resolution to provide for the reappointment of Thomas J. Watson, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on House Administration.

By Mrs. MINK:

H.J. Res. 355. Joint resolution proposing an amendment to the Constitution of the United States to provide for an election for the office of President and the office of Vice President in the case of a vacancy both in the office of President and the office of Vice President, or in the case of a vacancy in the office of President if the person serving as Vice President was chosen as provided by the 25th article of amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. DERWINSKI (for himself, Mr. ADDABBO, Mr. CARNEY, Mr. COTTER, Mr. ERLENBORN, Mr. GAYDOS, Mr. GRASSLEY, Mr. HANNAFORD, Mr. HELSTOSKI, Mr. HICKS, Mr. KEMP, and Mr. MURTHA):

H. Con. Res. 189. Concurrent resolution expressing the sense of Congress concerning recognition by the European Security Conference of the Soviet Union's occupation of Estonia, Latvia, and Lithuania; to the Committee on International Relations.

Mr. FLOOD (for himself, Mr. ANNUNZIO, Mr. BUCHANAN, Mr. BURKE of Massachusetts, Mr. COTTER, Mr. DERWINSKI, Mr. DINGELL, Mr. GIAIMO, Mr. GILMAN, Mr. KOCH, Mr. PATTEN, Mr. ROE, Mr. STRATTON, Mr. VANDER VEEN, Mr. WALSH, and Mr. ZEFERETTI):

H. Con. Res 190. Concurrent resolution requesting release of two Ukrainian intellectuals; to the Committee on International Relations.

By Mr. HOWARD:

H. Res. 354. Resolution creating a select committee to study the impact and ramifications of the Supreme Court decisions on abortion; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER:

67. Memorial of the Legislature of the Commonwealth of Virginia, relative to funds for the Washington Metropolitan Area Transit Authority; to the Committee on the District of Columbia.

68. Also, memorial of the Legislature of the State of South Dakota, relative to problems of reservation and nonreservation residents of South Dakota; to the Committee on Interior and Insular Affairs.

69. Also memorial of the Senate of the State of Hawaii, relative to expanding public assistance programs; to the Committee on Ways and Means.

70. Also, memorial of the Senate of the State of Hawaii relative to the procedure for allocation of public assistance funds; to the Committee on Ways and Means.

71. Also, memorial of the Senate of the State of Hawaii, relative to the program of aid to families with dependent children; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CORMAN:

H.R. 5364. A bill to authorize the President to appoint Capt. Ferdinand Mendenhall, U.S. Navy Reserve (retired), to the grade of rear admiral on the Reserve Retired List; to the Committee on Armed Services

By Mr. EILBERG:

H.R. 5365. A bill for the relief of certain Federal employees; to the Committee on Post Office and Civil Service.

SENATE—*Friday, March 21, 1975*

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

The Reverend John L. Pharr, stated clerk, National Capital Union Presbytery, and pastor, Fifteenth Street Presbyterian Church, Washington, D.C., offered the following prayer:

God of all times, space, and eternity, your mercies are new to us every morning. Amidst the changing of the seasons you are forever the same. On this first day of spring speak to us of the possibilities of new beginnings. Evidence abounds of the resurgence of life in the world of nature. Remind us of the need to renew our souls and create in us clean hearts, O God.

Hear our prayer for these Senators here gathered for another day of noble work. As they endeavor to write our Nation's laws upon the tablets of stone, write upon their hearts your law and your eternal truths which speak of justice, mercy, and righteousness. Help them to do that which they cannot do by themselves; do for them that which they cannot do at all; and give them the insights to know the difference. Grant them wisdom and courage for the facing of this hour and the living of these days. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, March 20, 1975, be approved.

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

THE WORK OF CONGRESS

Mr. MANSFIELD. Mr. President, I have been reading in the press about Mr. Ron Nessen, the press attaché to the President of the United States. He stated most recently that the Congress has been playing to the galleries. I would suggest to Mr. Nessen that he come up and take a look at the empty galleries, it is now 8:05 a.m., to which we are playing. I would suggest, also, that he take note of the hours which the Senate has been putting in throughout this year, and I would extend an invitation to Mr. Nes-

sen to come up and to observe at first-hand, rather than to comment in isolation about what Congress is doing. He is not establishing good relations between the President and Congress.

Mr. GRIFFIN. Mr. President, I shall respond briefly to the majority leader's comments by pointing out that Mr. Nessen is only stating facts when he suggests that it is not the President who is abandoning our allies in Southeast Asia—it is Congress. And it is Congress that will have to bear the responsibility which history will attach to its action. Perhaps I should say its inaction.

In another area, I think the President is perfectly justified when he points out that Congress is taking an inordinate amount of time in passing the very urgently needed tax legislation. It is not beyond the ability of the American people to take notice of the fact that some of the actions—and inaction—by Congress with respect to this tax legislation do not reflect the highest degree of responsibility.

I join the majority leader in taking note of the long hours that Congress is working. I do not believe that anyone speaking for the President has suggested that Congress is not putting in long hours. I hope, however, that those long hours will produce better results than we have seen so far.

Mr. MANSFIELD. Mr. President, may I say that I was not referring to President Ford, for whom, I reiterate, I have a great deal of affection and respect. I am referring to the statements that are being issued every hour on the hour by the White House Press Secretary.

I point out, all things considered, and especially in view of the special-interest types of amendments being offered to the tax bill, that we are being delayed somewhat. However, after a shaky start, I think the Senate is conducting itself with dignity and dispatch and that we are now approaching a time when we can see the light at the end of the tax tunnel.

But I do not like anyone to denigrate the work of Congress, especially of the Senate, when I know, as does the acting Republican leader, that the committees are working assiduously, doing everything they can to expedite legislation, and that Congress basically is trying to cooperate with the President.

I point out that the calendar is pretty clean at this time. The Senator from Michigan, who happens to be a member of the Committee on Foreign Relations—that is, the acting Republican leader—as well as the majority leader, now speaking, are aware that the Foreign Relations Committee did report an assistance bill for Southeast Asia. It is not on the calendar. I have said to the press time and time again this week that it was my intention to bring it up once it reached the calendar and before we recessed. Now it is too late. It is not on the calendar. It is still in committee, even though it has been reported—not with my approval, may I say—and therefore we are in a dilemma.

However, to blame Congress for a lack of application to duty and to do it on an hourly basis is carrying a distortion too far. Again, I extend an invitation to Mr. Nessen to leave his ivory tower and to come up and see just how filled the empty galleries are that we are playing to—as he says—and also to note how dedicated the Senate is in its application to its constitutional responsibilities.

Mr. WEICKER. Mr. President, will the Senator yield for a few minutes?

Mr. MANSFIELD. I yield.

Mr. WEICKER. Mr. President, I should like to respond. In deference to the distinguished Senator from Michigan, who certainly puts in long hours and has tremendous expertise with a variety of subjects, I want to make clear that he is expressing the frustration of many of us. We are trying to accomplish meaningful results on the floor of the Senate.

However, I have to depart from the assistant minority leader on a point I have heard in the past few days. Someone has to respond.

This business of Congress being responsible for the failure of governments, whether they be in Cambodia or South Vietnam, is rubbish—rubbish. So far as I am concerned, the American people, by their commitment of lives and money, honored, many times over, their commitments to those nations. So too, the Congress of the United States has honored its commitments to those nations, being the buying of time in order for those governments to gain the respect and support of their own peoples.

I am asked the question by those who served in Vietnam, "The time I spent, the sacrifices I made, were they honorable?" The answer is, "Yes, they were."

I do not demean those sacrifices. The fact is that those sacrifices were dishonored by those governments which used that time not for their people, not to establish a broad base of support, but for their own personal ends. That is why we are in trouble today, not because of the Congress of the United States or the attitude of the American people.

If we have learned anything over the past 10 years, it is that we cannot do the people's homework for Lon Nol or Thieu. They have to do the job; that is where the primary responsibility lies.

I have heard the old domino rhetoric. It belongs to an earlier time. This rhetoric of Congress fault is the same as my Democratic colleagues giving standby authority to the President. He is damned if he does; he is damned if he does not.

The same holds true about "Congress fault." That is rubbish and should be stated as such.

My feelings go to this so deeply that I am no longer going to sit back and hear persons say we dishonor our commitments. Southeast Asia commitments have been honored both inside and outside this Chamber. Now the time has come for those governments to do what we cannot do for them. I intend to vote against every single additional appropriation with the exception of humanitarian aid. Maybe if more emphasis had been put on that, these governments would not be in such weak shape at this time.

Mr. MANSFIELD. Mr. President, I wish to say that I, too, am prepared to vote for humanitarian aid, covering food, medical supplies, and the like, to countries of Southeast Asia which are now involved. I do think that we have a moral obligation in that respect, but when it comes to military aid, that is another matter.

I point out that we have spent pretty close to $150 billion in Southeast Asia, and, in my opinion, one of the reasons why we are discussing a $30 billion deficit—deficit—tax bill today is because of Vietnam, Cambodia, and Laos. It is my belief that the causes of the inflation which confronts the Nation at this moment as well as the increase in the price of oil fourfold over the past 13 or 14 months are based on that huge expenditure of funds in an area in a part of the world in which we have no vital interest, which is not tied to our security.

I suggest most respectfully that it is about time for the executive branch of this Government to contact Prince Norodom Sihanouk directly in Peking, rather than indirectly and through third parties and third persons, in the hope that something can be done without further delay to bring about a return of peace and stability to the people of Cambodia, a people who have suffered greatly, not because of what they have done, but because, in part, of what we, the North Vietnamese, the Chinese, and the Soviet Union have done to them.

So, rather than issue releases indicating that, in one way or another, through third parties and third countries, we have been trying to establish contact with Sihanouk, I think it is the constitutional responsibility of the executive branch of the Government to assume control of our foreign policy insofar as negotiations are concerned. I suggest, again most respectfully, that, rather than indirect negotiations, direct negotiations be undertaken at the earliest possible moment.

Mr. GRIFFIN. Mr. President, if I have some time left, I am afraid I cannot let the record stand as it is. Every President for the last 35 years, from Franklin Roosevelt to Gerald Ford, has recognized that helping other free nations to protect themselves from aggression is in America's interest. No one was more articulate on the point—no one thrilled the American people and the world more than did President John F. Kennedy when he said it this way:

> Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans—born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage—and unwilling to witness or permit the slow undoing of those human rights to which this Nation has always been committed, and to which we are committed today at home and around the world.
>
> Let every Nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and the success of liberty.

As I see it, that—in *effect*—*is* what the Senator from Connecticut is saying *is* rubbish today.

Now, we are copping out, we are abandoning our friends who fight against aggression. We are not willing now to put

years ago—to help our friends resist aggression when they want to do the fighting themselves.

It is not the President of the United States—not a Democratic or Republican President—who is making that determination; it is the Congress of the United States. And as I have said, the Congress of the United States must bear the responsibility for its decision.

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

Mr. GRIFFIN. I am glad to yield to the distinguished Senator from Delaware.

Mr. ROTH. I would just like to reiterate a suggestion I made 2 or 3 days ago on the Senate floor and that is I urge the administration to send the majority leader as a representative of this Government to make contact with Mr. Sihanouk. I know that the distinguished majority leader has great reluctance about the matter because of his great respect for the constitutional division of powers and because of his humility.

The ACTING PRESIDENT pro tempore. All the leadership's time has expired. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized.

Mr. WEICKER. Mr. President, I yield 1 minute to the distinguished Senator from Delaware.

Mr. ROTH. I thank the Senator from Connecticut. I would just like to say that I can think of no man in the United States who is in better position to make contact with Prince Sihanouk than the majority leader. He has taken an active interest in the Far East ever since he began serving in Congress. He is respected by Prince Sihanouk as well as other East Asian leaders. I think he could provide a real service to this country as a special negotiator and I would hope that the administration would seriously consider the suggestion that was initially proposed by the junior senator from Washington (Mr. JACKSON) and repeated by me a few days ago. I hope the administration will carefully consider this proposal, and I hope the majority leader would be willing to serve in that capacity.

Mr. MANSFIELD. Mr. President, will the Senator yield me 1 minute?

Mr. WEICKER. I yield 1 minute to the majority leader.

Mr. MANSFIELD. Mr. President, first let me reiterate "again and again and again"—the distinguished Republican leader has referred to President Franklin D. Roosevelt to recall that phrase. May I say the foreign policy in the area which the distinguished Senator from Delaware—the third Senator from Montana, may I say, he being a native of my State—has suggested is the responsibility of the executive branch of the Government. There is a line between the executive and the legislative branches which I have made it a point never to cross.

So I would reiterate my suggestion that direct negotiations be conducted between the Secretary of State, the agent of the President of the United States, with Prince Norodom Sihanouk in Peking, to see if something cannot be done to bring the bloodbath which has been occurring for so long in Cambodia to a close forthwith.

And, if the Senator will allow me, may I once again reiterate what the cost of Vietnam has been. I have indicated that it has been $150 billion to date, but the estimated cost of the Vietnam conflict, according to the Statistical Abstract of the United States, 1973, Bureau of the Census, U.S. Department of Commerce, based on an end to the war in 1970, is that the cost will be $352 billion, and the payout will extend to approximately the year 2045.

All that in addition to 55,000 Americans dead and 303,000 Americans wounded. We have paid a bloody price in many respects for an involvement which never should have taken place, in an area which is not vital to the security and interests of the United States.

I thank the Senator.

Mr. WEICKER. Mr. President, I first want the record to show—and I will allow the distinguished assistant minority leader to correct the record himself—that the distinguished assistant minority leader is entirely within his rights to quote me and then comment upon my quotation, but please do not quote John F. Kennedy and then say I called his words rubbish. That is the Senator's interpretation, not a matter of fact, and I want to record to show it.

I remember after the end of the Vietnam war there was a reception at the White House. It was a reception to which I was invited. I learned that there were several of my colleagues who had not been invited to that reception, and I inquired as to why.

I found out that since I had supported the administration policy in South Vietnam I was invited. Those who had not, including many of my colleagues on this side of the aisle, were excluded from that reception, which carried the title of "Peace With Honor." The implication was that those who did not support the administration either did not want peace or were dishonorable men and women.

That is the exact type of situation which is recurring now. Those who do not support these additional funds for Cambodia or South Vietnam are either dishonorable or do not want to achieve peace.

Mr. GRIFFIN. Those are the Senator's words, and not mine. Does the Senator agree?

Mr. WEICKER. I am saying they are my words. I have not alluded to anything. The assistant majority leader may attach what construction he chooses.

Mr. GRIFFIN. I thought the Senator was suggesting that I——

Mr. WEICKER. Speak for yourself.

That is exactly the situation we are confronted with today. We are dishonorable men if we do not vote the funds; dishonorable men, or men impeding the cause of peace, if the funds are not voted.

I would suggest to my colleagues that the cause of peace is far better accomplished by helping to meet the critical needs of the world as they exist abroad and at home.

If we had been paying attention to those who were starving, to those without a roof over their heads, to those who were ignorant, to those who were diseased, I would suggest democracy would be the stronger.

This is not 10 years ago. Time has been bought by American lives and American money for Cambodia and South Vietnam to engage in humanitarian activities.

The statements coming from the White House that imply in any way that it is Congress' fault relative to happenings in Southeast Asia, those statements are rubbish. They are not to be believed, and they are the type of statements which could only cause history to repeat itself in a very tragic way.

I would hope the United States would always stand firm in the cause of freedom. The problem is there has to be a definition of the word "friend" and the definition of the word "freedom."

I do not think there is any definition by the Governments of either Cambodia or South Vietnam which defines "freedom" and "friend" in a way deserving of the support of either Congress or the American people.

Mr. President, I did not mean to get sidetracked. But I seethed when the "Peace With Honor Reception" took place. This time I am countering the shot when it takes place, and not waiting. Yes, let us argue issues but let us not, by inuendo, indicate that because of differences some are engaging in dishonorable acts. Such characterizations have no place in the debates on this floor in pronouncements from the White House.

(Later in the day the following proceedings occurred:)

Mr. MATHIAS addressed the chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. I yield myself 2 minutes of my time and reserve the remainder.

Mr. President, within the past 24 hours, Congress has been accused of having been, and I quote, "niggardly" in its provision for military assistance to the Government of South Vietnam.

I think it might be useful for the Members of the Senate to have, in fact, the figures with respect to provision made for the Government of South Vietnam.

As of February 28, $521.5 million had been obligated for Vietnam military aid, out of the total sum of $700 million which was appropriated.

Of this amount, $158.4 million had actually been expended. There was, on that date—

Mr. PEARSON. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. NELSON). The Senator will suspend until we have order in the Senate.

Mr. MANSFIELD. Mr. President, this is important information. I would suggest that all Senators take their seats so that we can hear this rebuttal to what has been circulating downtown about the fault of the Congress recently on Cambodia and Vietnam.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. I thank the Chair.

As I had just remarked, as of February 28 there was still remaining in the pipeline $363.1 million, and in addition there

was the sum of $178.5 million which had not yet even been obligated.

Now, under these circumstances, Mr. President, I think it is clearly illusory to blame the Congress for having been niggardly when, in fact, these hundreds of millions of dollars have been appropriated by the Congress, are available to the Department of Defense for providing assistance to the Government of South Vietnam, and which have not yet even been drawn upon at the time that a substantial supplemental request of some $300 million has been made.

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

Mr. MATHIAS. I am happy to yield to the Senator.

Mr. MANSFIELD. Does the Senator have any information as to where and how and in what manner the $22 million recently discovered, or uncovered, for use in Cambodia, came from?

I am interested because this is not the first time that there has been what has come to be known as found money.

Mr. MATHIAS. I must say to the distinguished majority leader that I do not have the answer to his question, but that since he and I both are members of the Appropriations Committee, I would hope——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. MATHIAS. I yield myself 1 additional minute.

I would hope that the Senate would join with me in the next appropriate hearing in the Appropriations Committee where we might pursue the question of how a bookkeeping error might be made of $21 million or $22 million.

Mr. MANSFIELD. Will the Senator yield?

Mr. MATHIAS. Yes.

Mr. MANSFIELD. I will say that I will not only join with him but all of us in the Congress should join with the distinguished Senator from Kansas who has called for a hearing by the Armed Services Committee, the Foreign Relations Committee, and a general investigation by the General Accounting Office. I think we will find out where this "found" money comes from.

Mr. MATHIAS. I am happy to join in the spirit of that suggestion by the Senator from Kansas. I hope at the same time we can keep public the bookkeeping with respect to Vietnam, so that the public can be fully informed as to what moneys have been appropriated, how much has been spent, how much remains to be spent. That not only will be good for our general understanding of the situation, but it may prevent these $21 million or $22 million errors from happening again.

TAX REDUCTION ACT OF 1975

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Will the Senator yield for a unanimous-consent request?

Mr. MANSFIELD. Yes, indeed.

Mr. LONG. Mr. President, I ask unanimous consent that in the event cloture is voted today, any amendment that would have been germane to the House bill as it was sent to the Senate, or to the committee amendment as originally reported by the Senate Committee on Finance, as well as the bill as it presently stands, would be germane after cloture has been invoked.

Mr. CURTIS. Reserving the right to object, and I shall not object, I only know of one amendment that I understand has not been placed at the desk. It is an amendment very similar to one placed in the committee. It does relate to taxes. It will be offered by the distinguished Senator from Alabama (Mr. SPARKMAN), I believe.

Mr. LONG. It has to do with industrial revenue bonds, and I ask unanimous consent that that be considered germane.

Mr. ROTH. Reserving the right to object, I do intend to offer an amendment, which has to be redrafted because of the changes yesterday, as a substitute. It will be a one-shot tax rebate. I think it is germane, but I wish to make certain that the rule of germaneness is not raised in that sense.

Mr. LONG. I believe it will be germane. If it is what I think it is, I will be glad to ask that it be germane, but may we see the amendment before we ask?

Mr. ROTH. Then I shall have to object to unanimous consent until we get agreement on that.

It consists of a tax rebate, investment credit for business; it will include the oil depletion allowance, exactly the way the Senate passed it, with the allowance for the aged.

Mr. LONG. I think it will be germane, but I ask unanimous consent that it be regarded as germane.

The ACTING PRESIDENT pro tempore. Without objection, the several unanimous-consent requests are agreed to.

Mr. GRIFFIN. Mr. President, is there any time remaining under the 10 minutes allotted?

The ACTING PRESIDENT pro tempore. There are 4 minutes remaining.

Mr. LONG. I ask unanimous consent, also, Mr. President, that all amendments at the desk, in the event that cloture is invoked, be regarded as having met the reading requirement.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. 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.

ORDER FOR CONSIDERATION OF H.R. 4296

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if action is completed on the tax cut bill today, and if the farm bill (H.R. 4296) is reported, that tomorrow, after the two leaders have been recognized, the farm bill be made the pending business.

Mr. GRIFFIN. Mr. President, reserving the right to object.

Mr. MANSFIELD. Will the Senator change that to make it even today, if possible? It probably will not be.

Mr. ROBERT C. BYRD. Yes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CURTIS. Reserving the right to object, has this been cleared?

Mr. ROBERT C. BYRD. It has been cleared with Mr. DOLE and the Republican leader.

Mr. CURTIS. At what time does the Senator wish it considered?

Mr. MANSFIELD. We will try to get started on it today. If not, we will come in very early tomorrow and try to finish it by noon.

The ACTING PRESIDENT pro tempore. Without objection, the consent is agreed to.

A BALANCED TRANSPORTATION PROGRAM—S. 1300

Mr. WEICKER. Mr. President, today I am pleased to join once again with the distinguished Senator from Massachusetts (Mr. KENNEDY) in this continual effort to achieve a balanced transportation system in the United States. This comprehensive legislation, which we have introduced, would revamp the method by which transportation systems are funded through a structural revision of title 23, of the Federal-Aid Highway Code.

Mr. President, I am going to allow the distinguished Senator from Massachusetts to get into the details of the legislation, but I would just like to make the following general remarks:

The need to adjust our distorted transportation priorities is obvious. For 19 years, ever since the enactment of the highway trust fund in 1956, we have relied on a self-perpetuating funding system that has afforded us a beautiful system of roadways—but little else.

In 1974, $7 billion was spent on transportation development in the United States. A full 61.6 percent of it went to the highways; 17.2 percent was spent on air transportation; 8.1 percent on mass transit, and 3.1 percent on rails.

This is as much at the heart of the problems which we have with our rail system as anything else. We are getting what it is that we paid for, and we paid for nothing insofar as our rail systems are concerned.

Our unequal and fragmented approach to transportation funding has led to a society dominated by the automobile. More than four out of five American families own cars today, and 90 percent of all urban travel is by car or truck.

But now, faced with no alternative but to cut back drastically on our consumption of gasoline, because of the energy crisis, we must make basic changes in our means of travel. We talk of conservation, but we have not done anything about it.

Over 6.5 million barrels of gasoline are used to move our automobiles each day. Since September of last year, when the drive for conservation was already in full force, our national rate of gasoline consumption has increased by 300,000 barrels per day. We continue to ignore alternative transportation modes while

Americans without cars, mainly the young, the elderly, and the poor, are still denied the right to mobility.

Instead of developing more mass transit in our cities, to save energy and reduce pollition, we hear appeals to relax the clean air standards—a proposal I have consistently opposed.

Health experts and environmentalists tell us that 280 million tons of pollutants are being thrown into the air every year, with most of it concentrating in the Northeast and other regions of dense population; 62 percent—almost two-thirds—of all that pollution is a direct result of our automotive engines. The air we choke on is yet another consequence of our distorted program of developing the roadways while ignoring other means of travel.

This continued proliferation of highway construction is contrary to our national effort to conserve our fuel and to clean our air. We must revise our transportation funding structure to give States and cities and towns the flexibility they need to use Federal transportation funds in a manner that reflects their needs in the 1970's.

It is time to develop a sensible national transportation policy that integrates different modes of travel and that sets forth specific objectives to be achieved, consistent with stated desires to save fuel and breathe decent air.

Our existing Federal transportaion programs are written so that States and localities have little say in how they use the money they receive. Broken down into separate categories, the transportation dollar is so earmarked as to actually dictate transportation priorities to the States and cities. Local officials see money in one specific category of the existing highway code and then build a road that fits the Federal guidelines, rather than building exactly what they need.

In drafting this legislation, we sought to maintain many of the existing administrative procedures presently utilized for highway programs. They have proved successful in developing an excellent road system in the United States. But the bill, while attempting to build upon an existing apparatus, makes important structural revisions. We have chosen to rewrite title XXIII of the United States Code precisely to establish the new transportation priorities it is clear we need.

First, and foremost, the legislation would abolish the Highway Trust Fund. The concept of a trust fund has outlived its usefulness. What was a mechanism for funding *principally* the interstate highway system through earmarking of various user taxes has become an open ended budget mechanism to proliferate highway programs.

Transportation programs should face the same budgetary review and analysis as other social programs. It should not be isolated from congressional scrutiny.

Funding priorities for transportation must be made in the context of other pressing social needs. By removing Federal funding bias toward highways, congressional authorization and appropriation committees will now be able to take a comprehensive view of our transportation priorities.

The administration has suggested maintaining the trust fund for the purpose of finishing the interstate system with a return of some of the taxes to the States, and the transfer of other funds to general revenues. I question the reason for exempting the interstate system from budgetary review. There is no reason why the interstate should have priority over other types of transportation. Continuing the trust fund would perpetuate the myth that it deserves that special status.

Since 1956, we have placed the formulation of transportation policy on automatic pilot. It is time to reconstruct our transportation funding and planning mechanisms.

Under the new procedures established by the Budget Reform and Impoundment Control Act of 1974, the Congressional budget will, by April 15, offer a resolution, which sets forth appropriate levels of total budget authority and outlays and the appropriate levels of new budget authority for functional categories of the budget. Thus, for the first time, Congress will be forced to set an overall level of funding for transportation programs, as well as other social programs.

I submit it is extremely difficult to establish appropriate spending levels in the absence of a national transportation policy. The establishment of objectives and goals in the area of transportation will provide a basis to view the needs of various modes of transportation. I believe it would be premature to specify authorization levels, without the formulation of Federal policy. The main purpose of the legislation is to formulate national transportation goals and to establish a process of implementing these objectives.

In a recent editorial in the Washington Post, J. W. Anderson cogently depicts the problems of the trust fund concept. He noted how the highway trust swelled, and how the road building machine became "the enemy of a rational transportation policy." The Kennedy-Weicker bill removes this obstacle on the road to the development of a balanced transportation system.

A second major revision contemplated by this legislation is the restructuring of current highway programs. As previously mentioned, an increased amount of money presently is being distributed to the States in an attempt to meet "priority" construction. This earmarking of funds had led the States to escape the necessity of weighing priorities and developing an integrated approach to their transportation problems. The current system allows the States to fund virtually all types of highway projects without having to justify to the Department of Transportation the actual need, or purpose of the construction.

Our proposal would consolidate the existing categorical programs into four major programs:

First. Interstate.

Second. Rural system.

Third. Urban system.

Fourth. Safety programs.

It is important to note, that the Kennedy-Weicker bill maintains both the interstate system and the urban mass transit program. Given the large capital needs of the UMTA program over the next 10 years, as well as the interstate system, it is essential to maintain the existing legislative vehicles to direct Federal funds for such purposes. Clearly, in the case of mass transit, there is a "catch-up" time required, before this categorical program can be "folded in" to our bloc grant approach. Thus, where intensive capital needs exist, separate programs are maintained. However, once these capital improvements are achieved, it is envisioned that these separate programs will be consolidated to the revised transportation system, established by this bill.

The legislation would continue the same level of funding for the interstate system, established by law. Specifically, the bill maintains the present authorization levels for fiscal year 1977, 1978, and 1979 of $3.25 billion per year. Thus, our proposal maintains the national commitment to the completion of the interstate system.

Furthermore, under the interstate transfer provisions of 1973 Federal Aid Highway Act, there is adequate flexibility for Interstate funds to be used for mass transit, if appropriate State and local officials so decide.

To insure coordination of mass transit projects with other projects at the State and local level, the current UMTA law is amended to require mass transit projects to be consistent with comprehensive State transportation plan.

Section 102 (b) and (c) of this bill defines urban and rural system as follows:

(b) The Federal-Aid rural system shall consist of an adequate system of (1) connected main routes important to interstate, statewide and regional travel and (2) major rural collector routes designed to supplement connected main routes; and, where appropriate public mass transportation which operates, in whole or part, on such routes. The system shall be designated in each State by the Governor and the appropriate local officials, pursuant to the provisions of section 124 of this title and subject to the approval of the Secretary.

(c) The Federal-Aid urban system shall be located in each urbanized area and such other urban areas as the Governor may designate and shall consist of arterial and collector routes and public mass transportation operating, in whole or part, over such routes. The routes on such system shall be designated by the appropriate local officials, with the concurrence of the Governor, pursuant to the provisions of section 129 of this title and subject to the approval of the Secretary.

This legislation removes any restrictions on the use of the money distributed to the urban and rural systems. It does not mandate funding for any particular mode of transportation. Highway construction, as well as mass transit can be funded from these sources. Operating assistance will be available provided that it does not exceed more than 50 percent of the States total allocation for that particular system.

The Federal share for construction projects and operating subsidies will be funded at an 80–20 rate. The interstate and safety programs will remain intact.

The urban system funds would be apportioned to the States on the basis of population. The Governor would be required to "pass through" funds for

urbanized areas over 150,000. The Governor, with concurrence of the local public official, will designate a recipient to select programs and receive and distribute funds. Each designated recipient shall be a State agency or a local public body composed of representatives of the State and locally elected officials. The rural system funds would be apportioned to the States on the basis of mileage, land area, and population. The Governor would distribute the money within the State according to the programs of projects approved by the Secretary.

The last significant change in existing law relates to comprehensive planning and programing processes. The current planning and programing mechanisms of the Department of Transportation fail to provide proper Federal oversight over State and local development. Under our proposal, we revise this mechanism to provide for DOT approval over comprehensive transportation plans and a specific program of projects on an annual basis.

Two separate approval processes are contemplated. First, the Governor is responsible for the development of statewide transportation plans. He will develop rural aspects of the plan and incorporate plans formulated by urban areas into a statewide plan. Therefore, the Governor must coordinate and integrate the transportation needs of both urban and rural areas into an overall intermodel approach to the transportation problem in his or her respective State.

The State legislature has veto power over the proposed State plan, which must be submitted to the Secretary for his approval and resubmitted every 4 years, with any revisions.

The Secretary may not approve a plan unless—

First, there is adequate administration by a single State agency with responsibility for transportation in the State.

Second, various fiscal controls and maintenance of effort have been established.

Third, compliance with community development plans is demonstrated.

Fourth, compliance with environmental protection plans is demonstrated.

Fifth, compliance with energy conservation plans is demonstrated.

Sixth, urbanized areas control planning in their areas.

Seventh, further we provide for legal redress for States dissatisfied with the Secretary's action.

Planning procedures are designed to force the States to establish priorities in funding various modes of transportation. The officials, closest to the problem, must decide how best to use the limited amount of Federal funds. Their decision will be weighed in light of how their proposals comply with Federal guidelines set forth in the bill.

Once the State plan is approved, the Governor must submit for the Secretary's approval a program of projects for Federal assistance.

In approving these programs, the Secretary must assure that the State gives priority to—

First, reconstruction of highways on the rural system that are unsafe.

Second, "defense" roads.

Third, projects incorporating improved safety benefits.

Fourth, projects providing access to public airports and port facilities.

Fifth, fixed guideway and electric powered projects in areas failing to meet ambient air quality standards.

Sixth, projects which will result in the saving of energy.

Finally, Mr. President, the 94th Congress has reached a crossroad in the development of a rational transportation policy. The crucial decisions we make, will affect our transportation policy throughout this decade. This Congress must grapple with the issue of the future of the Highway Trust Fund. It must decide what our transportation priorities are and create a mechanism that will achieve those objectives. I submit that the legislation Senator KENNEDY and I have introduced provides the Congress with a basis to form logical and commonsense solutions to our current transportation mess.

So what the distinguished Senator from Massachusetts (Mr. KENNEDY) and I think we need here is some logic and commonsense so that we can have national mobility instead of one big parking lot, which is the situation in the United States today.

This legislation has been given even greater urgency, because of the fuel crisis in which we find ourselves, and I would hope that this would be the year when Congress would come to grips with the subject, and we would go ahead and act affirmatively in this area.

I am prepared at this time, Mr. President, to yield further of my time to the distinguished Senator from Massachusetts.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Massachusetts is recognized for not to exceed 15 minutes, and the Senator from Massachusetts also has the remainder of the time of the Senator from Connecticut.

Mr. KENNEDY. Mr. President, I am pleased to introduce today with my distinguished colleague, the Senator from Connecticut (Mr. WEICKER), the Federal Transportation Improvement Act of 1975.

This legislation continues our attempts over the past several years to end the bias and discrimination toward highways in Federal transportation planning, funding and construction.

By abolishing the highway trust fund and by encouraging a more balanced transportation system, this bill will halt the Federal underwriting of a distorted transportation program, that program has produced the best highways and the worst transportation in virtually the entire industrialized world.

Perhaps now that we are seeing a national awakening to the need to conserve energy, we can take the steps required to break the concrete stranglehold on transportation planning and transportation funding.

Perhaps now we can promote balanced transportation planning and balanced transportation funding so that the end result is a balanced transportation system.

In the past, we have put blinders on our transportation planners. They knew that highways commanded the lion's share of the Federal transportation dollar and so they planned for highways.

That nonsystem has produced highways that we need; but it has produced highways that we do not need as well. And it has failed to produce the mass transit systems that are vital to the future of our metropolitan areas.

It has insured a society built around the automobile and its demands for maintenance, for storage, for disposal, for replacement, and for energy.

Some 40 to 60 percent of our central cities now are given over to streets and parking areas for the automobile. Urban development for the past two decades has been twisted by a transportataion system focused on thrusting highways into the very hearts of our cities without much regard for the consequences of that action.

When we have 210 million people and 125 million automobiles and motor trucks, when we use 52 percent of our petroleum and 24 percent of our total energy for transportation, when we produce nearly 10 million automobiles and junk another 7 million each year, when we find our railroads going bankrupt and when we carried 19 billion mass transit fares in 1945 but only 5.5 billion in 1973—when we find these facts—then it is time to redesign our transportation system.

This bill will make a strong beginning toward that task. It will force transportation spending to be viewed as one among other national needs in the overall budgetary process. And it will insure that States and localities will make decisions on how to meet their transportation needs solely on which mode of travel works best.

Transportation planning at all levels of government will be freed from the lure of "easy money" for highways and little or no money for mass transit.

Six years ago, I felt it was time to call a halt to the tilt of Federal spending toward highway construction. I introduced legislation to create a National Transportation Trust Fund, permitting States and localities to have a mass transit option in their use of trust fund dollars.

And in each Congress since, I have introduced legislation with Senator WEICKER to open the trust fund.

We helped push the first wedge in the trust fund door in the Senate in 1972. Although our amendment to provide total flexibility was not adopted, a fallback amendment sponsored by Senators COOPER and MUSKIE was approved. The same process helped defeat the highway lobby in 1973 when, for the first time since its creation in 1956, we secured a portion of the trust fund moneys for mass transit use.

We also succeeded in permitting cities and States to obtain the use of interstate funds for mass transit when they decided not to construct an interstate segment, because of its disruptive effect on the community.

The interstate transfer provision translated community opposition to urban interstate highways into law. Boston, for example, has been able to free $671 million originally slated for highways to other projects. Of that amount, $600 million is being used for mass transit construction.

However, the steps we have taken thus far are still too meager to meet the problem. Even the approval of significant new urban mass transit administration funding last year represents only a minimal response to long-stalled transit needs.

The energy crisis also has made it apparent that we have been far too cautious and hesitant in our chipping away at the restrictions of the Highway Trust Fund.

We must abolish it with a single stroke if we are going to respond to the degree of urgency in our current transportation situation and if we are going to build an adequate system in the coming years.

It makes no sense that from 1956 to the present, we have devoted 95 cents of every Federal ground transportation dollar to highways. It makes no sense that even today, nearly 80 cents of every Federal dollar devoted to ground transportation goes to highway construction.

And even after our legislation of last year, the President's budget shows that in fiscal year 1976, we still will be directing more than 70 cents of every Federal dollar aimed at transportation into highway construction.

For that reason, I believe the elements of the legislation we are introducing today are critical for the restructuring and the redesign of our transportation system and the creation of a more balanced and integrated network to move people and goods.

First, the bill would abolish the Highway Trust Fund on September 30, 1976.

Second, all gasoline and other tax revenues that now flow into the trust fund would be channeled into the Treasury General Fund.

Third, Federal highway funding would be determined through the normal authorization and appropriation process

Fourth, the proliferation of categorical highway programs would be streamlined with funds available for highway or mass transit systems, except for the interstate system. Under the interstate transfer provision, under existing law, there is flexibility for using those funds for mass transit where localities and States propose not to build a particular interstate segment.

Fifth, instead of nine different categorical highway programs, in addition to the interstate, there will only be the urban and the rural systems.

Sixth, funds authorized and appropriated for those systems would be available either for highway construction or for construction and operating subsidies for mass transit systems.

Seventh, the Federal share for the urban and rural system funds would be 80 percent, an increase of 10 percent. No more than 50 percent of a State's allocation for either system could be used for operating subsidies.

Eighth, the Federal share for the interstate system remains at 90 percent.

Ninth, the Governor would be responsible for development of a comprehensive State plan. Urban area plans would be incorporated into the State plan.

Tenth, a single State agency responsible for all transportation would administer the plan, removing the State Highway Department control over transportation planning in many States.

Eleventh, these comprehensive plans would represent local and State priorities in transportation. The plans would have to meet overall Federal objectives, such as priority to mass rail or other fixed guideway transit. In areas with air quality problems, priority to projects which result in energy savings, and priority to reconstruction of highways in the rural system that are unsafe.

Twelfth, the Secretary's disapproval of a State plan would be subject to court review.

Thirteenth, urban system funds would be apportioned to States on the basis of population. The Governor would be required to pass through funds for urbanized areas over 150,000.

Fourteenth, rural system funds would be apportioned to States under existing law.

Fifteenth, the bill returns the weight limit for trucks to the lower level in existence prior to 1974.

Sixteenth, it provides encouragement for carpools and requires enforcement of the 55-mile-per-hour speed limit.

These are the major changes in existing law which would be achieved through the legislation we are introducing today. I believe these measures will help insure more rational transportation decisionmaking in the future. And the Nation cannot afford any delay in achieving that goal.

Mr. President, I am glad to join with the distinguished Senator from Connecticut in submitting this legislation to which he has just spoken this morning. This is a continuation of the effort by the Senator from Connecticut and myself that has been going on now for close to 5 years to develop a more balanced transportation system in this Nation of ours.

I remember the time when we offered different amendments to various pieces of legislation to try to open up the highway trust fund and to provide a good deal more flexibility in the utilization of the resources of that fund so that there could be the development of a transportation system which would reflect our local, regional, and national needs in the development of not only automobile but mass transit, railroad, and even sea transportation as well as air transportation.

I think, perhaps, now, as this Nation is focused more directly on energy needs, and focusing more dramatically on the importance of insuring that whatever kind of transportation system we are going to develop is going to be sensitive to the amount of energy which is necessary to motivate that transportation, that the Members of Congress, the House, and the Senate, will be more responsive to the approach which the Senator from Connecticut and I have taken.

This, Mr. President, is a result of a number of years of work and consultation with many different representatives of different transportation units. We feel, if adopted, it will still insure the best distribution of resources in this country focused upon a transportation system which recognzies the needs of those in rural America and in underpopulated parts of this country as well as those who live in the major urban centers of the Nation.

We think it is a creative and thoughtful approach toward one of our great national needs, and we are extremely hopeful that this legislation can get the kind of early consideration that it demands and, hopefully, will be able to get Senate and House action during this session.

We come from a part of the country in which the major part of the American population lives. The critical needs in transportation are absolutely essential for the commerce as well as the livelihood of millions of people who live in the Eastern, Western, and Southern parts of this Nation. We feel that with the adoption of this legislation we can restore some balance to the development of a transportation system, and we feel that this will be an important major step in meeting one of our very important national needs.

So I am delighted to join with my friend and colleague, the Senator from Connecticut, in an area of great national importance and consequence. We are going to continue to work closely with the committees, with our colleagues, and with the administration in attempting to see that this legislation is implemented into law.

Mr. President, I send to the desk legislation and ask for its appropriate reference.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

TAX REDUCTION ACT OF 1975

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 2166. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair now recognizes the Senator from Michi-

gan (Mr. PHILIP A. HART) to call up his amendment on which there are 20 minutes of debate to be equally divided and controlled by the Senator from Michigan and the Senator from Louisiana (Mr. LONG).

Mr. PHILIP A. HART. Mr. President, has the amendment been stated?

The ACTING PRESIDENT pro tempore. We do not have a copy of the Senator's amendment.

Mr. PHILIP A. HART. The amendment was filed yesterday but, I take it, that the printer has not yet delivered it.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. PHILIP A. HART) for himself, Mr. GRIFFIN, Mr. ROTH, and Mr. PERCY proposes an amendment.

The amendment is as follows:

At the appropriate place, insert the following new section:

"SEC. —. ELECTION TO SUBSTITUTE NET OPERATING LOSS CARRYBACK YEARS FOR CARRYFORWARD YEARS.

(a) IN GENERAL.—Subparagraph (E) of section 172(b)(1) (relating to years to which net operating loss may be carried) is amended to read as follows:

"(E)(i) In lieu of any net operating loss carryover to which a taxpayer would otherwise be entitled under this section, a taxpayer may elect to carry back any net operating loss for a number of taxable years equal to the number of taxable years to which such loss could have been carried forward, and the carryback so elected shall be added to the number of taxable years for which the taxpayer is otherwise entitled under this section to carry back such net operating loss. Except as provided in section 381(c)(25), and except as provided in paragraph (3)(E), an election under this subparagraph shall apply not only with respect to such net operating loss but also to the taxable year of such loss.

"(ii) Unless he is described in clause (iii), a taxpayer may not elect to have the provisions of clause (i) apply unless he establishes an employee stock ownership plan (as described in 301(d) of the Tax Reduction Act of 1975). This clause does not apply to any credit or refund attributable to a net operating loss or losses incurred in taxable years ending after the date of the first such election made by the taxpayer.

"(iii) The provisions of clause (ii) do not apply to any taxpayer the sum of whose credits or refunds resulting from electing to have the provisions of section 172(b)(1)(E) apply to net operating losses incurred in taxable years ending on or before the date of such first election does not exceed $10,000,000."

(b) SPECIAL RULES.—Section 172(b)(3) (relating to special rules) is amended by striking out subparagraphs (E) and (F), and by inserting in lieu thereof the following:

"(E)(i) An election made under paragraph (1)(E) may be revoked by the taxpayer at any time within 60 months after the close of the taxable year in which the election was made. If a taxpayer revokes such an election, the election may be revoked more than 60 months after the close of the taxable year during which the election was made only with the consent of the Secretary or his delegate. The taxpayer's liability for tax for all taxable years beginning with the earliest taxable year affected by the carryback of the net operating loss under election shall be redetermined as if the election had never been made. The amount of the taxpayer's liability for tax for the taxable year in which the election is revoked is increased (as of the end of such taxable year) by an amount equal to the amount by which such redetermined liability exceeds the tax paid for such taxable years. An election revoked on or before the time for filing a return for a taxable year (including any extensions thereof) is considered as made during that year. In redetermining the liability of a taxpayer for tax for preceding taxable years under this clause, the amount of such liability shall be reduced by an amount equal to the amount transferred (or treated as transferred) by the taxpayer to an employee stock ownership plan described in section 301(d) of the Tax Reduction Act of 1975 or to a supplemental unemployment compensation benefit plan described in such section in meeting the requirements of subsection (b)(1)(E) of this section. If the taxpayer was not required to transfer any amounts to such a plan under subsection (b)(1)(E) because of the provisions of clause (iii) thereof, the preceding sentence does not apply.

"(ii) An election under paragraph (1)(E), and a revocation of such election under this subparagraph, shall be made in such manner and at such times as the Secretary or his delegate may by regulations prescribe. No election may be made under paragraph (1)(E) by any taxpayer described in subparagraph (F) or (G) of paragraph (1). No election may be made under paragraph (1)(E) with respect to any foreign expropriation loss to which paragraph (1)(D) applies.

"(iii) If an election made by the taxpayer under subsection (b)(1)(E) with respect to a net operating loss incurred in any taxable year is revoked by the taxpayer, he may not make another election under that subsection with respect to that year. If a taxpayer has revoked an election made under subsection (b)(1)(E) with respect to a net operating loss incurred in any taxable year, and such taxpayer makes an election under such subsection with respect to a net operating loss incurred in a later taxable year, no part of the net operating loss for the taxable year with respect to which the election was revoked may be carried over to any taxable year beginning after the taxable year in which the second or other subsequent election under subsection (b)(1)(E) is made.".

(c) CARRYOVERS IN CERTAIN CORPORATE ACQUISITIONS.—Section 381(c) (relating to items in the case of certain corporate acquisitions) is amended by adding at the end thereof the following new paragraph:

"(25) TREATMENT OF NET OPERATING LOSSES WHERE TO SUBSTITUTE CARRYBACKS FOR CARRYOVERS HAS BEEN MADE.—The acquiring corporation shall be bound by an election made by the distributor or transferor corporation under section 172(b)(1)(E) unless different rules with respect to the years to which a net operating loss may be carried apply among the group consisting of the distributor or transferor corporations and the acquiring corporation, in which case the acquiring corporation shall use the carryback and carryforward period prescribed by regulations of the Secretary or his delegate, and the rules of section 172(b)(3)(E)(i) shall apply to the extent required by such regulations."

(d) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 172(b)(1)(A) is amended by striking out "In the case" and inserting in lieu thereof "Except as provided in subparagraph (E), in the case".

(2) Paragraph (3) of section 172(b) is amended by inserting "(and so much of paragraph (1)(E) as relates to paragraph (1)(A)(ii))" after "(1)(A)(ii)" each place it appears.

(e) TECHNICAL AMENDMENTS.—

(1) Section 6654(f) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d), the term 'tax' means—

"(1) the sum of—

"(A) the tax imposed by this chapter 1 (other than by section 56), plus

"(B) the tax imposed by chapter 2, minus

"(2) the sum of—

"(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

"(B) any increase in liability for tax determined under section 172(b)(3)(E) (relating to revocation of special carryback election)."

(2) Section 6655(e)(1)(B) is amended—

(A) by striking out "and" at the end of clause (ii),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new clause:

"(iv) any increase in liability tax determined under section 172(b)(3)(E) (relating to revocation of special carryback election)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply only to net operating losses incurred in the first two taxable years of the taxpayer beginning after December 31, 1975.

(2) TRANSITIONAL RULES.—If an election is made under section 172(b)(1)(E) of the Internal Revenue Code of 1954 with respect to any net operating loss for a taxable year ending before the date of the enactment of this Act—

(A) in the case of a deficiency for any taxable year attributable to the application of such net operating loss, section 6501(h) of such Code shall be applied as if such loss were for the taxpayer's first taxable year ending after such date of enactment,

(B) in the case of an overpayment for any taxable year attributable to the application of such net operating loss, sections 6511(d)(2) and 6611(f)(1) of such Code shall be applied as if such loss were for the taxpayer's first taxable year ending after such date of enactment, and

(C) the period for submitting an application for a tentative carryback adjustment under section 6411(a) of such Code with respect to such net operating loss shall not expire before the day which is 90 days after such date of enactment.

In the penultimate sentence of section 301(d)(5) of the bill strike out "if the employer transfers no more than half of the amount" and insert in lieu thereof "only if, within one year from the date of the election under section 172(b)(1)(E) of such Code, the employer transfers the entire amount."

Mr. PHILIP A. HART. Mr. President, I yield myself 5 minutes.

I call up an amendment to the Tax Reduction Act of 1975 to permit substitution of net operating loss carryback years for carryforward years.

This amendment is changed in several important ways from a similar provision which was included in the Senate Finance Committee's original version of the Tax Reduction Act. Before those who described and dismissed the committee's proposal as a boondoggle to big business reject this amendment out of hand, I ask that they consider the changes and several points about the concept which were lost in the earlier rhetoric.

Let me list the changes.

First. The committee bill would have permitted a firm to apply the new carryback option to any taxable year from

1970 on. Our amendment restricts that option to taxable years 1974 and 1975.

That change means that the amendment will assist only those firms whose business has been adversely affected by the current recession and greatly improves the likelihood that with an upswing in the economy, there will be no long-term loss in Federal revenues.

Second. Under the committee bill, a company with a supplementary unemployment benefit plan—SUB—would have put up to 12.5 percent of any refund into the plan, and spread the payments over a 10-year period. Our amendment requires that the company puts 25 percent of any refund into existing SUB plans in the year the refund is received.

The change means that at least one hard-pressed SUB program will remain in business longer, and that those served by the plan will delay the time when they begin to ask the question, "Where is the welfare office?"

Mr. LONG. Mr. President, I ask that the yeas and nays be ordered on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

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

Mr. PHILIP A. HART. May I inquire of the manager of the bill——

Mr. LONG. Now, Mr. President, may I also ask that the yea-and-nay vote on the Senator's amendment occur immediately after cloture has been involved if, indeed, it is today?

That being the case, Senators will have a chance to offer their amendments this morning and discuss them and the yea-and-nay votes will not use up more than 50 percent of the time between now and the time cloture is invoked.

Mr. PHILIP A. HART. In the event cloture is not invoked, will the vote occur at the conclusion of that failed event?

Mr. LONG. Yes.

Mr. PHILIP A. HART. Either way?

Mr. LONG. Yes.

Mr. PHILIP A. HART. For the information of our colleagues, that would mean the vote may occur at about 11:30?

Mr. LONG. That would appear to be about the time, yes.

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

Mr. TUNNEY. Mr. President, I ask unanimous consent that Mr. Bob McNair and Lawrence Ash of my staff have privilege of the floor.

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

Mr. PHILIP A. HART. Mr. President, I ask unanimous consent that Kitty Sherier and Jack Cornman of my office have privilege of the floor.

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

Mr. PHILIP A. HART. Before discussing the justification for the amendment in its entirety, let me admit to a very parochial interest in this amendment. Senator ROTH and Senator GRIFFIN have parochial interests in this amendment. The Chrysler Corp., will benefit from this amendment but again probably not at the Federal Government's expense in the long run.

A few unemployment figures will explain my "parochial" interest. In January 1974, Chrysler employed 62,400 hourly wage workers in the Detroit area. This past January, that figure was down to 38,000 hourly wage employees. Detroit has an unemployment rate of 23 percent. One thing that city does not need is any more layoffs.

Nationwide, Chrysler normally employs 113,000 hourly wage workers. About 48,000 of those are laid off, and one thing this country does not need is still longer unemployment lines. So it just may be that my parochial interest in this amendment is shared by those representing many other sections of our country.

When measured against the costs of increased unemployment—and they range from food stamps to forfeiture of HUD guaranteed mortgages, to welfare payments to the unmeasurable mental strain and waste of human skills and energy resulting from widespread unemployment—the temporary loss in Federal revenues resulting from this amendment could turn out to be a bargain.

Now to the amendment.

EXISTING LAW

The concept of permitting a business to use an 8-year period to average profits and losses is not new. Under present law, a company can do so by carrying losses back 3 years and forward 5 years.

The concept of altering the provisions of the carryback-carryforward provisions is not new either. In passing a tax bill in 1967, Congress temporarily extended the carryback part of the law to help American Motors through a difficult time. That action, I believe, proved wise: it helped American Motors to remain a large employer and taxpayer, and I understand that the Government eventually recaptured all the money it would have received if the change had not been made.

Mr. GRIFFIN. Mr. President, may we have order please?

Mr. PHILIP A. HART. Employer and taxpayer, and I understand——

The ACTING PRESIDENT pro tempore. The Senate is not in order. Will the Senator suspend for just a moment?

Will the Senate come to order? Senators will please be seated.

The Senator from Michigan.

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

Mr. PHILIP A. HART. Yes.

Mr. MANSFIELD. I would like to amplify on the unanimous-consent request of the distinguished manager of the bill to the effect that all rollcall votes prior to the vote on cloture be accorded the same consideration in sequence as the Senator from Michigan on his amendment.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. Without objection, it is so ordered.

Mr. PHILIP A. HART. The justification for the Tax Reduction Act of 1975 is to help people and businesses adversely affected by the economic recession.

The hope is, I understand, to encourage people to spend and businesses to regain, keep or improve their financial health.

A proposal which would help firms from laying off more people is as germane to that goal as proposals to encourage economic growth.

By allowing firms to apply the carryback provision to any tax year back to 1970, as did the committee version of the bill, it could be argued—correctly in my view—that the provision was not really connected with the current recession and would reward inefficient companies which could not cut it in time of normal economic growth.

I emphasize, by restricting to 1974 and 1975 the taxable years to which this provision applies, as our amendment does, we make quite clear that the intent is to provide temporary assistance to firms suffering difficult times during a period of severe economic recession. And again, I recall that Congress did the same with good success for American Motors in 1966, and I repeat the importance of Chrysler to the depressed economy of Detroit and Michigan.

What would be the cost?

In figuring the cost of the amendment to the Federal Government, two provisions should be stressed.

First, a company electing the 8-year carryback gives up the right to carry losses forward against future profitable years, unless it pays back the refund received from the 8-year carryback.

If a company decides to switch back to the current provision, the Federal Government will be repaid in full.

Companies sticking with the 8-year carryback will have to pay full taxes on future profitable years, which means the Government will recapture funds it would have lost under the carry-forward provision.

Granted, the amount the Federal Government recaptures will depend on firms making profits within the next 5 or 6 years, which gives added importance to the change which limits the qualifying taxable years to 1974 and 1975.

Obviously, we can have little confidence that firms which could not make profits in the early 1970's will make profits in the last half of the decade. However, the companies using the amendment as now rewritten necessarily will have had to make profits within the last 8 years. That means we have reason to believe that these firms will be moneymakers again within the next 5 years.

Here then are the cost estimates:

Under the committee version, the Federal Government might lose between $1 billion and $1.5 billion in the next 2 years. The open-ended nature of the committee bill made it impossible to predict how much more might be lost beyond that. I am told you could expect the Federal Government to have recaptured about half the amount lost under the committee version.

Under our amendment, which, again, restricts the extension of the carryback period to 2 taxable years, this loss is estimated at about $250 million, most of which if not all would be recaptured.

DOES CHRYSLER NEED THE MONEY?

I am in no position to predict what might happen to Chrysler if this amendment is not approved.

However, it is no secret that the corporation's lines of credit are badly

strained and that the Federal Reserve is contemplating emergency credit help if the company's condition worsens.

Also, whether by the demands of the marketplace or of Congress, auto companies will be required to build more gas efficient autos and it will take capital to design and retool to meet that demand. If the demand is not met, more layoffs at Chrysler is the least ominous of the possibilities. Further concentration in an already highly concentrated industry is one of the more ominous possibilities.

HOW TO RESTRUCTURE AN INDUSTRY

For some years now I have been lecturing about the dangers of economic concentration. If the car industry were less concentrated, I believe the industry would not be in such a serious financial condition today.

Regardless of that, however, it may be easy for the theorists to say that a large firm should be allowed to sink or swim on its own, but it is an entirely different thing to say that thousands and thousands of workers living in an area of extremely high unemployment should be asked to bear the cost of letting a large firm go under.

I do not know, as I said, what will happen to Chrysler if this amendment is rejected, and I cannot assure that it will spend all its refund wisely, but I do believe that given Detroit's serious economic depression, we should err on the side of helping a large employer keep people on the job.

We can talk about restructuring automobiles, I believe we should. Let us do it in an orderly fashion, not by the disastrous collapse which would bring in its train enormous human suffering.

The ACTING PRESIDENT pro tempore. The Senator's 10 minutes have expired.

The Senator from Louisiana.

Mr. LONG. Mr. President, the amendment offered by the Senator is similar to what the committee did agree to. The Senator's amendment does not have the same emphasis on employee stockownership as the Committee on Finance recommended, and in that respect it is not as appealing to the Senator from Louisiana as was the provision which we agreed to in the committee.

The Senator would undertake to say that the amount which we would urge go to an employee stockownership arrangement would go instead to their supplemental unemployment benefits fund.

I trust this matter to the good judgment of the Senate. I personally have no strong feelings about it.

I voted some years ago to do something of that sort for American Motors and I believe that the Senate can well contend that in view of the fact that this Nation saw fit to do a similar thing for American Motors, that Chrysler Corp. today needs the same consideration as badly as American Motors did at that particular time.

I am happy to yield time to anyone who wants to speak on either side, but I think that the time should be used first by those who want to speak in opposition to it.

Mr. BIDEN. Mr. President, I cannot possibly support the Hart amendment to liberalize the loss carryback and carryforward provisions of the tax laws. The amendment has been drafted to make Chrysler the major beneficiary. I have consistently voted against bailout legislation directed to single companies such as Lockheed and Pan Am. I consider such legislation a dangerous precedent. What it does is introduces a form of deception in our tax code. Tax laws should be general—not written to benefit a specific firm.

With respect to the SUB provisions of the amendment, I have a fundamental problem. Should Government become involved in providing supplemental unemployment benefits to one group of workers? Namely, autoworkers, specifically Chrsyler workers? Why not GM workers, many of which have been unemployed as long as Chrysler workers? If we do this, should we not do the same thing for the workers in the housing or construction industries, many of whom have been unemployed much longer than autoworkers? If Government gets involved in supplemental unemployment benefits, it should do it for all workers by increasing weekly unemployment benefits.

I propose to take care of the needs of the long term unemployed by passing special legislation to increase weekly unemployment benefits for all covered workers, by extending the number of weeks that all workers can receive benefits, by passing special legislation to pay health care insurance premiums for the unemployed and by passing mortgage relief assistance so that the unemployed do not lose their homes. For instance, today I will vote for the Javits amendment to extend unemployment benefits. Giving Chrysler a tax break has nothing to do with taking care of these people. I would suggest that the tax bailout should stand on its own merits. The injection of SUB fund aid, just serves to distort the issue. Perhaps the $190 million tax break should be directed to programs for the unemployed.

The best thing that we can do is to turn this economy around without going back to the kind of inflation that preceded our present economic recession.

What we can do is eliminate the giveaways from the tax bill that will needlessly increase the Federal deficit thereby resulting in higher interest rates and higher prices. What we can do is pass a tax bill that provides the necessary economic stimulus, that recognizes the needs of those truly requiring relief, while at the same time maintaining the fiscal responsibility needed to transform our current economic situation into one of economic order.

Mr. CURTIS. Mr. President, I do not wish to speak in opposition to this, but I think as a member of the committee I should point out one fact. There are three companies which sought relief under this philosophy. At the present time, a corporate taxpayer can average over 8 years, 5 years forward and 3 years back. It is a request that they could average the entire 5 years back. There is quite a heavy penalty if they want to change again. I think the taxpayers are taken care of in that way.

However, it happens that the years are such that here are two other entities, one of them an international airline, that will not be covered by this amendment. I believe its language is general in application. They are not excluded, but it happens that the years in question will not do that. I present that not as an argument against or for this proposal, but merely for the information of the Senate.

Mr. LONG. I yield to the Senator from Colorado.

Mr. HASKELL. Mr. President, I have to object to this amendment basically on philosophical grounds. I can understand the desires of the Senators from Michigan to help a corporation which is a large employer in their State. My only objection is that I do not think this is the way the Congress ought to do it. We are giving an unknown amount of help, because we do not know the extent of the loss. We are giving the assistance without hearings as to the desirability or undesirability.

Mr. President, I would merely like to register my objection that if this type of assistance is to be given, it be given directly after hearings and reports by committees rather than to do it by an amendment to the tax laws.

Mr. GRIFFIN. Will the chairman yield?

Mr. LONG. The time in support of the amendment should be yielded, if possible.

Mr. PHILIP A. HART. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has exhausted his time.

Mr. PHILIP A. HART. I yielded myself 5 minutes.

Mr. GRIFFIN. Will the Senator yield 2 minutes?

Mr. LONG. If the Senator from Michigan has used all his time, I will yield 2 minutes of my time.

Mr. GRIFFIN. I merely wanted to take a moment to associate myself with my senior colleague from Michigan. (Mr. PHILIP A. HART) in the argument he has made. I think it is important to emphasize that there is important recognition in this bill of the housing industry. There are outright subsidies provided in the bill to stimulate the housing industry. But the other major industry that is dragging the economy down is the automobile industry and the depression that we are experiencing in the automobile industry.

In our State upwards of 14 percent are out of work and 25 percent of the automobile workers have been out of work. Fortunately, some of them have been called back recently, but it may be a temporary situation.

I think it is important to realize that the investment tax credit that is provided in this bill is meaningful only to corporations and businesses that make a profit. It does nothing to help a corporation that is incurring losses. The only way that you can help a corporation that is incurring a loss is to recognize the equity of this particular approach which only allows the corporations in-

volved to spread their losses over a different period of time.

Really, what is involved here would be the Chrysler Corp. and other businesses that are affected getting some of their own tax money back, tax money that they have already paid in in years when they have made a profit. It is to allow them to offset that against the years now when they are incurring severe losses.

Furthermore, as the amendment is drafted, although there is some concern about it, there would be substantial help to the laid-off workers involved because a significant portion of what would be involved here would go to supplement unemployment compensation benefits. I believe in light of the total context of the tax legislation that is being considered and what we are trying to achieve, this amendment has merit. I hope it will be adopted.

Mr. ROTH. Will the chairman yield?

Mr. GARY W. HART. Will the Senator yield for a question?

Mr. LONG. First, for the record I wish to state these figures: It is my understanding Chrysler had a loss of $71 million in 1974, and that they will sustain a loss of $312 million in 1975, a total loss of $383 million. Their tax advantage therefore, is estimated at $191 million under the amendment.

Mr. President, I have said that to support a measure of this sort I would insist there be an employee stock ownership in the amendment. I suppose I would have to maintain my consistent attitude in that matter. I regret that is not in this proposal. I personally would like to vote for it. But if there is no employee stock ownership arrangement, I do not feel I could vote for it.

I yield to the Senator from Delaware.

Mr. ROTH. Mr. President, I am pleased to join the two Senators from Michigan in sponsoring this legislation, as I think it is important that we do something to help those companies so adversely affected by the recession and Government regulations. I would point out in answer to the distinguished Senator from Colorado that the Finance Committee did deal with this problem; that we did have a provision that would provide assistance to Chrysler as well as other companies. So we are not dealing with a subject that was not dealt with in the Finance Committee.

I would also like to point out that time is of the essence both from the standpoint of the employees and the company. Under this proposal, 25 percent of the benefits would go to the so-called subpayments, and the subpayments are very nearly bankrupt at the present time. So I think it is extraordinarily important that we act now to help the unemployed employees as well as the communities in which these plants are located. I can say that, from the standpoint of Delaware, where a Chrysler plant was shut down for several months and they are just now beginning to go back to work, the subpayments have had a very beneficial effect, especially to the employees out of work and also to the community as a whole.

I would like to point out that the primary purpose of the tax cut is to help the economy, to stimulate the economy. I can think of nothing that could be more disastrous for our economy today than for a major company, to force a major financial crisis. No one can predict that this legislation will necessarily correct all problems faced by Chrysler, but it will be a step in the right direction. I think, if we are going to help companies, such as Chrysler, who were so adversely affected by conditions beyond their control, it is highly important that we take action now. I believe it is important to realize that the major beneficiaries of this provision will be the thousands of employees and their families working for these corporations.

For the reasons already referred to, I also believe that the Congress must take steps to insure that Chrysler Corp. remains competitive. In my opinion, one of the reasons that Chrysler is now experiencing difficulties is the amount of Government regulations and controls that were imposed on them by this Congress. I would be extremely concerned if the company did go under, not only because of the impact this would have on jobs and incomes but also because of the psychological impact it would have on our whole economy. This provision would provide Chrysler the additional time and aid to make it through this very difficult time.

But this provision will help the employees of Chrysler most of all. Under this provision, Chrysler will be allowed to channel up to $40 million of its tax refund into the SUB funds for their unemployed workers and their families. The current SUB fund is expected to run out next week, when thousands of workers and their families throughout the country would be in desperate shape.

In my home State of Delaware, this provision would directly benefit the 1,700 Chrysler workers and their families who are still unemployed, and the 2,000 workers and their families who have recently been recalled temporarily.

The shutdown of the Chrysler plant in Delaware would have had a much more serious impact without the SUB funds. They not only help the unemployed individual and his family, but it also protects the economy of the community and the State.

The SUB funds are in danger of running out. I urge the Senate to adopt this amendment to extend these employee SUB funds.

Mr. GARY W. HART. Will the Senator from Louisiana yield for a question?

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. GARY W. HART. Will the Senator from Louisiana yield for a question?

Mr. LONG. Do I have time to yield?

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

Mr. CURTIS. Mr. President, do we have any time under the bill?

The ACTING PRESIDENT pro tempore. There was no time allotted on the bill. Under the previous agreement, the vote on this amendment will go over until after the cloture vote.

Under the previous order, the Chair now recognizes the Senator from California (Mr. TUNNEY) to call up his amendment, on which there is 15 minutes debate to be equally divided and controlled by the Senator from California and the Senator from Louisiana.

The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, between lines 8 and 9, insert the following:

SEC. 4. (a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h) as (i), and by inserting after subsection (g) the following new subsection:

"(h) CERTAIN EXPENSES NECESSARY FOR GAINFUL EMPLOYMENT.—

"(1) IN GENERAL.—In the case of an individual who maintains a household which includes as a member one or more of the following qualifying individuals—

"(A) a child or stepchild of the taxpayer (within the meaning of section 152) who is under the age of 15,

"(B) a dependent of the taxpayer who is under the age of 15 or who is physically or mentally incapable of caring for himself or herself, or

"(C) the spouse of the taxpayer, if he or she is physically or mentally incapable of caring for himself or herself,

the deduction allowed by subsection (a) shall include the reasonable expenses paid or incurred during the taxable year for household services and for the care of one or more individuals described in subparagraph (A), (B), or (C), but only if such expenses are ordinary and necessary to enable the taxpayer to be gainfully employed.

"(2) MAINTAINING A HOUSEHOLD.—For purposes of paragraph (1), an individual shall be treated as maintaining a household for any taxable year only if over half of the cost of maintaining the household during such period is furnished by such individual (or if such individual is married during such period, if furnished by such individual and his or her spouse).

"(3) SPECIAL RULES.—For purposes of this subsection—

"(A) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction provided by subsection (a) shall be allowed only if the taxpayer and his spouse file a single return jointly for the taxable year.

"(B) GAINFUL EMPLOYMENT REQUIREMENT.—If the taxpayer is married for any period during the taxable year, there shall be taken into account employment-related expenses incurred during any month of such period only if—

"(i) both spouses are gainfully employed, or

"(ii) the spouse is a qualifying individual described in paragraph (1)(C) of this subsection.

"(C) CERTAIN MARRIED INDIVIDUALS LIVING APART.—An individual who for the taxable year would be treated as not married under section 143(b) if paragraph (1) of such section referred to any dependent, shall be treated as not married for such taxable year.

"(D) PAYMENTS TO RELATED INDIVIDUALS.—No deduction shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section except where the taxpayer can demonstrate

that such payments were made in an arms length fashion pursuant to regulations to be prescribed by the Secretary or his delegate.

"(E) REDUCTION FOR CERTAIN PAYMENTS.—In the case of employment-related expenses incurred during any taxable year solely with respect to a qualifying individual (other than an individual who is also described in subparagraph (A) or (B) or paragraph (1) of this subsection and who is under the age of 15) the amount of such expenses which may be taken into account for purposes of this section shall be reduced—

"(i) if such individual is 15 or older and is described in subparagraph (B) of paragraph (1) of this subsection, by the amount by which the sum of—

"(I) such individual's adjusted gross income for such taxable year,

"(II) the disability payments received by such individual during each year, exceeds $750, or

"(ii) in the case of qualifying individual described in subparagraph (C) of paragraph (1) of this subsection, by the amount of disability payments received by such individual during the taxable year.

For purposes of this subparagraph, the term 'disability payment' means a payment (other than a gift) which is made on account of the physical or mental condition of an individual and which is not included in gross income."

(b) Section 62(c) of the Internal Revenue Code of 1954 (relating to trade and business deductions of employees) is amended by adding at the end thereof the following new subparagraph:

"(E) CERTAIN EXPENSES NECESSARY FOR GAINFUL EMPLOYMENT.—The deductions allowed under section 162 which consist of expenses allowable by reason of the application of subsection (h) thereof, paid or incurred by the taxpayer in connection with the performance by him or by her of services as an employee."

(c) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended—

(1) by striking out section 214 (relating to expenses for household and dependent care services necessary for gainful employment), and

(2) by striking out the item relating to section 214 in the table of sections for such part.

(d) The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5. (a) Section 43 of the Internal Revenue Code (relating to overpayments of tax) is redesignated as section 44 and the following new section is added:

"SEC. 44. GAINFUL EMPLOYMENT CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of all the expenses for gainful employment, described in section 162(h).

"(b) LIMITATION.—(1) The credit allowed in subsection (a) shall not exceed $50, ($25, in the case of a married person filing a separate return) per month.

"(c) ELECTION TO TAKE DEDUCTION IN LIEU OF CREDIT.—This section shall not apply in the case of any taxpayer who, for the taxable year, elects to take the deduction provided by section 167(h). Such election shall be made in such manner and at such time as the Secretary or his Delegate shall prescribe by regulations."

(b) Section 6401(b) (relating to amounts treated as overpayments) is amended—

(1) by inserting "section 44," (relating to gainful employment credit) after "section 43"; and

(2) by striking out "and 43" and inserting in lieu thereof "43, and 44".

(c) Section 6201(a)(4) (relating to assessment authority) is amended—

(1) by inserting "44 (relating to gainful employment credit)" immediately after "43" in the caption of such section; and

(2) by striking out "on section 43 (relating to personal exemptions)," and inserting in lieu thereof ", section 43 (relating to personal exemptions), or section 44 (relating to gainful employment),".

(d) The amendments made by this section shall apply to taxable years beginning after the enactment of this Act.

Mr. TUNNEY. Mr. President, I call up amendment to the pending tax bill which will extend the concept of allowing working parents tax relief for expenses incurred by them in caring for their dependents.

I act today in the conviction that this worthwhile concept can play a significant role in lightening the tax burden of hundreds of thousands of parents and heads of households throughout the country, and make this relief available to those who need it most—the hard-pressed low- and middle-income taxpayers of the United States.

Mr. President, as everyone in this Chamber knows, we presently allow individuals to deduct the cost of caring for dependents when the cost of such care is a necessary part of taking and keeping gainful employment. Section 214 of the Internal Revenue Code of 1954, as amended, allows deduction of those expenses. However, the law at present requires that those expenses be deducted through the mechanism of an itemized deduction.

That simply will not do. In the name of equity for working parents now and in the future, the current situation should be changed.

What is wrong with the present deduction? Put very simply, the problem lies in the fact that only those taxpayers who itemize deductions can receive the benefits of this tax allowance. Yet of the millions of people and families earning less than $10,000 a year, only 32 percent utilize itemized deductions. That means that some 68 percent of those low- and middle-income families and individuals receive no benefit at all from the existing allowance.

Yet we all know that these are the very people we should be striving to help with such tax relief. The working mother, struggling to make ends meet, needs this tax incentive more than anyone. To date, however, we have slammed the door in the faces of millions of working mothers by denying them the benefits of their expenditures on child care.

This means that hundreds of people who might otherwise hold down jobs, and be contributing vital income to ravaged family incomes, are discouraged from working, simply because the income from their work hardly exceeds their expenses.

And we should not believe that this problem will pass without further attention on the part of the Congress. The proportion of mothers working outside the home is more than double what it was 25 years ago. In 1948, 18 percent of our Nation's mothers went out of the house to work. Now that figure stands at 42 percent, and we can expect that trend to continue as the pinch on our middle-income breadwinners becomes worse.

Therefore, I say that it is time to bring the design of the tax law into concert with the realities of our contemporary society. We must recognize the fact that millions of American parents must work in these troubled times, and we must further recognize that millions of those parents must incur substantial expenses for child care to allow them to work. Insofar as the present tax structure does not allow thousands of families to utilize fully the existing deduction for such care, the law should be changed.

Therefore, I am proposing that there be three basic changes in the child care expense deduction:

First. I believe that the deduction should be placed under section 162 of the Internal Revenue Code. This would indicate that this deduction would be defined as an "ordinary and necessary" expense incidental to the conduct of a business or trade.

Certainly, it should be as legitimate for the working mother to deduct the cost of her child care as it is for the ordinary businessman or employee to deduct the cost of advertising or business lunches or the like. Both are directly related to the production of income, and as such they should fall within the same section of the code.

Second. I would also make this deduction an "adjustment to income." This technical term means nothing more than the fact that taxpayers would be permitted to deduct child care expenses, and still take the standard income tax deduction—the device overwhelmingly used by the majority of the Nation's ordinary taxpayers.

Third. After consultation with the distinguished chairman of the Senate Finance Committee, the Senator from Louisiana (Mr. LONG) I have decided to incorporate another feature into this amendment. It will allow taxpayers to take tax credits equal to one-half their child-care expenses of up to $50 per month, or a total of $600 per year.

This provision would be especially helpful to the low-income taxpayer who was unable to take maximum advantage of his or her deduction or adjustment. Such taxpayers would receive up to $600 per year in credits toward their income tax liability. Thus, the taxpayer would be able to choose between taking a deduction or adjustment to income, and taking a tax credit, either of which would be based on his or her child-care expenses.

In either case, it would be the ordinary taxpayers of American who would be the beneficiaries of this amendment. We in the Senate have gone on record in favor of the concept of allowing working parents to deduct child-care expenses. Now we must take the next giant step, and insure that those tax deductions are available on a fair and equitable basis to all Americans, rich or poor. I hope the Senate will join me in this effort.

Mr. TUNNEY. Mr. President, I ask for the yeas and nays.

Mr. LONG. I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I ask for the same unanimous-consent agreement we had prior to this time, that the vote on the Tunney amendment occur immediately after the vote on the Hart amendment.

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

Mr. TUNNEY. Mr. President, the amendment I am offering today corrects an inequity in the Internal Revenue Code of 1954 which makes household services and child-care expenses a personal deduction rather than a business deduction.

I think it is very important that we make this change, because many heads of households are working who need to have a babysitter to take care of their children. That babysitter costs a considerable amount of money, which represents a substantial deduction from the income of the head of the household. The head of a household is not able to claim that babysitter as a deduction against his or her income tax unless that family itemizes deductions. The way the law presently is worded, the deduction for child-care expenses is not a business deduction but a personal deduction. The family which takes a standard deduction rather than an itemized deduction when filing its return is not able to claim the babysitter expense.

On the other hand, if this were a business deduction, and an adjustment to income that family, in filing its return, would be able to claim the babysitter expense in addition even if it claimed the standard deduction.

Of the families that earn $10,000 or less, almost 70 percent file returns with the standard deduction, which means that 70 percent of the families that earn less than $10,000 are not able to claim the babysitter expense as a tax deduction. My amendment is designed to give those families an opportunity to write off the babysitter expense against their taxes.

This makes clear sense. If a businessman is able to write off his secretary as a business expense rather than as a personal expense, there is no reason in the world why a mother who is the head of a household should not be able to write off the cost of a babysitter as a business expense so that she can go to work.

The amendment I have offered today is a modified form of amendment No. 153, which was printed earlier. The modification provides that the head of the household, as an alternative to claiming this as a business deduction, can claim a tax credit of up to $50 a month equal to one-half the cost of the babysitter. This will enable many poorer families to have a much greater benefit than the amendment as originally drafted would provide.

If our desire in this country is to get people off welfare and get them to work, then we should be giving a substantial benefit to those families that are of lower income levels. They can then have an opportunity to receive a maximum write-off for the cost of the babysitter. As a result, we are actually getting two for one. We are employing the babysitter and employing the person on welfare.

Mr. LONG. Mr. President, will the Senator yield, on my time?

Mr. TUNNEY. I yield.

Mr. LONG. The tax credit the Senator is suggesting would be especially helpful to a mother drawing welfare payments who would like to go to work to improve the condition of her little family. When that mother goes to work, her work expenses would be increased by the cost of paying for day care for her child or by the cost of paying someone to take care of the child while the mother is at work. If she has to pay $100, which is about the minimum one could expect to pay for decent day care, that reduces her earnings by $1,200. Even if she earns enough to remove her from the welfare rolls, that $1,200 is a tremendous expense which will benefit her very little for income tax purposes since she can already take a standard deduction of $1,300.

So this amendment would give her the benefit of a tax credit that would cover about half the cost of providing decent day care for her child while she goes out and tries to provide for a better situation in life for both herself and the child.

Mr. TUNNEY. The Senator from Louisiana is absolutely correct.

I thank the Senator from Louisiana for his efforts in perfecting this amendment. Over a period of years, the Senator from California has discussed this amendment with the Senator from Louisiana, and the thoughts of the Senator from Louisiana always have been very helpful.

The tax credit incorporated in the amendment offered by the Senator from California is a result of the prescience and the understanding of the Senator from Louisiana. I deeply appreciate the suggestions that the Senator made, because I think they make it a better amendment.

Mr. LONG. It reflects our mutual view that we should try to make honest endeavor, honest work, more attractive than welfare, if we can.

Mr. TUNNEY. I agree with the Senator.

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

Mr. TUNNEY. I yield.

Mr. CURTIS. Is it not true that there is a provision in the code now for deducting child care expenses for working mothers?

Mr. TUNNEY. Yes, but it is a personal deduction. It is not a business deduction, and it cannot be used with the standard deduction.

Mr. CURTIS. But anyone who itemizes his deductions can get substantially the same benefit as would be included in the Senator's amendment.

Mr. TUNNEY. Anyone who itemizes his deductions can do that. There are two changes necessary, however: allowing the use of the deduction with the standard deduction and providing a tax credit in this amendment of up to $50 a month. Both changes would be of substantially greater benefit to the lower income taxpayer than the deduction that is presently allowed.

Mr. CURTIS. Does the Senator's amendment provide for a credit?

Mr. TUNNEY. Yes—or a deduction—either one or the other, whichever the taxpayer elects to report and claim.

Mr. CURTIS. How much of an expenditure for child care does the taxpayer have to have in order to get a credit of $50 a month?

Mr. TUNNEY. It can be no more than $50, but it is one-half of the cost of the babysitter.

Mr. CURTIS. I would raise a serious question about using a tax credit for this purpose. A tax credit is a special category in which one just deducts a sum of money from the taxes owed. There are many worthy causes, many of them expenditures, but we may not have any revenue left.

I hope that the part of the amendment particularly relating to a tax credit will not be pushed by the Senator.

It is one thing to give an added benefit to the individual who takes a standard deduction, which there still might be some question about. But to make this a credit, I seriously question the wisdom of that. I hope that the Senator will reconsider it.

Mr. TUNNEY. The reason that the credit has appeal is that it helps those people most whom we would like to see have the greatest opportunity to go to work. These are the people who are presently on welfare or, who, under existing law, are not given any kind of encouragement to go to work. If there is a young child in the house, the cost of the babysitter is sufficiently high that it reduces the earned income of these people to the point that it is much better to sit at home and just draw welfare payments, rather than work. By giving this tax credit of up to $50 a month, what we are doing is encouraging such people to go to work, because they will have a very direct financial stimulus to do so.

The PRESIDING OFFICER. The time has expired.

Mr. LONG. Mr. President, I send to the desk an amendment. In the event the amendment of the Senator from California should be agreed to, I believe that this amendment will be needed to make it relate properly to the other sections in the bill.

Mr. TUNNEY. I modify my amendment to incorporate the language of the amendment offered by the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is so modified.

The clerk will state the modification.

The assistant legislative clerk read as follows:

On page 89, between lines 5 and 6, insert the following new paragraph:

(1) Section 50A(a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) Limitation with respect to nonbusiness eligible employees.—Notwithstanding

paragraph (1), the credit allowed by section 40 with respect to federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000."

On page 89, line 6, strike out "(1)" and insert in lieu thereof "(2)".

On page 89, line 20, strike out "(2)" and insert in lieu thereof "(3)".

On page 90, line 25, strike out "(3)" and insert in lieu thereof "(4)".

On page 91, line 7, strike out "(4)" and insert in lieu thereof "(5)".

Mr. LONG. Mr. President, the amendment that I have sent to the desk seeks to reconcile the Tunney amendment with the Talmadge amendment that is in the bill. In the event that someone is employed off the welfare rolls, it would provide a tax credit for employing someone from the welfare rolls. The Senator may not be familiar with that provision, but we do not want to have an unintended benefit; so the two sections should be considered together.

Mr. TUNNEY. I thank the distinguished chairman.

I wish to point out to my distinguished friend from Nebraska that the amendment that I am offering—at least the part of it giving a business deduction for the cost of the babysitter—passed the Senate in November 1971 by a vote of 74 to 1. I offered it at that time. It was accepted again by the Senate by a vote of 71 to 8 as an amendment to H.R. 1 in 1972. So, this amendment has a good track record in the Senate, to say the least.

Mr. CURTIS. Do I understand by that——

Mr. TUNNEY. I dare say—I cannot be sure—that if we look at the record, we will find that the Senator from Nebraska voted for it.

Mr. CURTIS. All I gather from your argument is that it was such that they were unable to convince the conference.

Mr. TUNNEY. It was a technicality. It was declared nongermane to the House bill; therefore, it was dropped. It was at the time that the House adopted those rules which made it impossible to put into a House bill any language that was not germane to the original House bill. So it got thrown out on a technicality.

But it has widespread support in the House as well as in the Senate, and I am sure that if the Senator from Nebraska thinks about it, he will see the wisdom of what I call a two-for-one benefit. If we give the opportunity to a nonworking mother to go to work and give her the financial stimulus to do so, we then also hire a babysitter as well. So we get two for the price of one—two people employed for the price of one deduction.

Mr. CURTIS. Will the Senator yield?

Mr. TUNNEY. Yes.

Mr. CURTIS. Did his previous amendment have a credit?

Mr. TUNNEY. No; the previous amendment did not have a credit. The credit improves the amendment, in my view.

Mr. CURTIS. But not in the view of the Treasury. If we have enough credits, there will not be any income for the Treasury.

Mr. TUNNEY. They will be paying taxes. The person, instead of being a tax gobbler, will be working generating income and paying taxes.

Mr. CURTIS. I am not too sure that when we count up everything that is in existing law and everything in this bill, someone in the circumstances the Senator describes is going to pay more than $600 a year taxes, and he wants to give him $600 a year credit.

Mr. TUNNEY. We may be taking him off welfare. We have to count that, too.

Mr. CURTIS. And off the tax rolls.

Mr. TUNNEY. A person on welfare is probably drawing $4,000 or $5,000 a year of tax money, so we must consider the savings from forgone welfare payments.

Mr. CURTIS. We are giving them too much.

Mr. LONG. Mr. President, how much time remains?

The PRESIDING OFFICER. There is no time on the amendment.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Montana (Mr. METCALF), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Indiana (Mr. HARTKE) be added as cosponsors.

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

Mr. LONG. Mr. President, under our unanimous-consent request, we will vote on that amendment after we vote on the Hart amendment. Now, if there is another amendment which the Senator desires to discuss, we will discuss that one.

AMENDMENT NO. 191

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from New Mexico (Mr. DOMENICI) to call up an amendment, with a time limitation of 15 minutes, 7½ on a side.

Mr. DOMENICI. Mr. President, I call up my amendment No. 191 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMENICI. 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 end of the last page, insert the following Title entitled, "structural Energy Conservation Incentives."

SECTION 1. (a) The Congress finds that—

(1) present national energy sources are limited and the capacity of the nationalenergy supply system to meet future demand is threatened;

(2) it is in the national interest to conserve energy by moderating the demand for fossil fuels and by improving the efficiency with which such fuels are used;

(3) significant energy savings for the Nation and the consumer may be achieved by applying existing methods of energy conservation to the thermal design of various residential units and

(4) it is an important national objective to encourage sound investment practices which improve the thermal design of various residential units and increase the use of solar energy in heating and cooling such units.

(b) It is the purpose of this Act to establish a system of income tax credits and income tax deductions in order to promote improvement of the thermal design of various residential units, and to promote the use of solar energy devices in residences.

INCOME TAX CREDIT FOR CERTAIN EXPENDITURES RELATING TO THERMAL DESIGN OF RESIDENCES

SEC. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as section 43 and by inserting immediately after section 41 the following section:

"SEC. 42. EXPENDITURES RELATING TO THERMAL DESIGN OF TAXPAYER'S RESIDENCE.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter—

"(1) an amount equal to the ordinary and necessary expenses paid by a taxpayer during the taxable year for the improvement of the thermal design of any residential units by that taxpayer through the purchase of conventional materials or through the purchase of solar heating and cooling equipment;

"(2) an amount equal to the ordinary and necessary expenses paid by a taxpayer, including a contractor, during the taxable year for the installation by that taxpayer, of insulation and caulking materials to the extent these materials exceed in the amount the specifications for such materials in the Department of Housing and Urban Development Minimum Property Standards, and storm windows, storm doors, and solar heating and cooling equipment, in any new residential unit; and

"(3) an amount equal to the ordinary and necessary expenses paid by a taxpayer during the taxable year for the improvement of the thermal design of any new or existing commercial building by that taxpayer through the purchase of conventional materials or through the purchase of solar heating and cooling equipment.

"(b) GENERAL LIMITATION.—The credit allowed by subsection (a)(1) and (a)(2) shall be limited to—

"(A) 25 percent of any expense which qualifies for a deduction under section 220 (a); and

"(B) $1,000 for the period during which the provisions of this section are in effect, no more than $250 of which may be allowed as a credit for the purchase of conventional materials.

"(2) The credit allowed by subsection (a) (3) shall be limited to (A) 25 percent of any expense which qualifies for a deduction under section 220(a); and (B) $5,000 for the period during which the provisions of this section are in effect, no more than $1,000 of which may be allowed as a credit for the purchase of conventional materials.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), section 38 (relating to investment in certain depreciable property), and section 41 (relating to contributions to candidates for public office).

"(c) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by subsection (3)(2) for such taxable year (hereinafter in this subsection referred to as the 'unused credit year'), such excess shall be—

"(1) a credit carryback to any taxable year—

"(A) during which the provisions of this section are in effect; and

"(B) which precedes the unused credit year; and

"(2) a credit carryover to each of the 4 taxable years following the unused credit year.

"(d) DEFINITIONS.—

"(1) CONVENTIONAL MATERIALS.—For purposes of this section, the term 'conventional materials' includes caulking materials and insulation, storm windows, storm doors, and such other materials as so defined by the Secretary of the Treasury, in cooperation with the Federal Energy Administrator and the Secretary of HUD.

"(2) SOLAR HEATING AND COOLING EQUIPMENT.—For purposes of this section, the term 'solar heating and cooling equipment' means any solar heating and cooling equipment, solar electric generation devices and solar energy assisted heat pumps, which:

"(A) meets the definitive performance criteria prescribed by the Secretary of HUD under section 8 of the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409; 88 Stat. 1073).", of which

"(B) meets adequately definitive performance criteria to be certified acceptable for receipt of a tax credit or deduction by the Secretary of the Treasury in cooperation with the Secretary of HUD. The Secretary of the Treasury shall take such appropriate actions to accelerate the development of "adequately definitive" performance criteria to allow certification of such equipment by not later than 180 days following enactment.

"(3) For purposes of this section the term 'residential units' shall include single family units and individual residental units within a multi-family structure.

(b) The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the followng new items:

"Sec. 42. Expenditures relating to thermal design of taxpayer's residence.
"Sec. 43. Overpayments of tax.".

INCOME TAX DEDUCTION FOR CERTAIN EXPENDITURES RELATING TO THERMAL DESIGN OF RESIDENCES

SEC. 3. (a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221, and by inserting immediately after section 219 the following new section:

"SEC. 220. EXPENDITURES RELATING TO THERMAL DESIGN OF TAXPAYER'S RESIDENCE

"(a) GENERAL RULE.—There shall be allowed as a deduction,

"(1) the ordinary and necessary expenses paid by a taxpayer during the taxable year for the improvement of the thermal design of any residential units by that taxpayer, through the purchase of conventional materials (as defined by section 42(d)(1)) or through the purchase of solar heating and cooling equipment (as defined by section 42(d)(2)) and;

"(2) an amount equal to the ordinary and necessary expenses paid by a taxpayer, including a contractor, during the taxable year for the installation by that taxpayer of insulation and caulking materials to the extent these materials exceed in the amount the specifications for such materials in the Department of Housing and Urban Development Minimum Property Standards, and storm windows, storm doors, and solar heating and cooling equipment, in any new residential unit.

"(b) LIMITATION.—The deduction allowed by subsection (a) shall be limited to $4,000 for the period during which the provisions of this section are in effect, no more than $1,000 of which may be allowed as a deduction for the purchase of conventional materials.

"(c) ELECTION TO TAKE CREDIT IN LIEU OF DEDUCTION.—This section shall not apply in the case of any taxpayer who, for the taxable year, elects to take the credit against tax provided by section 42 (relating to credit against tax for expenditures relating to thermal design of taxpayer's residence). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.".

"(d) The table of sections for such part VII is amended by striking out the item relating to section 219 and by inserting in lieu thereof the following new items:

"Sec. 220. Expenditures relating to thermal design of taxpayer's residence.
"Sec. 221. Cross references.".

REPORT

(a) The Secretary of the Treasury or his delegate shall prepare an annual report in consultation with the Administrator of the Federal Energy Administration. Such report shall be transmitted to the Congress not later than September 15 of each year, beginning with 1976, and shall include:

(1) information with respect to the number and amounts of credits and deductions taken under the amendments made by the foregoing provisions of this Act; (2) the nature of thermal design improvements made by taxpayers with respect to their principle residences; (3) the geographical areas of the United States in which such residences were located;

(b) The Administrator of the Federal Energy Administration, in consultation with the Secretary of the Treasury, shall—

(1) prepare an analysis of the energy savings achieved through operation of such amendments;

(2) coordinate all Federal studies of incentives to conserve energy or increase the development of such clean and renewable energy resources as, but not limited to, solar energy policy and program recommendations on additions or changes to the Federal Energy Incentives Program (including the tax credit and tax deduction amendments); and

(3) submit interim reports in conjunction with the report of Section 4(a), including findings on energy savings and on recommendations for incentives modifications.

(c) The Secretary of the Treasury shall prepare guidelines relating to Sec. 42(d) above and submit these to Congress for approval within 90 days following enactment of this legislation.

TECHNICAL AMENDMENTS

SEC. 5. (a) Section 56(a)(2)(A) of the Internal Revenue Code of 1954 (relating to imposition of minimum tax) is amended—

(1) in clause (iv) thereof, by striking out "and";

(2) by adding at the end thereof the following new clause:

"(vi) section 42 (relating to expenditures relating to thermal design of taxpayer's residence); and".

(b) Section 6096(b) of the Internal Revenue Code of 1954 (relating to income tax liability) is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

EFFECTIVE DATE

SEC. 6. The amendments made by the foregoing provisions of this Act shall apply to expenses incurred during taxable years beginning after December 31, 1974, and ending before January 1, 1980. Such amendments shall terminate at the close of December 31, 1979, except that taxpayers may continue to take credit carryovers as provided by section 42(d)(2) of the Internal Revenue Code of 1954 (relating to carryback and carryover of unused credit), as enacted by Section 2(a) of this Act.

Mr. DOMENICI. Mr. President, I offer this amendment in behalf of myself, Senators HUMPHREY, FANNIN, TUNNEY, PELL, and GARY W. HART. I yield myself 3½ minutes.

Mr. President, this amendment is one that I probably would not have offered if we were considering solely a tax reduction and tax rebate bill. But it seems to me that, since we have entered other areas, this one is a most significant and important amendment. This amendment, basically, is one that will do three things, all of which are needed today.

First, it will put into place some new incentives for residences, new and old, and commercial establishments new and old, to insulate either the homes or the commercial premises, and it will encourage that this be done. It is estimated that during the 4-year life of this bill, as far as residences in America, new and old, this will effect a savings of at least 250,000 barrels of oil or its equivalent per day.

It will cost approximately $700 million if in fact the entire program is accepted by the American people. There is no question but that the conversion aspect is recommended by everyone that has looked at America's needs. The President, in his state of the Union message, specifically referred to it. The congressional program on economic recovery and energy sufficiency directly recommended this approach. So as to that aspect it is absolutely certain that we must do this in our country.

Second, there is no question but that this would stimulate substantial employment. We do not know precisely how much, but certainly it would stimulate the presently depressed construction industry.

Third, in the area of solar energy or new technology, this particular proposal would encourage alternate uses of new technology and give a credit for those who would seek to use the same.

Mr. GARY W. HART. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. DOMENICI. I thank the Senator from Colorado.

There is no question but that solar energy for residential and commercial use is out and ready to be used. What we are trying to do with this bill is promote its use by giving appropriate tax relief to those who would use it, not by way of a bonanza, but rather by way of making it economical for them to do it.

We think this amendment would encourage it, and we also have reason to believe, from those who manufacture the apparatus and equipment for solar energy, that it would, in a few short years, bring the cost of solar energy to be used both in residences and in commercial establishments down substantially.

It is estimated that if this bill was in place, that kind of applied technology

would be reduced in cost for the consumer by about one-third of its present cost, which is basically a demand and supply sort of cost.

I will summarize again, because we do not have much time.

Basically, this amendment would apply to both new and old houses in America. For those that are going to be constructed brand new, we will still allow some incentive if in fact the builder or the owner insists on maximum insulation standards rather than minimum. Both of these are defined by HUD today, and the difference in cost between the minimum and maximum is that to which the credit and deduction would apply.

For old homes, there is presently a HUD criterion for what is adequate insulation, and there again, for those who would want to do this to their homes, that is, install storm windows, insulation, and the like, there will be a criterion to be followed in terms of their getting adequate insulation into old homes.

Likewise in the area of solar energy, as a result of the Solar Demonstration Act, there are in existence, in place in HUD, known criteria that can be applied by IRS to determine whether or not appropriate new technology is being applied.

Mr. GARY W. HART. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I am delighted to yield to the Senator from Colorado.

Mr. GARY W. HART. The Senator has implied, in connection with the solar energy portion of his amendment, that he felt it preferable that it be applied to this measure, the tax rebate bill, rather than for the Senate to procecd through the normal process with legislation, with hearings, debate, and discussion at the committee level on the solar energy portion of the bill.

I have a personal interest here. I have a bill presently working its way through which is very similar to the proposal suggested by the Senator from New Mexico. Mine would provide for a loan program for solar units, whereas, as I understand, this measure is a tax incentive or tax reduction provision.

These two measures seem to me to be very close together, and I question the wisdom of taking this step right now.

Mr. DOMENICI. I might say to the Senator from Colorado that I have seen his bill, and indeed it is an excellent bill, and contains features very similar to this.

We have had formal hearings last year in both the Commerce and Space Committees, which have demonstrated the need. There is a demonstration bill in place which establishes the criteria; and, as I said in my opening remarks, if this bill was not becoming a tax incentive as well as a tax reduction kind of a bill, a bill with a lot of matters other than tax reductions and rebates, I would not offer it here. But it seems to me that since this is the kind of a bill that it is, we ought right now to put in the one aspect that everyone agrees upon, which is that insulation and solar technology ought to be stimulated in the American market for their energy-saving capacity and employment potential; and certainly the tax incentive approach will cause that to happen.

I think, on instances when Senators have occasion to talk to average citizens, they will usually say, "We would like to insulate our home and save energy, and if we got a bit of a break we would do it."

This will permit $1,000 to be spent with tax relief for various expenditures in that field of insulation.

Mr. LONG. Mr. President, I yield 3 minutes to the distinguished senior Senator from Colorado.

Mr. HASKELL. Mr. President, I would like to state my reasons briefly for opposing this proposal. The ends sought are justifiable, but the Senator from New Mexico is having the Federal Government subsidize only people who pay taxes. There are a lot of people with many children, who may be working very hard, who may even have eight children, and not even be paying taxes. If we are going to subsidize people—and this is a worthy end—I think we ought to subsidize everyone across the board, and I think it ought to be done after hearings.

My colleague from Colorado has a very meritorious bill, which would provide for loans. Perhaps the committee after hearings would include provisions for both loans and direct subsidies; I do not know. But I am just mentioning to my friend that I think that is the way we ought to go, rather than subsidizing some of the people in this country.

I thank the Senator.

Mr. LONG. Mr. President, undoubtedly the Senate will do something in this area. As the Senator from Colorado pointed out, it would be well that we study the matter in greater depth and consider the alternatives before we decide which program to adopt.

I think I should advise the Senate that this amendment could increase the tax reduction of the bill by as much as another billion dollars. Senators will want to think about that in connection with how much overall tax reduction they want to vote.

We have added some revenue to the bill. The Hartke amendments, for example, would bring in another $1,600,000,000 or possibly more if agreed to in conference. I think I should point out that the revenue gains have been offset by the additional tax loss by a lot more than we would pick up. Senators may well want to carefully consider how much they want to load this bill down with amendments that increase it cost.

Personally, I think we would be justified in a tax cut bill of about $31 billion, but I am not sure the Senate wants to go that far. If this is added to the bill, I will offer a motion at some point to strike from the bill some portions of that which is already in it, to try to help contain the cost.

If anyone else desires to speak in opposition I will be glad to yield time.

Mr. DOMENICI. I did not hear the Senator.

Mr. LONG. The manager of the bill has control of time in opposition to the amendment, and I am offering to yield time to anyone who wishes to speak against the amendment.

If not, I reserve the remainder of my time.

Mr. DOMENICI. I yield a minute and a half to the Senator from Arizona.

Mr. FANNIN. Mr. President, I commend my distinguished colleague from New Mexico and the well-known Senator from Minnesota for their interest in energy conservation.

If we are truly seeking the capability of energy self-sufficiency, then energy conservation will play a major role in attaining that goal. This amendment will provide the required economic incentive for individuals to improve the thermal efficiency of their homes and commercial buildings through conventional means or by application of a solar heating and cooling system. My State of Arizona with its shortage of natural gas must find new sources of energy.

In the area of solar development, this incentive is crucial. Last session we passed major solar research legislation. And we are hopeful that these new public laws will bring solar energy use into commercial competition with conventional energy sources very soon. But certain technologies are ready to be marketed. The barrier to the use of these available solar heating and cooling systems is the high initial cost of application. Though once in place, solar devices would save a homeowner hundreds of dollars in fuel costs, it is the estimated $3,000 to $8,000 cost of a solar system which discourages its use.

The National Science Foundation has recently collected applications for a study of the incentives and barriers to the widespread use of solar energy. Such a project will open our eyes to many problems, and I know it will guide us toward the necessary remedies. But as I mentioned earlier, we are already aware of the major economic barrier to increased solar use. That is one reason for this amendment. If we adopt our proposal, taxpayers could at least receive tax credit for 25 percent of their expenses on a solar system, up to $1,000 for homes, or $5,000 for large commercial buildings.

I feel it was particularly important that we extend this privilege to owners of commercial buildings. In many cases, retrofitting of systems to existing commercial buildings is a most efficient use of solar energy and it is often more easily accomplished than retrofitting a residence, where it is harder to avoid visual distractions with a retrofit system. Additionally, businesses may be better able to bear the current expense of a solar heating and cooling system than an individual homeowner.

Mr. President, the Federal Energy Administration has often pointed out that we waste a high percentage of energy in this country—through inefficient conversion, misplaced use priorities and poor insulation of buildings. Here is our chance to recover some of that wasted and much-needed energy for other uses.

The Treasury will lose a certain amount of tax money by this measure. If we reach the target of the Energy Research and Development Administration—that is for 1 percent of all housing starts to carry solar devices by 1980—the Treasury would lose $12.5 million

annually from this allowable credit. Coupled with the use of conventional thermal efficiency methods, this cost would probably increase to between $700–$800 million per year. But this estimate seems small when compared to the billions of dollars we are exporting to oil-producing countries.

But this low percentage of the cost of improvements will be lost to the Treasury only once. Meanwhile, with these improvements in effect during the coming years we will save more and more of the $70 million we are daily spending on imported energy. In addition, individual taxpayers will reap high savings year after year on fuel and utility expenses.

So this amendment accomplishes a great deal—energy conservation, the increased use of solar heating and cooling systems, the reduction of our foreign oil dependence, an increase in jobs within the solar and thermal efficiency industries and a great reduction in consumer costs.

I have added to the amendment of the distinguished Senator from New Mexico and the distinguished Senator from Minnesota the commercial portion of the bill because I feel that here we have a chance to level out the peak electricial loads which have caused the utilities so much difficulty in delivering adequate services. About 25 percent of the utilities' capital investment is involved in that peak load, and that is a very serious problem for them.

How can they do that? Well, by using the sun, solar energy, to accomplish that objective.

For water heating it is a very simple matter. For home heating, too, it can be utilized in the State of the distinguished Senator from Colorado and the State of the Senator from New Mexico where they are doing that. This is a mass coverage immediately in order that we can get this going, and get it producing at once a savings in electrical power and other fuels. I feel that if we can accomplish this it will go far toward leveling out that load about which we are talking.

Now, also this amendment would encourage growth in this area in the future because success breeds success. When people begin installing solar heating and cooling equipment as a result of this incentive then others will become interested. We already have commercial buildings around the country that are being heated with solar energy, but this is not true on a mass scale.

By utilizing this tax incentive, people will look into it, investigate it.

So I commend the Senator from New Mexico for this foresight in utilizing this particular amendment to accomplish that objective.

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

Mr. FANNIN. The Senator from New Mexico has the floor.

Mr. DOMENICI. I yield.

Mr. McCLURE. I wanted to commend the Senator from Arizona, who is a real leader and who has been a leader in the field of solar energy, and the Senator from New Mexico for offering his amendment.

I wish to point out that the Senator from Louisiana has indicated that it might cost as much as $1 billion a year in tax revenue in the life of the exemption or the tax allowance that is provided for here, and that that would be matched by a savings of $1 billion a year of energy for 30 years, not the 4 years' time.

The PRESIDING OFFICER. The time has expired on the amendment.

Mr. DOMENICI. Mr. President, I ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and the nays were ordered.

Mr. HUMPHREY. Mr. President, I am pleased to be the principal cosponsor of this amendment to the tax cut bill offered by Senator DOMENICI. The amendment will provide temporary tax incentives for installing adequate home insulation in any residential or multifamily structure.

The amendment is designed to stimulate voluntary energy conservation. Using data from the Federal Energy Administration, the Joint Economic Committee's staff estimates that this amendment will yield energy savings equal to 250,000 barrels of oil daily, or a reduction in energy costs to this country and its consumers of a minimum of $20 billion over the effective 20-year life of these incentives.

This amendment will also give any taxpayer the option of taking a tax credit or a tax deduction for the cost of purchasing and installing storm windows and doors, wall and roof insulation and for caulking around windows, the roof, doors and so on. The tax credit is set at 25 percent and carries a maximum ceiling of $250. Both the credit and the deduction are designed to stimulate energy conservation, now, because they will be available only through 1979. They are temporary and will yield benefits immediately—benefits which will, however, yield energy savings for up to 30 years.

All residential structures—new and old—single family, duplex, and multifamily apartments—are eligible.

Also, and perhaps, most important, temporary tax credits or tax deductions are created by this amendment for the cost of installing solar heating or cooling systems, for residential solar electric generation devices and for installation of solar energy-assisted heat pumps in new and existing residences. You know of my interest in solar energy, an interest shared I'm glad to say by many of my colleagues. These incentives, which also expire at the end of 1979, will be a giant step toward the development and certification of sound solar energy devices by creating incentives for a ready-made market for such devices.

The amendment is straightforward. It is necessary. And it embodies an energy conservation concept which has received essentially unanimous endorsement. It is quite similar to title III of S. 1149—the National Energy Conservation Act of 1975 which I have introduced and which Senator JACKSON cosponsored. It is quite similar to S. 166 introduced by Senator DOMENICI with eight cosponsors—including myself—on January 16. Finally, it is similar to the proposals in the Ford Foundation's energy study, in the FEA's Project Independence Blueprint, and in the President's state of the Union message.

Of great concern to me and to my colleagues is the tax loss we can anticipate should this amendment be enacted. The Federal Energy Administration has quickly developed data in this regard for me.

I ask unanimous consent that correspondence summarizing revenue loss estimates from Ms. Maxine Savitz, Director of the FEA's Building Policy Research Section be printed at this point in the RECORD.

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

FEDERAL ENERGY ADMINISTRATION,
Washington, D.C., March 14, 1975.

Mr. GEORGE TYLER,
Joint Economic Committee,
New Senate Office Building,
Washington, D.C.

DEAR GEORGE: The following is information discussed in our telephone conversation yesterday regarding tax credits for residential and commercial buildings.

1. The enclosed fact sheet (Table A) indicates the actions and their costs for retrofitting single family dwellings. If the average homeowner would invest about $300, a 15% tax credit would cost the Treasury $225 million per year if 5 million homeowners took advantage of it.

Table B offers an additional approach. The type of retrofit action, how many actions would occur and their cost for single family; two family and multi-family units per year is shown. The cost to the Government can be obtained by taking the amount of tax credit as a function of the total spending. For example, 15 percent tax credit would cost the Government:

(.15) (1770M) = $265M for single family units;

(.15) (89M) = $14M for multi-family units. and

(.15) (89M) = $14M for multi-family unit.

2. If the credit were to be applied to new housing, the increase in construction costs might be close to $1,000 in areas with storm doors and windows and $200 where just insulation was required. If one assumes half the new starts are in areas which require storm windows and doors and 1 million starts a year;

(a) 500,000 homes at $1000 investment—$150 credit would cost the Government $75M;

(b) 500,000 homes at $200 investment (insulation only) would cost the Government $15M.

As I mentioned, I do not think that the credit should apply to new construction. HUD/FHA recently (Nov. 22, 1974) promulgated new thermal minimum property standards (MPS). These require certain levels of insulation, windows and door protection. The levels vary across the country depending on the severity of winter or summer weather. The MPS have been used twice in the past five years to reflect rising costs of home heating and cooling. Recent calculations for us by John Moyers, Oak Ridge National Laboratory, indicate that in a city such as Seattle the standard would raise the cost of construction by $1129.74. At 9% mortgage rate, 2.5% higher property tax and 0.4% higher insurance costs, this increase would mean a net increase of $114.75 in yearly payment. For a home with gas heat and electric air conditioning, the annual savings would be $176.55 for heating and $1.18 for cooling; net yearly savings of $62.98. Thus, the new home buyer is already getting a cost effective break on his energy savings.

3. Table C discusses two alternatives for the commercial sector; a 15 percent tax credit for commercial building retrofit and accelerated depreciation tax incentive for commercial building retrofit.

4. The following indicates solar market penetration projections.

a. Project Independence Solar Task Force Report, p. II–12–33.

ACCELERATED PROGRAM ($11 OIL, R.D. & D., ETC.)

	1980 (thousands)		1990 (thousands)	
	Residential	Commercial	Residential	Commercial
Hot water only	13.7	8.4	137.0	84.0
Space heating and hot water	45.0	5.2	68.0	42.0
Air-conditioning	5.8	3.4	33.0	27.0
Total	64.5	17.0	238.0	153.0

b. Draft of ERDA Interagency Task Force Report on Solar Heating and Cooling, March 1975.

1. Solar energy system in at least 1 percent of annual building starts by 1980; 10 percent by 1985.

2. Annual installation of retrofit solar energy systems in 2,500 residential buildings and on 200 commercial buildings by 1980.

3. Annual installation of retrofit solar energy systems on 25,000 residential buildings and on 1,000 commercial buildings by 1985.

c. Solar electrical generation by 1980—none. If you need any additional information, please contact me.

Sincerely,

MAXINE SAVITZ,
Director, Buildings Policy Research.

[FACT SHEET]

THERMALLY INADEQUATE HOMES

There are 48 million single family dwelling units as of 12/31/74.

13 million have adequate protection or are in climates where insulation or other retrofit won't pay [1]

5 million are occupied by the poor [2]

Of the 35 million remaining homes:

17 million need ceiling insulation [3];

10 million need storm doors and windows [4];

20 million need clock thermostats [5];

20 million need caulking and weatherstrippings.[6]

Another way of looking at it—who will do it?

Action	Per year millions of actions	Estimated actual 1974 retrofit [8]	(Millions) cost per action [7]	Total cost
Ceiling insulation	3.0	0.7	$200	$600
Storms (12 windows, 2 doors)	2.0	.5	450	900
Clock thermostats	1.0	.06	70	70
Caulking and weather stripping	2.0	NA	50	100
Other	1.0	NA	100	100
Total	[8] 9.0			1,770

[7] NBS estimates.

[8] These actions would occur in approximately 6,000,000 homes for an approximate average cost per dwelling unit $300.

[1] Based upon today's energy prices (which justify a doubling of the current FHA standard), we estimate that only 10% of the 32 million homes above 2500 degree days (FHA dividing line) and 60% of the balance are adequately insulated (3.2+9.6=12.8).

[2] Washington Center for Metropolitan Studies Report.

[3] Market study by Owens-Corning Fiberglass (homes with 3" or less). Industry capacity is estimated at 3–4 million per year.

[4] Owens-Corning insulation study and Washington Center data (9 million homes with no protection in North).

[5] Indequate data available. Estimate is based upon other figures.

[6] Owens-Corning data.

In the 5 year program, we have assumed 5 million homes would be retrofit the first and second year and 6 million each year thereafter—a total of 28 million homes—or 80 percent at a weighted average cost of $300/home.

5 million homes at $300 at a 15 percent tax credit equals $225 million per year.

The 15 percent tax credit will cause roughly twice as many people to take some retrofit action for a net savings of 250,000 barrels per day by 1980.

Why?

15 percent communicates that Government thinks it's a good thing and wants to help;

Elasticity is only a minor factor;

Virtually all consumer expenditures are cost effective with or without tax credit.

Government costs are $1,260 billion to save 250,000 barrels per day, or $1.0 billion per year, or 1.26 year pay back.

TYPICAL SAVINGS AND EXPECTED ACTIVITY FOR VARIOUS RETROFIT ACTIONS (1-FAMILY HOMES)

Retrofit action	Cost per unit	Minimum number of units poorly protected	Expected yearly appropriation for tax credit	Btu per year saved per unit (millions)	Dollars saved per action [1]	Payback period (years)
Ceiling insulation	$200 per home	18,000,000	3,000,000	35 per home	$86.80	2.3
Wall insulation	$500 per home	25,000,000	100,000	30 per home	74.40	6.7
Storm windows	$30 per window	70,000,000 windows in north	25,000,000 (including replacements).	2.2 per window	5.46	5.5
Storm doors	$75 per door	25,000,000 in north	4,000,000 (including replacements).	1 per door	2.48	30.0
Clock thermostats	$70 per home	Not available	1,000,000	15 per home	37.20	1.9
Caulking and weatherstripping	$50 per home	20,000,000	2,000,000	Substantial but indeterminate.		2.0

[1] Computed at an average national cost of $2,480,000 Btu, weighted 60-percent gas, 30-percent oil, 10-percent electricity.

RESPONSES WHICH QUALIFY FOR CREDIT

	Single		2 units		3 units or more	
	Millions per year	Cost per unit	Millions per year	Cost per unit	Millions per year	Cost per unit
Ceiling	3	$200	0.15	$125	0.5	$50
Storms	2	450	.10	300	.2	160
Clocks	1	70	.05	70	.1	70
Caulk or weatherstrip	2	50	.10	40	.5	50
Other	1	100	.05	75		
Total spending by public ($M)	1,770		60		89	

COST OF POSSIBLE RETROFIT ACTIONS FOR TYPICAL UNITS

	Single	2 units	3 or more units
Ceiling insulation.	$200	$125	$50/unit.
Wall insulation.	$750	$400	
Storm windows.	$30/window	$30/window	$40/window.
Storm doors	$50/door	$50/door	$50, if door to outside.
Clock thermostats.	$70/home	$70/unit	$70/unit, where possible.
Caulking and weather stripping.	$50/unit	$40/unit	$50/unit.

TAX INCENTIVES TO STIMULATE ENERGY CONSERVATION IN EXISTING COMMERCIAL BUILDINGS

Background

The commercial sector currently consumes about 10% of total U.S. energy.

There are approximately 24 billion square feet of space in the sector. The number of buildings is not known, but is estimated at one million.

Net space additions are projected to average 4.1 percent annually.

Energy consumption, without conservation, is projected to increase 4.0 percent annually.

Total energy use within the sector is estimated as.

	Percent
Space heating	41.2
Lighting	23.1
Air Conditioning	8.1
Refrigeration	6.9
Other	20.7

There are currently no federal incentives for commercial retrofit action; passage of the proposed 12 percent investment tax credit—if it does not apply to retrofit—can have a negative impact on conservation actions since other investment alternatives will yield a higher return.

Potential retrofit actions center on four main possibilities.

Action, and average potential savings

	Percent
1. Installation of insulating glass, storm windows and/or doors	11
2. Increased wall and ceiling insulation	5
3. Improved weatherstripping and caulking	7
4. Adoption of existing heat recovery technology	3

In effect, a building implementating all four retrofit actions would save about 25 percent.

There are significant constraints that will prevent substantial adoption of certain retrofit options. These include building design, nature of existing windows, doors, walls, and roof, and HVAC system. Possible constraints also exist in supplying industries. Finally, some buildings currently are built including these potential retrofit measures.

Estimates of maximum penetration of the four potential retrofit alternatives, by 1980, are:

	Percent
Insulating glass, storm windows, & doors	5
Wall and ceiling insulation	15
Weather stripping and caulking	75
Improved HVAC technology	10

Tax incentives

There are two basic alternatives:

1. A 15 percent tax credit, applying to certified energy conserving retrofit actions in commercial buildings. The credit would be limited to 5 years and limited to a maximum of $3,000 per structure.

2. Allowing the costs of certified energy conserving retrofit actions to be depreciated or amortized over a 5-year period. The net effect is to lower a building owner's federal taxes by the difference between this accelerated amortization and what would normally occur.

Ample precedent exists for either alternative.

The two alternatives have differing energy and economic impacts.

	Alternative	
	15 percent tax credit	Accelerated depreciation
Energy saving (1980): BTU (10^{12})	80	120
Oil imports (barrels per day)	34,000	51,000
Lost Treasury revenues [1] (annual millions)	$40	$42
5-yr total (millions)	$200	$210
Consumer savings: 1980 (millions)	$160	$240
Benefit/cost ratio: (Consumer savings, 1980 divided by annual lost Treasury receipts)	4.0	5.7

[1] These Treasury revenues are not lost, merely deferred. If reinvested, it can be argued that Treasury ravenues will be increased in the longrun.

Neither alternative adds significant costs or administrative burdens to Federal, State, or local governments.

FEA's draft environmental impact statement on a proposed 15 percent residential tax credit for conservation actions does not encounter any significant negative environmental of inflationary impacts.

Recommendation

Adoption of an Amendment to the Tax Code allowing 5-year depreciation of the costs of energy conserving retrofit actions.

Greater Energy Impact;

Higher Consumer Savings;

Higher Benefit/Cost Ratio.

TABLE A.—15-PERCENT TAX CREDIT FOR COMMERCIAL BUILDING RETROFIT ANALYSIS OF PROJECTED IMPACT

	1975	1976	1977	1978	1979	Cumulative
Annual penetration rates (percent):						
1. Insulating glass, storms	0.12	0.12	0.12	0.12	0.12	0.60
2. Wall/ceiling-insulation	1.30	1.30	1.30	1.30	1.30	6.50
3. Sealing and caulking	1.96	19.6	1.96	1.96	1.96	9.80
4. Improved HVAC	.40	.40	.40	.40	.40	2.00
Square feet retrofitted (millions):						
1. Insulating glass, storms	.030	.030	.03	.03	.03	.150
2. Wall/ceiling-insulation	.312	.307	.30	.30	.30	1.520
3. Sealing and caulking	.466	.461	.46	.45	.44	2.280
4. Improved HVAC	.94	.92	.90	.90	.89	.455
Costs of retrofitting (millions):						
1. Insulating glass, storms	$11	$11	$10	$10	$10	
2. Wall/ceiling-insulation	156	154	152	149	148	
3. Sealing and caulking	93	92	91	90	87	
4. Improved HVAC	14	14	14	14	13	
	274	271	267	263	258	$1,333
"Lost" Treasury revenues at 15 percent (millions)	41.1	40.7	40.0	39.5	38.7	200

TABLE B.—ACCELERATED DEPRECIATION TAX INCENTIVE FOR COMMERCIAL BUILDING PETROFIT ANALYSIS OF PROJECTED IMPACT

	1975	1976	1977	1978	1979	Cumulative
Annual penetration rates (percent):						
1. Insulating glass, storms	0.24	0.24	0.24	0.24	0.24	1.20
2. Wall/ceiling insulation	2.60	2.60	2.60	2.60	2.60	13.00
3. Sealing and caulking	3.92	3.92	3.92	3.92	3.92	19.60
4. Improved HVAC	.80	.80	.80	.80	.80	4.00
Square feet retrofitted (millions):						
1. Insulating glass, storms	60	60	60	60	60	3.00
2. Wall/ceiling insulation	624	614	608	598	590	3,034
3. Sealing and caulking	932	922	910	900	886	4,550
4. Improved HVAC	188	184	180	180	178	910
Costs of retrofitting (millions):						
1. Insulating glass, storms	$22	$22	$20	$20	$20	
2. Wall/ceiling insulation	312	308	304	298	296	
3. Sealing and caulking	186	184	182	180	174	
4. Improved HVAC	28	28	27	27	26	
Total	548	542	533	525	516	2,664
"Lost" Treasury revenues (millions) (difference in depreciation deductions for assumed 20-yr life and proposed 5 yr life, 50 percent tax rate for conservative estimate)	42	42	42	42	42	210

TABLE C.—ANALYSIS OF RETROFIT MEASURES FOR A 25,000-FT² BUILDING

	Estimated cost	Million Btu's savings	Savings at $2 per million Btu	Without incentives: Simple return (percent)	Without incentives: Years to payback
Insulating glass, storm windows, doors	$8,750	855	1,710	19.5	5.1
Ceiling and wall insulation	12,500	391	782	6.3	16.0
Caulking and weatherstripping	5,000	494	988	19.8	5.1
Improved HUAC technology	3,750	257	514	13.7	7.3
Total	30,000	1,997	3,994		

NOTES

Less 15-percent tax credit (4,500).
Net cost $25,500.
Simple return equals $3,994 per 25,500 equals 15.7 percent.
Years to payback equals 6.4 years.

Mr. HUMPHREY. Mr. President, in brief, Ms. Savitz' data suggests that the proposed amendment will cost the Treasury some $650 million annually through 1980 in lost tax revenue, based on FEA's best estimate of the number of taxpayers that would utilize the tax credit provisions. The use of the tax deduction alternative in place of tax credits by some taxpayers will increase this tax expenditure by an estimated $100 million. This tax expenditure of about $750 million, or $3 billion over 4 years, will reduce energy costs by at least $20 billion over the next two decades and save America the equivalent of 1.75 billion barrels of imported crude oil.

I urge my colleagues to join me in support of Senator DOMENICI's amendment.

Mr. MOSS. Mr. President, I sent to the desk a modification of the amendment of the Senator from New Mexico and I ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order of the Senate, at this time it is in order to recognize the Senator from New York (Mr. JAVITS) to call up his amendment with a 10-minute time limitation on debate. I thought the Senator was going to speak on this amendment.

Mr. MOSS. I do not know what the order is. Yesterday when the Chair was keeping a list I went to the desk and had my name placed immediately below that of the Senator from New Mexico because he was to offer this, and I was to offer a modification, and I talked with him about it. I do not know whether that was incorporated into an order or not.

The PRESIDING OFFICER. It was not. The order we have this morning is subject to a unanimous-consent request, and it would take a unanimous-consent request to modify it.

Mr. MOSS. I ask unanimous consent that I may proceed with my modification at this point, just to keep it together because it fits in with this amendment.

Mr. DOMENICI. Reserving the right to object, and I might not, but, Senator, last night we entered into a unanimous-consent agreement with very stringent time limitations. I have not had time to review the Senator's modification in

depth. I do not want to be part of precluding the Senator from offering it, but I have difficulty, because of a procedural time limitation, in seeing how we are going to be able to discuss it adequately so as to know precisely what the Senator's amendment does or does not do to my amendment in terms of adequately informing ourselves before a vote. So I cannot agree to the Senator's unanimous-consent request at this time. Perhaps, with a little consultation, a quorum call, we might be able to, but I object at this time.

Mr. LONG. Mr. President, I ask unanimous consent, in the event I have not already obtained it, that the Domenici amendment be regarded as germane in the event cloture is voted.

The PRESIDING OFFICER. Is there objection?

Mr. MOSS. I did not hear the request.

Mr. LONG. I asked unanimous consent that the Domenici amendment be regarded as germane in the event cloture is voted. I am sure the Senator's amendment is germane to the Domenici amendment, so it indicates it is germane. So I believe we have consent that all amendments at the desk will be regarded as meeting the reading requirements.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOSS. I do not ask——

Mr. LONG. The point is that the Senator is protected.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, do I assume that votes are going to be taken on all these amendments after the cloture vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. But is it agreed, Mr. President, that they shall be voted on without reference to the rule of germaneness?

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. I thank the Chair. I heard the chairman, Senator LONG, ask unanimous consent, so I gather it is not regarded on my amendment——

Mr. LONG. Mr. President, we can vote on the Senator's amendment. But first, let me make a parliamentary inquiry. How many Senators are yet to be recognized to present amendments under the special order?

The PRESIDING OFFICER. Three more after Senator JAVITS but those three are before amendments.

Mr. LONG. Well then, Mr. President, I ask unanimous consent that the amendment of the Senator from New York be regarded as germane, but that other amendments dealing with unemployment insurance not be regarded as germane.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. JAVITS. I thank the Chair.

Mr. DOMENICI. Mr. President, will the Senator from New York yield for a parliamentary inquiry?

Mr. JAVITS. Only an inquiry, because I have only 10 minutes.

Mr. DOMENICI. With reference to my amendment, was all our time used up?

The PRESIDING OFFICER. Yes, it was.

Mr. DOMENICI. Was all the time of the Senator from Louisiana used?

The PRESIDING OFFICER. All the time on the amendment was used.

Mr. DOMENICI. I thank the Presiding Officer.

Mr. JAVITS. I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, 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 end thereof, add the following: That (a) section 102(e)(2) of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) in clause (A) thereof, by striking out "50 per centum" and inserting in lieu thereof "100 per centum", and

(2) in clause (B) thereof, by striking out "thirteen times" and inserting in lieu thereof "twenty-six times".

(b) The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act propose to each State with which he has in effect an agreement entered into pursuant to section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. Notwithstanding any provision of the Emergency Unemployment Compensation Act of 1974, if any such State shall fail or refuse, within a reasonable time after the date of enactment of this Act, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement.

(c) No payment of benefits under this amendment shall be made to any individual with respect to any week of unemployment ending after June 30, 1975.

Mr. JAVITS. Mr. President, I will describe the amendment. The amendment proposes that workers who have exhausted their unemployment compensation benefits, including the 13 weeks of extended benefits and the additional 13 weeks of emergency unemployment compensation, so that the worker has by then had up to 52 weeks of unemployment compensation, will be entitled to another 13 weeks of benefits financed as emergency Federal unemployment compensation within the period ending June 30, 1975. I wish to emphasize that this whole provision is limited to unemployment compensation payments up to June 30, 1975. That is the thrust of my amendment.

I yield for a unanimous-consent request.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Terry Barnett of my staff be permitted to be present during the debate and votes on the floor on the pending legislation.

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

Mr. JAVITS. It is my understanding that during the quarter ending June 30, 1975, 250,000 workers will be in that condition. It is also expected that by the end of the year—although that is not relevant to this particular situation—about 1.5 million to 2 million workers will be in this situation.

Now, Mr. President, we have to make a very basic and fundamental decision. Are we going to, in this very serious recession-depression, terminate unemployment compensation and throw workers on relief or are we going to continue unemployment compensation?

The big difference between 1975 and 1932 is expressed in that sentence. The disaster of 1932 was that workers were thrown on relief and that the financial institutions of the country and the world were very materially shaken.

In this situation, happily for us, the latter is not yet the case, but certainly we are in the situation of the former, to wit, workers being thrown on relief in very large numbers.

Mr. President, if I may have the attention of the chairman of the committee, I have talked with the chairman of the subcommittee and the chairman of the Ways and Means Committee about this matter and the other body is going to give very serious and immediate attention to this matter. However, Mr. President, it cannot do it until they come back, and it is going to take a little time because it is a fact that there is something almost instinctive about the feeling that benefits should not go beyond 52 weeks of unemployment compensation. Yet they realize, and I am sure we realize, that we must.

I am not quoting them in any way. All I know from those few distinguished Members of the House is that they are going ahead with work in this when they get back. That is the only fact I report to the Senate.

Mr. President, the reason I have brought this up on this bill is that it is the only vehicle which is going to be available to us for the next few months in order to express ourselves and act on policy, one way or the other, respecting this matter.

I introduced a bill to this effect—S. 766—which now has 27 sponsors, including me, seeking to effectuate this extension, except that that bill was not limited to payments up to June 30, 1975.

The reason I propose this amendment, and again, if I may have Senator LONG's attention——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. JAVITS. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator has no more time.

Mr. JAVITS. As I understood it, we had 10 minutes.

Mr. LONG. I yield 1 minute to the Senator.

Mr. JAVITS. One minute.

The only reason I am making this motion on the amendment is so that the conferees may have something before them, if they wish to do anything.

Now, I have no illusions about it. It may very well go down the drain in conference, but at least the conferees will

have a vehicle. If they decide the emergency is so tense they ought to do something about it, ithey can.

That is my only reason for bringing it up. We talked together and I disclosed to the Senator my views and that is why I limited it to June 30.

It is only as to an effort, if it is possible—the Senator has nothing else and feels something must be done to carry on.

I ask unanimous consent to have printed in the RECORD a list of estimates for each State. About 10 are most directly affected including my own. They are the best figures and facts we could get from the Interstate Conference on Employment Security Administrators showing more than 250,000 in the next quarter.

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

Estimated number of workers exhausting all unemployment compensation benefits during April–June 1975

California	44,000
Massachusetts	100,000
Michigan	15,000–20,000
New Jersey	33,000
New York	80,000
Oregon	5,600
Pennsylvania	17,900
Rhode Island	20,000
Washington	55,000

Mr. JAVITS. I thank my colleague for yielding.

Mr. WILLIAMS. Mr. President, this amendment to provide an emergency extension of unemployment compensation benefits should be regarded not only as a necessary step, but also as a measure of our commitment to alleviate the human tragedies that the recession has inflicted on so many millions of American families.

In recent months, the Congress has provided for extended periods of coverage by unemployment compensation. In December, we enacted a second 13-week extension of the basic unemployment insurance benefits period, bringing regular coverage to a total of 52 weeks. In addition, we enacted a special unemployment compensation program to provide 26 weeks of benefits for those who could not qualify for compensation under the regular UI program.

We took these actions, Mr. President, because it was clear that to do otherwise would mean that hundreds of thousands of earnest and able Americans without work would also be without means of support other than the public assistance rolls.

The amendment we are proposing today addresses itself to an urgent, new problem: Beginning next month and continuing through June 30, an estimated 250,000 Americans will exhaust their 52 weeks of weekly compensation under the regular UI program.

A large proportion of these persons—33,000 of them, in fact—live in my New Jersey constituency. That is roughly one-tenth of all of the persons receiving unemployment compensation benefits in my State.

Twelve other States would also be adversely affected, if we do not act today. Among them are New York, with an estimated 80,000 persons scheduled to exhaust their benefits over the next quarter; Washington State, with 55,000; California with 44,000; Pennsylvania with 18,000; Michigan with 15,000 to 20,000; and Rhode Island with 20,000.

Mr. President, except for the emergency nature of the situation and the imminence of the April 1 deadline for action, I would not have supported attaching this measure to the tax bill that we have under consideration. But the need is urgent, the deadline is upon us, and the jurisdiction in the other body rests in the same Ways and Means Committee which has jurisdiction for the tax bill. In these circumstances, the modest and limited proposal contained in this amendment can be handled without serious complication and delay.

I want to emphasize, Mr. President, that there are two restrictions on the extension of unemployment compensation benefits under this amendment. First, the extended benefits are limited to 13 weeks only. Second, and more important, such extended benefits would terminate for any individual on June 30, 1975, regardless of whether he had received the full 13 weeks of extended benefits.

Thus, the major purpose of this amendment is to continue compensation benefits for those who would otherwise exhaust their 52 weeks of coverage during the next quarter and, at the same time, provide the Congress with the time it needs to thoroughly review the philosophy, structure, and necessity of the entire Federal-State unemployment compensation program in the context of the extraordinary economic conditions we are experiencing.

I am pleased to note that the Unemployment Compensation Subcommittee of the House Ways and Means Committee, under the able chairmanship of Congressman JAMES CORMAN, is planning to begin its general hearings on the program in early April. It is my hope that early consideration will also be undertaken in the Senate, so that when June 30 arrives, it will not be once again necessary to act in an urgent manner to protect the many Americans who are forced to rely on meager UI benefits for their livelihood.

Mr. LONG. Mr. President, of course, this is not an unemployment insurance bill and the Senator has made clear the basis upon which he offers his amendment. But the amendment does present some problems.

Just this past December the Congress passed a billion dollar unemployment insurance bill extending benefits from 9 months to 12 months. The Senator's amendment would extend benefits another 3 months, at an estimated cost of $150 million to $200 million.

The basic question is, how long should we pay for unemployment benefits? We have the question to ask, is not 1 year long enough?

I would point out, in the unemployment insurance provisions of the law an unemployed worker must accept "a suitable job". The phrase "suitable job" means that a worker who is skilled and has been accustomed to make, let us say, $7 an hour feels privileged to draw his unemployment insurance benefits at a relatively high level and take little interest in jobs that would earn him let us say, $3.50 an hour.

There must come a time when those with skills and those who have been accustomed to drawing higher wages should lower their sights and accept a job paying a lower wage, recognizing that in their area there is simply no job available that would provide the type of compensation and working conditions to which that worker had been accustomed in the past.

It is a serious problem and it is one to torture the conscience of all legislators, but it is one that is not germane to the bill.

I am willing to give consent that it be regarded as germane, and I have done so, but I have my doubts that we should add it to this bill.

In view of the fact that we are going to be accused of having a Christmas tree, or an Easter basket bill, anyway, I just wonder to what extent the Senate would be justified in further diverting from the germaneness of tax reduction and adding unemployment insurance benefit measures.

I would be glad to yield any time anyone cares to ask for in opposition, otherwise I would suggest——

Mr. JAVITS. Will the Senator yield to me?

Mr. LONG. I yield.

Mr. JAVITS. Mr. President, I think I have made it clear that I do it only so that the conferees—they might write in conditions about a suitable job, I do not know—would have a vehicle. That is my only reason for bringing it. Otherwise we shall pass the dates by. The States will break on this. It will take a while when we get back to do something about it.

Therefore, the conferees may decide in their wisdom in the next few days that they want to do something about it in the next few days that they want to do something about it in this bill. It is the only vehicle available. So on that basis I would hope, because of the manager's sympathy for the bill, as I feel we all do, that we might take it to conference with this understanding.

Mr. LONG. Mr. President, if the amendment would be agreed to, I would prefer the Senate express its view on the matter, and I would hope we would vote on the matter.

As far as this Senator is concerned, I am entirely content to abide by the judgment of the Senate.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

Thr PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Now, under the agreement, Mr. President, we will vote on this amendment of the Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. That is correct.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from North Carolina (Mr. HELMS) to call up his amendment

on which there is a 10-minute time limitation.

Mr. HELMS. I thank the Chair.

Mr. President, I ask unanimous consent that Mr. Rom Parker, of my staff, be accorded privilege of the floor during consideration of the pending business.

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

Mr. LONG. Mr. President, I did not hear the consent request.

Mr. HELMS. A floor privilege.

Mr. LONG. Oh, no objection.

Mr. HELMS. Mr. President, first of all, I commend the distinguished chairman of the committee and manager of this bill.

The PRESIDING OFFICER. The amendment has not been stated.

Mr. HELMS. I have not called it up yet. I will call it up in due course.

The PRESIDING OFFICER. The amendment must be called up first.

AMENDMENT NO. 186

Mr. HELMS. Mr. President, I call up amendment No. 186 and ask it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

At the appropriate place in the committee substitute, insert the following new section:

SEC. . CONGRESSIONAL-CABINET SALARY CONTROL

Notwithstanding any other provision of law, beginning with the next fiscal year following the enactment of this provision, and every succeeding fiscal year, if the outlays of the United States Government (excluding outlays for trust funds) for the preceding fiscal year exceed receipts (excluding receipts of trust funds) of the Government for such preceding year, then, during the immediately succeeding fiscal year, the rate of compensation that each Senator, Representative, Delegate and the Resident Commissioner from Puerto Rico, and each officer listed in level I of the Executive Schedule in section 5312 of title 5, United States Code, would have been paid but for the enactment of this provision shall be reduced by a percentage equal to the percentage by which such outlays exceed such receipts.

Mr. HELMS. Mr. President, as I was saying, I commend the distinguished chairman of the committee and the manager of this bill (Mr. LONG) for his efforts to maintain a degree of responsibility in the consideration of this measure. He has referred repeatedly to what we are doing to the Federal deficit, and it is well that he has done so. This one piece of legislation will increase the Federal debt by at least $25 billion. Other Senators have expressed similar concern. All Senators, I imagine, Mr. President, will go home for political speeches and will engage in great lamentations about the enormous spending level of the Federal Government. The most pious speeches will be made by Senators who have done most to pile up enormous Federal deficits.

Well, Mr. President, here is an opportunity for Senators to put up or shut up. If they are really serious about restoring economic sanity to the Federal Government, then they will support this amendment.

Mr. President, my amendment provides that beginning with the next year following its enactment, the rate of compensation of Senators, Representatives, delegates, the Resident Commissioner from Puerto Rico, and each officer listed in level I of the Executive Schedule in section 5312 of title V, United States Code—the members of the President's Cabinet—be reduced by the same percentage that non-trust fund outlays of the U.S. Government exceed non-trust-fund receipts during the preceding fiscal year.

Mr. CURTIS. Will the Senator yield?

Mr. HELMS. I am delighted to yield for a question from my good friend.

Mr. CURTIS. As I understand the amendment, this takes advantage of that good old American principle of incentive, does it not?

Mr. HELMS. Exactly. The Senator is correct.

Mr. CURTIS. If we put the budget in balance, there will be no reduction in salary.

Mr. HELMS. That is correct.

Mr. CURTIS. In other words, it is a disincentive for deficit financing?

Mr. HELMS. That is correct.

Mr. CURTIS. And there is a reward if we balance the budget.

Mr. HELMS. That is correct.

Mr. CURTIS. I do not know how anybody can improve it.

Mr. HELMS. I thank the distinguished Senator for his comments. I wish a majority of this body could have the prudence and responsibility of the Senator from Nebraska.

Mr. President, the Federal debt as of this time is in the neighborhood of one-half trillion dollars, and that is a pretty expensive neighborhood when you consider that it costs the taxpayers of this country $35 billion a year to pay the interest alone.

Mr. CURTIS. Will the Senator yield further?

Mr. HELMS. I am delighted to yield.

Mr. CURTIS. I am afraid something is happening here that is going to be very damaging to many Senators. They will be going up and down the country lambasting President Ford's proposal of an $80 billion deficit. That $80 billion is figured on a tax reduction of about $16 billion. So a vote for all these things in this tax bill means to vote for a deficit of about $96 billion.

I do not know how anyone who goes on record in a rollcall for a $96 billion deficit can point their fingers at the perpetrators of an $80 billion deficit. Can the Senator explain that?

Mr. HELMS. There is no explanation that makes any sense, I will say to the distinguished Senator. I thank him for his observation.

Mr. President, to return to my amendment, this provision is simple.

At the end of a fiscal year, one need only compute the percentage by which the Federal budget—in terms of non-trust fund receipts and expenditures—was not balanced, and the salaries of Members of Congress, delegates to the House, the Resident Commissioner from Puerto Rico, and the members of the President's Cabinet will be reduced during the following fiscal year by that same percentage.

The logic behind the provision is also simple. Congress is the body responsible for appropriating more money than the U.S. Treasury is expected to collect, and the members of the Cabinet are the senior officials overseeing the functioning of the departments. By penalizing our own salaries to the extent of our improvidence and mismanagement, we will all be more directly aware of the value of a dollar. Our problem in Congress is that it is relatively painless to vote for billions of dollars which do not come directly out of our pockets. After all, it is the American taxpayer at large who must pay up. But if our own paychecks are penalized directly in proportion to our mismanagement of the taxpayer's funds, then we will be more scrupulous in observing fiscal prudence.

Last year, the Senate voted not to allow the salaries of its Members to be raised. I was one of those voting against the salary increase. I did so because I felt, and I still feel, that excessive Government spending and our unbalanced budget was one of the primary causes of the current rate of spiraling inflation. If economy is needed to curb inflation, and in my view it is very much needed, there is no better place for economy to begin than right here in the Congress of the United States. I was very pleased by the Senate's action on that occasion. Though the compensation of Members of Congress is a very small percentage of the entire national budget of over $313 billion, it is important that the Members of this body lead by example. If Federal expenditures are to be cut, there is no better place than here.

Under this provision, Congress will have a choice of two ways to reduce Federal expenditures. It can appropriate less money, and thereby balance the budget, or it can continue the excesses of the past, and correspondingly reduce the salaries of its Members.

And, I might say that *this is* a much better choice than we are offering to the American people. High interest rates have resulted from spiraling inflation caused by deficit Federal spending. Though these interest rates have come down to some extent recently, they are far from low. As my colleagues are aware, Government borrowing in the money market to finance tremendous deficits has severely damaged savings institutions. These institutions cannot effectively compete with the Federal Government for deposits, nor should they be required to. The housing industry is facing possible disaster and the lumber and furniture industries have for some time been caught in the spiraling economic chaos.

Certainly, I need not remind my colleagues of the ever-increasing food prices, or, for that matter, the ever-increasing price of just about everything.

Mr. President, I remain convinced that we will not solve our economic problems unless and until we balance the Federal budget, and stop living today on tomorrow's money. On six separate occasions, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) and I have cosponsored legislation to require the President to submit a balanced budget to Congress.

Yet, the problem grows worse. According to figures released on February 3, 1975, the Federal budget for fiscal year 1975 exceeds $313 billion with a deficit of over $35 billion. The estimated Federal budget for fiscal year 1976 will exceed $349 billion with a deficit of over $51 billion. Of course, we now know that the deficits will be well in excess of these projections.

I have pointed out on many occasions that the interest on the national debt alone is in excess of $30 billion a year. For fiscal year 1975, it is estimated at $32,900 million. Of course, that figure is rounded to the nearest million. But, let us consider the round figure of $30 billion a year in interest on the debt. That works out to about $54,000 a minute—almost $1,000 every time the clock ticks.

On December 31, 1972, the national debt was $449.3 billion. A year later, on December 31, 1973, it was $469.9 billion, an increase of $20.6 billion. Then, on December 31, 1974, the debt was $492.7 billion, an increase of $22.8 billion over the previous 12 months and an increase of $43.4 billion in a 2-year period.

One might well wonder where it will end. Of course, the end is obvious. If action is not taken to stop deficit spending, the result will be economic disaster. The American people know it. The polls show it. Depression is feared in every part of the country.

The simple fact of the matter is that Congress created this situation, and only Congress can do something about it. It is not pleasant to contemplate one's own folly—but, I, for one, believe it is time for Congress to look the American people in the eye and confess: We caused it—we and our predecessors, who permitted the Government of the United States to wander around so long in the swamps of deficit financing—and, worse still, let the people believe that it was sound economics to do so.

The time has come to bite the bullet, to admit our economic mistakes of the past, and to turn to logic and simple arithmetic for an honest solution to our problem. A solution must address the cause of the problem, not just the symptoms. For the sake of the well-being of the people we represent, we simply must balance the budget, and begin the hard and painful task of bringing this inflation to an end. This amendment will make the consequences of improvident spending apparent to us all.

I urge its approval—and, that failing, I hope the American people will take note of how the votes are cast. Let us see who is in favor of fiscal discipline, and who isn't.

Mr. PERCY. Will the distinguished Senator yield for a question?

Mr. HELMS. I will be glad to yield on someone else's time. I have only 5 minutes.

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

Mr. LONG. Mr. President, how many other Senators have amendments to offer under the special order?

The ACTING PRESIDENT pro tempore. There are two more.

Mr. LONG. Mr. President, I ask unanimous consent that in the event this amendment has not been voted upon before cloture, that this amendment be regarded as germane under the rule, but that other amendments in this area not be regarded as germane by virtue of this consent.

Mr. MATHIAS. Reserving the right to object——

The ACTING PRESIDENT pro tempore. None of the amendments can be voted on before cloture.

Mr. LONG. I am simply asking, as I did earlier, that we agree that after cloture is voted, that this amendment be regarded as germane without prejudice to other amendments because I do not want to open the bill up to other amendments in this area, although I am willing to let this amendment be voted on after cloture has been voted.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MATHIAS. Reserving the right to object, I wonder what the Senator means by other amendments in this area.

Mr. LONG. All I mean is if anybody else has an amendment that has to do with the compensation of members of the President's Cabinet, I do not want to vote on all those amendments just because I agreed to vote on this one.

Mr. MATHIAS. I have no such amendment and I have no objection.

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

Mr. LONG. Mr. President, I think the Senate has made its position clear with regard to the amendment. I am willing to yield time in opposition.

Mr. PERCY. Will the distinguished Senator yield for just one moment?

Mr. LONG. Yes.

Mr. PERCY. Taking into account the period of 1941 through 1946, a period of immense debt where we did not attempt to balance the budget, we had a war to win and we were looking to the future—and we were all fortunate that we did borrow money from the future to preserve freedom and integrity—what would the salaries of Members of Congress and the Cabinet have been then during the war when it was impossible to balance the budget, and is there any exclusion in this amendment for such emergencies?

Mr. HELMS. My good friend from Illinois need not worry because we are addressing ourselves to future sins of the Senate and the House of Representatives. What is past, I fear, may be prologue—unless we do something in the way of self-discipline.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield back the remainder of my time, Mr. President.

Mr. LONG. Mr. President, I ask unanimous consent that notwithstanding the germaneness rule in the event cloture is voted, the manager of the bill be enabled to offer technical and conforming amendments and amendments to insert omitted effective dates.

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

Under the previous order, the Senator from Illinois (Mr. PERCY) is now recognized to offer two amendments, with a time limitation of 10 minutes on each amendment.

AMENDMENT NO. 195

Mr. PERCY. Mr. President, I call up amendment No. 195.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PERCY. Mr. President, 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:

SEC. . REPEAL OF TAX DEDUCTION FOR STATE AND LOCAL GASOLINE TAXES.

Effective after December 31, 1974—

(1) section 164(a) of the Internal Revenue Code of 1954 as amended (relating to deduction of taxes not related to a trade or business) is amended by striking out paragraph (5) (relating to taxes on gasoline and other motor fuels);

(2) section 164(b)(5) (relating to separately stated taxes) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel.".

Mr. PERCY. Mr. President, I call up my amendment No. 195.

Mr. President, this amendment repeals the existing Federal income tax deduction for State and local gasoline taxes. It is identical to section 301 of H.R. 3153, the Social Security Amendments of 1973, as it was reported by the Senate Finance Committee.

During Senate floor action on H.R. 3153, an amendment to delete this section was adopted on a division vote in which approximately 11 members participated. Because I believe this proposal has merit, I am offering it at this time for consideration by the full Senate.

The existing Federal income tax deduction for State and local gasoline taxes operates unfairly in many respects.

First, it is of no benefit to those who have no tax liability because they have low earned incomes or live on social security or veterans benefits. A family of four with an adjusted gross income of up to $4,330 owes no Federal taxes. Obviously it will not suffer from the repeal of this tax deduction.

Second, this deduction's benefits are available only to those taxpayers who itemize their deductions rather than taking the standard deduction. Lower income taxpayers are generally less likely to itemize their deductions than those with higher incomes.

Third, because it is a deduction, rather than a credit, its benefit to the taxpayer increases as his tax bracket increases. A taxpayer in the 50 percent bracket receives a tax break of $25 on every $50 spent on State and local gas taxes. A taxpayer in the 14 percent bracket receives a tax break of only $7 for every $50 spent.

Fourth, as was pointed out in the Finance Committee's report on H.R. 3153, State and local gas taxes are primarily used for highway maintenance and their deduction shifts part of this highway maintenance cost from the highway user to the general taxpayer.

I believe this proposal also has merit as one small step towards tax simplification.

The benefit to the average taxpayer from this deduction is usually under $25, and hardly justifies the bookkeeping necessary to keep an accurate tally of gallons bought and miles driven. A truly accurate tally would include adjustments for four-cylinder cars and separate calculations for gas bought in States with different tax rates.

In practice, the Treasury Department has found that a large percentage of taxpayers determine the deduction available to them by guessing. Repeal of this deduction will be a favor to the Internal Revenue Service and the taxpayer alike.

Farmers have no benefit from this deduction, because farmers can deduct the full cost of gasoline, including taxes, as a business expense.

Finally, our Nation is facing a serious energy shortage. The Federal Government should not continue to subsidize the purchase of gasoline for personal automobiles, no matter how small the subsidy. Under present laws, the largest incentive is given to the highest income person who consumes the most gasoline. This is the reverse of what we should be attempting to accomplish.

Mr. President, in conclusion, I simply feel that tax deductions are used as incentives. We all believe in the incentive of encouraging home ownership, but we are trying to discourage the pleasure use of automobiles and encourage other use of transportation.

Besides, this bill should be in part a revenue bill, also. This would raise $600 million, essentially from higher income people. The higher the income, the more it raises from them. It does not hurt any low-income people. For that reason, I hope it can be accepted by the Senate.

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.

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

Mr. PERCY. I yield for a question.

Mr. CURTIS. For a matter of clarifying the record.

As I understand it, in the case of someone who drives a taxi for a living, the entire cost of his fuel, taxes and all, still would be a business deduction.

Mr. PERCY. The entire amount.

Mr. CURTIS. How about the individual who drives long distances to work? Will his entire transportation expense or any part of it be a deduction?

Mr. PERCY. If, by Federal provision, any part of that is a business expense, it all is deductible. However, if it is strictly not a business expense, I hope our national policy is to encourage group driving, to encourage the use of mass transit and other means.

Mr. CURTIS. Expenses to commute to and from work are not deductible?

Mr. PERCY. That is correct.

Mr. CURTIS. So the only thing he can deduct, under the present law, is the tax?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. I yield 2 minutes to the Senator.

Mr. CURTIS. I think the point that the Senator has raised has validity, but it is only part of quite a problem the tax-writing committees must face.

I refer to the standard deduction. Conceivably, someone can earn a sizable wage, contribute not a dime to an education fund or a religious fund, pay no direct taxes at all, not buy a home. The standard deduction gives him quite a reduction in taxes. His neighbor may have a similar income and may be giving very generously to many good causes, be in the process of buying a home, so he is paying both taxes and interest. The result can be that the citizen who is a homeowner and a generous fellow pays the same amount as the individual who does not carry any burdens.

I am not citing this in opposition to the Senator's amendment, but merely drawing attention to the problem the committees have.

Mr. PERCY. I hope the distinguished Senator could support the amendment. For more than a year, I have talked to Senator LONG about the amendment, and he has looked on it with favor in the past.

First, it will raise revenue and reduce the deficit. Second, it will reduce fraud. There is probably more fraud in this item than in any other item. We could have an infinite range of deductions, such as taxes on telephones. Why not deduct those, then?

Mr. CURTIS. Is it fraud if the Treasury or the IRS sends someone instructions for what amounts to a standard deduction? That is what it amounts to.

Mr. PERCY. They permit guessing on this, and I know very few taxpayers who, when given that freedom, guess on the low side.

Mr. CURTIS. The tables can be used to estimate the mileage.

Mr. PERCY. They can be, but what kind of car does one have?

Mr. CURTIS. That is it.

Mr. PERCY. If the low-income person has a four-cylinder car or a six-cylinder efficient car, those vehicles do not use as much gasoline.

It is subject to a great deal of problems; and when the average amount is only $25, I cannot see that it really amounts to very much. It is just one of those nuisance items that would add up to $600 million, and I do not know where you could collect it that easily.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. Mr. President, I have urged this amendment on occasion to help finance some of the other things we were trying to do in other respects.

I point out that when one lives in a big city, usually the rent on his apartment or his home is more expensive, in order to live closer to his job. The expense of commuting back and forth to work is somewhat offset, in some cases more than offset, by the fact that the rent and the expenses are much cheaper by living in suburbia or living in a rural area, some distance from one's place of employment. I reduced my transportation expense by obtaining an apartment closer to where I work. That is not deductible. So one tends to offset the other.

I point out that the great majority of people do not itemize. The overwhelming majority of those not in the upper tax brackets file the short form and do not itemize. Therefore, they do not benefit from this.

I will vote for the Senator's amendment. I am prepared to yield the time remaining to those who wish to oppose it.

The PRESIDING OFFICER (Mr. MORGAN). The time on the amendment has expired.

Mr. LONG. Mr. President, I ask unanimous consent that in the event the amendment be voted upon after cloture has been voted, this amendment be regarded as germane, without prejudice to other amendments, because I do not want to make germane some other amendment that might be relevant to this. I want only this one amendment germane.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Illinois is recognized.

AMENDMENT NO. 198

Mr. PERCY. Mr. President, I call up amendment No. 198.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PERCY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

TITLE—DYEING OF HEATING FUEL OIL

SEC. 101. DEFINITIONS.

For purposes of this Act—

(1) the term "number 1 fuel oil" means any distillate oil which meets the following distillation requirements (established by the American Society of Testing Materials under test numbered D-86): the 10 percent point is equal to 420 degrees Fahrenheit maximum, and the 90 percent point is equal to 550 degrees Fahrenheit maximum;

(2) the term "number 2 fuel oil" means any distillate oil which meets the following distillation requirements (established by the American Society of Testing Materials under test numbered D-86): the 10 percent point is equal to 440 degree Fahrenheit maximum, and the 90 percent point is equal to 640 degrees Fahrenheit maximum; and

(3) the term "Administrator" means the Administrator of the Federal Energy Administration.

SEC. 102. LIMITATION ON USE OF MARKED FUEL OIL

(a) No person shall purchase or use any number 1 fuel oil or number 2 fuel oil which is marked in accordance with the provisions of subsection (b)(1) for the purpose of providing fuel, which makes it subject to tax under section 4041(a) of the Internal Revenue Code of 1954 (relating to imposition of tax on diesel fuel) for any diesel-powered highway vehicle.

(b)(1) Any person who sells or distributes number 1 fuel oil or number 2 fuel oil shall provide for the marking of such fuel oil in accordance with rules which the Administrator shall prescribe under this subsection, except that such fuel oil shall not be marked if such fuel oil is to be used in a manner which makes it subject to tax under section 4041(a) of the Internal Revenue Code of 1954 (relating to imposition of tax on diesel fuel).

(2) The Administrator shall, before prescribing such rules, conduct and make available to the public a study to determine—

(A) the appropriate oil soluble dye to be used for the marking of such fuel oil, and the proportionate amounts of such dye to be used for such marking;

(B) the appropriate point or points in the petroleum distribution system at which such dye shall be added to such fuel oil in order to carry out the marking requirements of this section; and

(C) effective means and procedures through which the Administrator may oversee the marking of such fuel oil in accordance with the provisions of this section.

(3) The Administrator shall prescribe such rules no later than 180 days after the date of the enactment of this Act. Such rules shall, to the extent the Administrator considers practicable, take into account the findings and conclusions of the study which the Administrator conducts under paragraph (2).

SEC. 103. INSPECTION.

The Administrator or his delegate may enter during business hours the premises (including place of storage) of any person who sells or distributes number 1 fuel oil or number 2 fuel oil, and the Administrator or his delegate may have access to any motor vehicle owned or operated by any such person, for the purpose of conducting an inspection or examination to determine whether such person is in compliance with the provisions of this Act. The Administrator or his delegate may provide for the inspection with the provisions of this Act.

SEC. 104. PENALTY.

Any person who violates any provision of this Act shall be fined not more than $25,000 or imprisoned not more than 5 years, or both.

SEC. 105. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment.

Mr. PERCY. Mr. President, unlike the previous amendment, which I believe had previously been approved by the Committee on Finance, this amendment has never, to my knowledge, been approved by the committee nor seriously considered by it. The only precedent we can go to is Canada, which has enacted it, with great effectiveness. They have increased their tax yields in this area by some 55 percent.

The amendment requires that No. 1 and No. 2 heating fuel oil be colored with an oil soluble dye to deter tax fraud.

It requires the Administrator of the Federal Energy Administration to determine the appropriate soluble dye and the point of the petroleum distribution system at which the dye shall be added. Violators shall be subject to a fine of up to $25,000 or up to 5 years imprisonment.

Under existing law, diesel fuel is taxed at an average rate of 12 cents a gallon—4 cents by the Federal Government and an average of 8 cents by the States. An extensive black market has developed in which untaxed heating oil is used as diesel fuel, defrauding both the Federal Government and every State in the Union. A trucking trade publication, the Fleet Owner, estimates that this illegal practice is costing more than $1 billion a year in the United States of America in State and Federal taxes. That is a trucking trade publication that makes that estimate.

In the State of Illinois alone, about $100 million a year is lost in diesel fuel taxes. In addition, as a result of this black market, heating oil becomes more scarce to those who are dependent on this type of fuel.

A fuel dyeing program was instituted in Canada, as I have mentioned, and resulted in a 55.8-percent increase in revenues in the first year of operation.

I ask unanimous consent that an article by Bernie Swart, describing the extent of this black market and the revenues lost from it, as well as a letter from Mr. Paul E. Moreau, Minister of Revenue to the Governor of Quebec, regarding the results of this program in Canada, be printed in the RECORD.

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

LOST $100 MILLION IN DIESEL FUEL TAXES

(By Bernie Swart)

Illegal practices involving the sale and use of diesel fuel are diverting at least $100 million in taxes from state and federal tax coffers.

This figure may go as high as $1 billion a year, according to Albert T. Stoessel, an Iowa oil dealer and past president of the Iowa Petroleum Association. Stoessel estimates his state alone is losing more than $50 million a year in fuel taxes.

The taxes are lost, according to Stoessel, when Number two heating oil is substituted for diesel fuel. The two fuels are almost identical in chemical composition. Stoessel said, although diesel fuel is heavily taxed while home heating fuel is not.

The tax dodge works several ways, according to Stoessel. Some fleets knowingly buy untaxed heating oil at a bargain price in order to beat the fuel tax. In some cases, drivers buy untaxed heating oil rather than diesel fuel, turn in falsified fuel receipts, and pocket the difference. In other cases, independent service station operators will substitute heating oil for diesel fuel, collect, and pocket the taxes.

According to Stoessel, lack of supervision of stations by refinery companies is a factor that makes for easy chiseling by some gas station operators who sell to fleets. However, because most stations are lessee-operated, effective policing often proves extremely difficult.

In still other cases, Stoessel pointed out, what started out as a tax dodge ends up in out-and-out theft. He cited as an example the fuel oil delivery truck driver who shorts homeowners on deliveries and sells the surplus fuel oil to independent station operators, who, in turn, sell it to truckers as taxed diesel fuel. Or, bargain-priced diesel fuel may be heating oil that was stolen from an oil distributor's tank with the collusion of employees. Finally, the bargain-priced diesel fuel may be hijacked heating oil, or it may actually be diesel fuel obtained by a driver who makes a habit of shorting trucking companies on diesel fuel deliveries.

Several midwestern tanker truck drivers confirmed these theft techniques as authentic and added their own experience.

All fuel delivery trucks aren't metered and comparatively few oil distributors use meters with split loads. But even if they do, the procedure can still be beaten and provide extra gallons to be sold by the drivers through shorting large heating oil users.

One way this is done: Air can be pumped through the meters via the power takeoff unit by connecting the pumps to an empty compartment on the tanker. The meters register as if fuel is being pumped through them. Therefore, the customer gets a metered receipt for gallonage he did not receive and the driver has extra gallons to sell for himself.

If the customers double-checked the delivery with his own "stick" reading he'd spot the inaccuracy. But drivers are wise to who checks and who doesn't. Some large heating oil customers who should know better are regularly gypped his way. One police barracks in the midwest is regularly shorted because no one checked deliveries, fuel oil drivers said.

Here's another way drivers cheat both customers and fleet management: A driver delivers diesel fuel to a service station, and charges the correct price. Then he makes deliveries to private homes for heating use. At the end of the day he destroys the legitimate gas station tickets, makes out fake tickets for home deliveries and pockets the difference. Drivers say that it's easy for them to obtain stacks of blank receipts from their companies.

After shorting large users of heating fuel, drivers may sell a couple of hundred gallons to a friend at a gas station for as low as 10c per gallon.

Then again, some of the racket happens because many service stations neither check diesel deliveries nor order correctly. Often they may order too much for their tanks, so the driver fills them to the brim and keeps the extra gallonage. The service station pays for the amount it ordered.

Both federal and state taxes are beaten this way, many times with apparent knowledge of trucking company management, the drivers say.

According to drivers, instructions at several tanker outfits are that if they have fuel left over—meaning some users may have been shorted—they are to bring it back and place it in the company's storage tanks. The drivers claim that trucking management seldom asks the reason for the overage.

Although the fuel tax problem takes on national proportions, enforcement is apt to be lax. Little interest is shown by most county, state, and federal officials, and most state legislators aren't excited by the situation. The federal government prefers to leave fuel tax collection to the states, and performs little auditing.

In Chicago, John A. Ainlay, executive secretary of the American Petroleum Institute, commented, "Experienced tax men are almost unanimous in their opinion that nothing will improve diesel fuel tax collections more than a rigid enforcement program backed by an adequate force of field men and auditors."

Stoessel, owner of the Albert Stoessel Co., in Ottumwa, and the oldest fuel oil dealer in the state, has been the sparkplug of much action against diesel fuel fraud, even though he is 77 years old. He recently charged the Iowa Petroleum Council's Tax Evasion Committee with making "no effort over the past 12 years to assist the revenue department to collect the diesel fuel tax."

"Many major interstate truck operators take advantage of the fuel tax situation on a large scale," Shoessel told Fleet Owner. "This would include drivers as well as moonlight operators. However, I don't think trucking companies or private fleets have anything to do with setting up illegalities."

Stoessel told the Iowa Petroleum Council that one major refinery "sent a letter to all of its dealers in the U.S., telling them to stop selling fuel oil to truckers for use as diesel fuel. The letter received prominence in some of the oil trade publications in 1971, and shows to what extent this evasion has gone."

Supporting Stoessel in his claim that the situation is serious, is a 1970 Iowa State survey of the number of miles trucks travel in the state. According to that survey an estimated $13.5 million in diesel fuel taxes is being lost annually.

According to Stoessel, the largest petroleum market price listing indicates diesel fuel in 32 cities cost 12c to 14c more per gallon at the pump than in Iowa, where

prices run from 25c per gallon for less than 50 gal., to 23c per gallon for larger quantities. The price difference, he said, could indicate that the Iowa tax is not being collected equally.

Checking with Stoessel at press-time, Fleet Owner learned that diesel fuel was still selling for 23.9c per gallon in the Ottumwa area. This is below the price at which he says he can buy diesel fuel in transport quantities. The inference is that some dealers are not paying taxes and forcing others who are to lower their prices to stay in business. If diesel fuel taxes were collected with the same efficiency as gasoline taxes, Stoessel added, diesel fuel taxes in Iowa could be reduced 2c a gallon.

Stoessel has long advocated that truckers be permitted to buy fuel at the pump without paying taxes, in exchange for a single report and a single tax payment at the end of each month. He feels this type of system would eliminate much of the diesel fuel fraud now existing in Iowa and other states.

Labeling estimates of $100 million in state and federal tax losses as "very conservative," Carl F. Schach of the Iowa Highway Commission claims Iowa's 1970 diesel fuel tax collections amounted to $10.8 million, when it should have totaled $24.3 million. Iowa's diesel fuel tax collections jumped to $12.5 million in 1971, but still short of what Schach says they should be.

"Iowa has little or no requirements to differentiate between diesel fuel used for non-highway purposes," Schach said. "The bulk station operator, the tank wagon operator, or even the retail dealer makes this determination. All they need to do is to make a fake set of receipts or records, and no tax is paid."

Schach kicked over a hornet's nest in 1970, when he suggested that trucking associations stop "defending every moonlighter who gets involved in fuel tax violations." The associations don't defend them in any other instances, he said.

Answering protests from the American Trucking Associations and the Iowa Trucking Association, Schach said, "Trucking companies that choose to belong to state and national associations are generally straight-forward business firms. However, the organized trucking industry does not represent a majority of operators on the American highway today." Schach added that he intended no inference that non-membership indicated questionable conduct.

"Each time someone avoids the payment of his fair share for road tax use," he continued, "all users are deprived of the use of an improved facility. In defense of the trucker when he pulls into a station, what assurance does he have that the 8¢ per gallon of diesel fuel tax he pays ever gets turned over to the department of revenue?"

Don Briggs, Iowa director of revenue, says his department is conducting a three-year auditing program of trucking operations in the state. By the end of last spring, he said, 140 carriers had been audited, and each one ended up paying an average of $1,200 in additional taxes. If this percentage holds true throughout the program, Briggs said, the state should reap an annual $3.6 million in additional taxes. These efforts may be starting to pay off. Iowa diesel fuel collections for the first half of 1972 show a tax gain of $1,096,626 over 1971.

Briggs appears to be taking a careful, conservative look at the problem, challenging unsubstantiated figures and loss estimates. He is interested in determining whether certain changes in the law would improve collections without hurting the trucking industry. Efforts are also being made by the IRD to simplify reciprocity, increase cooperation with other states, reduce the trucker's information burden, and create uniform reports and filing dates.

"The trucking industry is not fighting us," Briggs said. "They don't like the violators either."

Because of weak enforcement and truck traffic three times greater than Iowa's, Illinois may be losing up to $100 million a year in diesel fuel taxes.

Even though there has been some progress in the Illinois battle, Revenue Director George E. Mahin said many of the tax dodges used in Iowa are also present in Illinois. Very prevalent in Illinois, Mahin claims, is the practice of shorting large motor carriers on fuel deliveries in order to obtain diesel fuel for untaxed sales.

To thwart this practice, Mahin said the department of revenue has cracked-down on oil distributors pumping diesel fuel directly from tankers into the tanks of groups of trucks on the streets and in terminal yards. One such "mobile" operation operated in the old Chicago Stockyard area. This practice Mahin pointed out, avoids payment of 7.5¢ per gallon in state tax, 4¢ per gallon in Federal tax and 1.5¢ per gallon in sales tax.

In Georgia, the Motor Fuel Tax Division of the Department of Revenue actively enforces the payment of fuel taxes. The department is currently investigating a misbranding case in which the suspect oil dealer has been under surveillance for several weeks.

"From time to time we run into these situations," Georgia Revenue Director Curtis Modling said, "and most of them occur around the borders of the state."

In a recent action, Modling's division rendered an assessment of approximately $104,000 against an agent of a national service station chain. Filed in the Carroll County (Ga.) Supreme Court, following an audit, the suit charged the station operator with failing to pay state taxes.

New Jersey is also becoming more active in clamping down on fuel tax violators. One recently investigated case involved a sand and gravel fleet making suspiciously large purchases of heating fuel during summer months.

Large-scale fuel tax evasion exists in Maryland, despite an energetic campaign by John K. Coleman, gasoline tax division chief, who has increased diesel tax collection more than $300,000 in each of the past three years. Coleman's crack-down—one of the most effective in the nation—is aimed primarily at mislabeling and fuel adulteration, and involves heating fuel oil distributors, service stations, and truckers who buy heating oil or untaxed diesel fuel.

Working very closely with the Internal Revenue Service and FBI, the Maryland Revenue Department is now involved in investigations in Maryland, the District of Columbia, Norfolk, Va., and New Jersey. Coleman insists that fuel tax evasion exists in every state, even though state officials don't know it. In Maryland, Coleman has noted an increase in violations in all fuel tax categories including violations by truckers.

Maryland truck consumers of diesel fuel are licensed and must post surety bonds. Under this procedure, Coleman explained, diesel fuel ordered from a supplier is placed in the fleet operator's underground storage tanks, and the fleet operator pays for it minus taxes. Each month the trucker files a report with the state tax commission, indicating his inventory, additional purchases, and the tax he owes. These reports are computerized and show a 24% gain in collections of diesel taxes as of July 1972, compared with the 1971 period.

Although some licensed fuel distributors in Maryland are permitted to blend and compound petroleum products, Coleman said, service station operators cannot, and there are severe penalties for violations of this law. And under Maryland law all additives must be added at the refinery to prevent customers from being defrauded. Nevertheless, he added, many investigations of diesel fuel tax evasion turn up incidents of fuel adulteration by water or other foreign substances.

Coleman told Fleet Owner that the problem of fuel tax evasion is not so much with regulated motor carries as it is with owner-operators and small truckers. "Legitimate truckers," he said, "favor our activities and will often loan us trucks to use in an investigation." Many times, he added, fleet drivers and owner-operators will notify officials if they discover an "obviously suspicious deal." Coleman's staff includes 32 auditors plus 16 inspectors.

Much of Coleman's investigation has been undercover, using trucker informants, hidden cameras, tape recorders, and state troopers planted as gas station attendents. Coleman said hijacking accounts for a substantial diversion of fuel in his state. He cited a few recent investigations by his department:

Truck drivers reported a Baltimore heating oil firm which they believed were shorting certain government and industrial users. Subsequent investigation by Coleman's office disclosed that the firm sold more fuel than it had a record of purchasing. Further investigation revealed the distribution operation, over a two year period, resulted in certain military bases being charged for some 500,000 gal. more than they received.

Military Intelligence aided Coleman's department in an investigation that cost the distributor $21,000 in fines and a trucking company $29,000 in fines. One of the military installations recently shorted on deliveries was the U.S. Naval Academy at Annapolis.

A 1971 investigation revealed a Baltimore service station operator was selling fuel oil to steel-haulers and owner-operators. Because he was passing the fuel oil off as diesel fuel and selling it without paying diesel fuel tax, the service station operator was arrested on charges of filing false tax reports, re-branding, and tax evasion, and was hit with a lien of $127,000.

In another of Coleman's cases, eight state troopers uncovered a re-branding operation involving a long-haul trucking company operating between Boston and Florida, and a truck stop. Arrests were made and assessments of $70,000 each were levied against the trucking company and truck stop operator.

Another case broke when FBI agents, working on a hijacking case, noticed a heating oil delivery truck making "midnight" deliveries to a truck stop. Further investigation revealed the truck stop had sold between 500,000 gal. and 1.5 million gal. of heating oil to unsuspecting truckers. Although the station operator claimed his records were destroyed by fire, he was convicted and fined $70,000.

Coleman also described a case in which an abandoned, weed-covered truck terminal in the Curtis Bay area of Baltimore was used as a "drop" for home heating oil by delivery drivers who shorted their customers. The heating oil was sold to "gypsy" truckers at bargain prices.

This system was able to operate, Coleman said, because so few residential and industrial users of heating oil bother to check their fuel indicator gage after a delivery.

In this connection, Coleman suggests that fleet operators buying bulk fuel check delivery tankers when they arrive to make sure they are filled. Tanker compartments should be checked again after delivery, to make certain they are empty.

To encourage more uniformity in state specifications and enforcement programs, the State of Maryland invited eastern corridor states to a fuel tax evasion seminar in 1970, to discuss the whole spectrum of plugging holes in fuel tax laws. During the meeting, about 18 states said they had enforcement programs, but only four states were able to

prove they had effective programs. Some states didn't even own a pair of binoculars for surveillance work!

Tax officials were shown copies of a "crime manual prepared by Coleman's department complete with photographs made by hidden cameras, outlining the various ways of preventing fuel tax evasion. For more than a year now, Coleman has been involved in writing a new manual, one dealing with future state specifications for diesel fuel and heating oil.

Fleet Owner's research shows that two enforcement problems continue to exist:

The federal tax authorities are riding on the coat tails of state enforcement and doing comparatively little on their own.

Secondly, oil companies generally cannot effectively police the stations that carry their names because the dealers or operators are technically *independent* business men, operating under a lease arrangement. Coleman says, however, this may change in the future because oil companies appear interested in buying back their stations.

In addition, the oil companies are marketing "secondary" brands in new stations under direct company control, competing against regular brands in some areas.

Several recent developments will affect Maryland's diesel tax collection efforts.

As of 1973, Maryland tax authorities will not accept major oil company credit card receipts as evidence that taxes have been or will be paid. The state prefers meter imprinted tickets or statements which must be signed by company presidents under penalty of perjury.

In this connection, several Maryland gas stations were accepting competitive company gas credit cards when offered by truckers. Later these cards were taken to another state and cashed in at other service stations at a discount.

Coleman points out that there have been instances at so-called truck stops in Louisiana where prostitutes were available and their services charged through the truck driver's company credit cards. The "special services" were billed to the trucking company as gallonage placed in the truck's fuel tank.

A signed and witnessed statement obtained from a Florida owner-operator by the Maryland Gasoline Tax Division also indicates that prostitutes were available at a Georgia truck stop where fake Maryland and Delaware fuel tax receipts were readily available to truck drivers.

Maryland is also starting to generate a microfilm file to be placed at all of the state's truck weigh stations. The file will contain the names of truck fleets who haven't paid their fuel taxes.

The situation can only be truly corrected by a combination of state and federal teamwork, together with new efforts and understanding by the major refineries. The trucking industry must also recognize its responsibility in remaining above reproach to eliminate the possibilities of restrictive tax legislation.

GOUVERNEMENT DU QUEBEC,
MINISTERE DU REVENU,
Quebec, December 20, 1973.

Mr. JAMES C. VLAZNY,
Morton Chemical Co.,
Chicago, Ill.

DEAR MR. VLAZNY: In answer to your letter of December 13, 1973, in connection with our marking program of heating oils, I take pleasure to give you some information on the progress of this program.

Firstly, I am glad to say that we are very enthusiastic about our coloring program which has already brought a substantial increase in our monthly revenues as revealed by the following statistics:

	Revenue diesel tax, 0-25¢ per gallon	Increase (percent)	Revenue diesel tax, 0.03¢ per gallon
July:			
1972	$3,576,475		$150,366
1973	5,083,110	+42.1	188,388
August:			
1972	4,525,441		143,542
1973	6,079,910	+34.3	107,738
September:			
1972	4,712,599		148,924
1973	5,907,999	+25.4	165,807
October:			
1972	4,305,273		149,282
1973	6,144,371	+42.7	222,423

It has been estimated that we were losing about $25 million a year on diesel tax. We are confident that additional revenue from $15 to $18 million will be recuperated in the first year of operation and the $25 million target should be reached in the second year when the control and enforcement of the Act are fully put into force.

In order to appreciate fully the benefits derived from our dyeing program it must be taken into account that our Quebec Department of Revenue has for years made constant efforts to crack down on motor fuel tax dodgers. The following statistics in our revenues over the last five fiscal years are self revealing:

	Revenue diesel tax, 0-25¢ per gallon	Increase (percent)	Revenue diesel tax 0.03¢ per gallon
1968-69	$24,094,533	—3.75	$2,228,467
1969-70	28,583,879	+18.6	2,272,121
1970-71	35,336,208	+23.6	2,122,792
1971-72	39,399,847	+11.5	2,172,941
1972-73	43,679,652	+10.7	2,053,005

It is our contention that the major increases in 1969/70 and 1970/71 were the direct result of aggressive investigation programs, court actions and prosecutions against tax evaders.

In order to achieve these already encouraging results we use to have an audit staff of 95 employees; i.e., 25 professional auditors and 70 audit agents. After July 1st, 1973, we have engaged 25 inspectors to check in the field the illegal use of colored fuel in self propelled vehicles. Besides our audit staff of 95 auditors and agents, from 10 to 12 special agents of our Special Investigation Branch were continuously engaged in investigation fraud cases, rackets in the illegal use of fuel oil and in building up cases for prosecution.

We honestly believe that after we have completed our audit programs related to the application of our former Fuel Tax Act we will be in a position to gradually reduce our audit staff by fifty percent.

Should we be able to attain this objective our cost for the dye and compensation paid to the oil companies will be compensated by a reduction in our operating cost. According to our estimate our cost for the dye would be around $270,000 for 12 months, this for the marking of 1.6 billion gallons of fuel oil.

In addition we are paying the oil companies a compensation of 0.01¢ per 100 gallons for the coloration, i.e. an additional $160,000 per year. This compensation is being paid to cover any extra storage tanks and facilities paid by the oil companies as well as operating cost related to the marking program.

The overall cost of extra storage facilities and equipment for the coloration (mechanical injectors and equipment) has been estimated at $3.5 million for the whole petroleum industry. This estimate was determined after a detailed study and discussion of the additional facilities needed with officials of the refiners, importers and wholesalers. The original cost claimed by the petroleum people was $21 million.

Although, at first, we have faced a strong opposition on the part of people of the petroleum industry we have since received a very good cooperation after our regulations were published late in March 1973. The marking of fuel oil was in full operation on July 1st, 1973. As a temporary measure we have accepted that the dyeing of fuel oil be done by hand at the refineries and terminals. The oil companies are now completing the installation of mechanical injectors and by the end of December or early in January the coloring will be done and controlled entirely by mechanical equipment.

We are fully satisfied with the use of your Blue #10 dye and the tests to the laboratory are quite conclusive so far even on illegal blending of 5% colored fuel with clear diesel fuel.

We have now 25 cases pending before the Courts for illegal use of colored fuel, besides we won our first case in Court on a charge of illegal use of colored fuel; the trucker was sentenced to a fine of $200.

For your information, you will find attached clippings of the publicity we had on our court cases against people with heavy criminal records engaged in fuel oil rackets. We have evidence that these operators were closely linked with ranking members of the underworld in Montreal, same being well known to be related with crime families of the Cosa Nostra of New York and Buffalo.

We are glad that our marking program has already closed the door to a number of existing rackets. We are also confident that we now have the necessary tools on hand to exercise a good control over the illegal use on non taxable fuels especially in the present fuel crisis period where diesel oil sells at high price.

Mr. PERCY. Mr. President, in conclusion, I simply say that, once again, I urge my colleagues, for the sake of the credibility of the American people, who are going to be very concerned, and I mean deeply concerned, at seeing the extent of debt rollup—from $40 to $50 to $60 to $70 to $80 billion—over the next few years, in 2 years, $120 billion, unless they see some evidence that is consistent with national interest and consistent with equity and fairness that we attempt to bring in revenue where we can and where it will not hurt. All this amendment does is enable us to enforce the law, which is being flagrantly violated right now. Our States are losing revenue. They are laying employees off. Their budget and income are down. This would put money in their pocket the easiest way, it will cost us nothing, it will pick up considerable revenue.

I urge the acceptance by my distinguished colleagues, particularly those distinguished colleagues who have worked so hard on this tax bill. I hope that it can have the support of the chairman as well as my colleague, the ranking minority member.

Mr. LONG. Mr. President, the only reason I would know for voting down this amendment would be that some would contend that this should be on the energy bill rather than on this bill. But in view of the fact that we may very well be adding amendments to the bill that would more likely be on the energy bill, of an expenditure or a cost, a tax expenditure or tax loss basis, I think that the Senator's argument is

well taken. It probably will appeal to us in conference if we did take some steps to offset the cost of some of these tax incentives to encourage people to save energy. I will vote for the Senator's amendment.

I shall be happy to yield some time in opposition to anyone who wishes to oppose it.

As a matter of fact, Mr. President, I shall be willing to accept the amendment now unless there is objection to it. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

The amendment was agreed to.

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from Maine (Mr. HATHAWAY) to call up his amendment, on which there is 10 minutes for debate.

AMENDMENT NO. 137

Mr. HATHAWAY. Mr. President, I call up amendment No. 137.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an amendment to amend the Internal Revenue Code of 1954.

The amendment is as follows:

At the end of the bill, add the following new title:

That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 42 as 43, and inserting after section 41 the following new section:

"SEC. 42. INTEREST ON PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the interest paid or accrued during the taxable year by the taxpayer on indebtedness secured by a mortgage on real property owned and used by him as his principal residence or on any other indebtedness incurred by him to acquire or improve real property used by him as his principal residence.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be 26⅔ percent.

"(c) APPLICATION WITH OTHER CREDIT.—The credit allowed by subsection (a) for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowed by the preceding sections of this subpart (other than by sections 31 and 39).

"(d) SPECIAL RULES.—

"(1) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—In the case of property only a portion of which is used by the taxpayer as his principal residence, there shall be taken into account, for purposes of subsection (a), so much of the interest paid or accrued by him with respect to such property as is determined, under regulations prescribed by the Secretary or his delegate, to be attributable to the portion of such property used by him as his principal residence.

"(2) JOINT OWNERSHIP.—In the case of property owned and used by two or more individuals (other than a husband and wife) as their principal residence, the applicable percentage applied under subsection (b) shall, under regulations prescribed by the Secretary or his delegate, be applied separately to such individuals.

"(3) COOPERATIVE HOUSING.—For purposes of this section, an individual who is a tenant-stockholder in a cooperative housing corporation (as defined in section 216(b))—

"(A) shall be treated as owning the house or apartment which he is entitled to occupy by reason of his ownership of stock in such corporation, and

"(B) shall be treated as having paid or accrued interest with respect to such house or apartment during the taxable year equal to the deduction which would be allowable to him under section 216(a) but for the last sentence of such section.

"(4) CHANGE OF PRINCIPAL RESIDENCE.—If during a taxable year a taxpayer changes his principal residence, this section shall apply, under regulations prescribed by the Secretary or his delegate, to that portion of the interest paid or accrued by him with respect to each such principal residence as is properly allocable to the period during which it is used by him as his principal residence.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Interest on principal residence.
"Sec. 43. Overpayments of tax.".

SEC. 2. (a) Section 163 of the Internal Revenue Code of 1954 (relating to interest) is amended by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) INDEBTEDNESS ON PRINCIPAL RESIDENCE.—No deduction shall be allowed (in addition to the credit allowed under section 42) under subsection (a) for interest paid or accrued on indebtedness secured by a mortgage on real property owned and used by the taxpayer as his principal residence or on any other indebtedness incurred by him to acquire or improve real property used by him as his principal residence.".

(b) Section 216(a) of such Code (relating to tenant-stockholders of cooperative housing corporations) is amended by adding at the end thereof the following new sentence: "No deduction except for real property taxes shall be allowed (in addition to the credit allowed under section 42) under the preceding sentence with respect to any house or apartment which is used by the tenant-stockholder as his principal residence.".

SEC. 3. The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1974.

Mr. HATHAWAY. Mr. President, this amendment allows a taxpayer to take a credit of 26⅔ percent for the interest that he pays on his mortgage, on his principal home only, in lieu of a tax deduction. The reason for the 26⅔ percent is that it hits it at the same tax bracket that Mr. MONDALE's tax credit hits in his provision in the bill, which allows a person to take a $200 credit in lieu of the deduction for a dependent.

This would benefit taxpayers, particularly, in the $10,000 to $20,000 income brackets. It is estimated that 73 percent of those taxpayers would be benefited. It would be of substantial help to the housing industry and, as has been noted on the floor, time and time again during the debate on this matter, this is one of the best ways for us to spur the economy.

One of the basic reasons why this would be a great incentive for the housing industry, a spur to the housing industry, is that it would reduce the effective interest rate on taxpayers, and it would provide a very great boost to taxpayers in that, at the beginning of their mortgage payments, the interest part of the mortgage payment, as opposed to the payment made on principal, is the higher. The cost of the program, to be sure, is $1 billion. It is not as stated in the pamphlet that has been circulated, which I think states over $1 billion. It is just about $1 billion because it applies to the principal home only.

I realize that we are trying to keep the amount of this bill down as much as we can, but the proposal that was made by the Senator from Louisiana, the chairman of the committee, to allow a tax credit for new and existing homes has been modified so that that only affects new homes, thereby saving about $2 billion over the original committee bill. I suggest that this amendment, by adding just $1 billion and covering both new and used homes, has still not reached the original $3 billion we had proposed to spur the housing industry.

Mr. LONG. Mr. President, this amendment was not agreed to in the committee I voted for it when it was suggested in the committee and I therefore feel that I should yield time to someone who desires to speak in opposition, if someone be present who desires to do so. Otherwise, I shall just yield back the time.

I think I should point out that the revenue losses estimated to the Treasury will be $1.165 billion. I shall yield time if someone desires at this point to speak in opposition.

Mr. SPARKMAN. Mr. President, may I ask a question?

Mr. LONG. Yes.

Mr. SPARKMAN. The Senator gave a figure.

Mr. LONG. $1.165 billion.

Mr. HATHAWAY. If the Senator will yield, I wish to correct that figure. It was reestimated to be about $1 billion, forgetting the $165 million. At the time they first computed it, they did not allow for the fact that it applied to principal residences only, so it has been computed at about $1 billion.

Mr. SPARKMAN. In the bill as it was first presented, as I understand, there was a $2,000 allowance, was it?

Mr. LONG. A tax credit of up to $2,000 to aid in the purchase of new homes. That is still in the bill.

Mr. SPARKMAN. Will that be in the bill if this goes in, or will this be a substitute?

Mr. HATHAWAY. This is in addition.

Mr. LONG. This would be in addition to that.

Mr. SPARKMAN. I wish to say to both of the Senators that I believe all in here know that I have been greatly interested in housing. I have not felt that that provision in the bill is the way to stimulate housing. I say that very frankly. I want to see a good, strong housing program, but I just cannot bring myself to believe that this is the best way.

I think this will do more, what the Senator from Maine has provided, than will what is in the bill. But I am somewhat disturbed by the provision in the bill and what the impact of that will be. I wish something could be worked out so that

that could be modified and brought down to a lower level.

By the way, the National Association of Home Builders were testifying before our committee just a couple of days ago, and they did not seem to be too interested in the provisions that are in the bill. I do not recall whether they came out with a definite statement against it, but they took somewhat the same stand that I am taking, I think, that that was not the way to stimulate homebuilding.

Mr. HATHAWAY. I thank the Senator very much for his support of my amendment.

Mr. SPARKMAN. It seems to be rather difficult to support the Senator's amendment, if it were to be added on top of this other provision, because that would be a tremendous drain on the Treasury.

Mr. LONG. Mr. President, what the amendment proposes, as I understand it, is that there be a tax credit for taxpayers in the low-income brackets which would amount to the equivalent of a deduction of 26⅔ percent of their mortgage interest costs.

Mr. SPARKMAN. 26⅔ percent.

Mr. LONG. The thought there is that if taxpayers are in the lower income brackets, the deduction does not do them enough good, and, therefore, the Senator would suggest that they have a tax credit which would give them the same advantage that someone would have if he were in a 26-percent tax bracket.

Mr. SPARKMAN. I was more concerned with the provision that is in the bill. As I say, if his were a substitute for that, I could support it readily, but I do not see how I can support both.

Mr. HATHAWAY. Perhaps if we leave both of them in the bill, it could be ironed out in conference. The House has neither provision. The House could have the option to select one. Perhaps they would select both also.

Mr. SPARKMAN. I would suggest that many of these items added over here would be "ironed out" in conference, as is usual. I simply wanted to make those comments.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment by the Senator from Maine (Mr. HATHAWAY) be regarded as germane, but that the fact of this amendment being made germane not be regarded as making other amendments concerning the same subject germane.

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

Mr. LONG. Mr. President, I believe it is understood that this amendment would be voted on after the ones on which we have agreements to vote.

The PRESIDING OFFICER. If the yeas and nays are ordered on it, the Senator is correct.

Mr. LONG. I ask for the yeas and nays on the Hathaway amendment.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Louisiana may proceed.

Mr. LONG. Mr. President, I yield to the Senator from Utah.

Mr. MOSS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOSS. I understand there was an order entered as to certain amendments that might be discussed before our entering upon the debate prior to cloture. I made an attempt to modify an amendment, and was told I would have to wait.

There are two ways to go, as I understand: either I can ask unanimous consent that I be able to offer my modification now, or, if we start the discussion, to ask the floor leader for time on that. I am willing to go either way, whatever the parliamentary requirement may be.

Mr. LONG. Is the Senator talking about the Domenici amendment?

Mr. MOSS. Mine is a modification of the Domenici amendment.

Mr. LONG. I ask unanimous consent that when we reach the Domenici amendment, the amendment of the Senator from Utah may be offered.

Mr. MOSS. The Domenici amendment has already been offered.

Mr. LONG. The Senate has not voted on the Domenici amendment yet. Does the Senator wish to vote on his amendment before the vote on the Domenici amendment?

Mr. MOSS. That is correct.

Mr. LONG. Mr. President, I ask unanimous consent that the Senate vote on the Moss amendment immediately prior to the vote on the Domenici amendment.

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

Mr. FANNIN. Mr. President, the ranking minority Member is not in the Chamber. Is that agreeable to him?

Mr. MOSS. He agreed to that. I asked him.

Mr. LONG. I now ask unanimous consent that there be a limitation of 10 minutes, to be equally divided, for debate on the Moss amendment to the Domenici amendment.

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

Mr. MOSS. Mr. President, I have sent to the desk my modification. I ask that it be reported, but that I be permitted to explain it.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. Moss) proposes an amendment to the amendment (No. 191) of the Senator from New Mexico (Mr. DOMENICI).

Mr. Moss' amendment is as follows:

PART III—TAX INCENTIVES FOR CERTAIN ENERGY-RELATED IMPROVEMENTS OF BUILDINGS

SEC. 1. INSULATION OF PRINCIPAL RESIDENCE.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by redesignating section 43 as section 44 and by inserting after section 42 the following new section:

"SEC. 43. INSULATION OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 40 percent of the qualified insulation expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $500, plus

"(2) 20 percent of the qualified insulation expenditures paid by the taxpayer during the taxable year with respect to such residence to the extent that such expenditures exceed $500 but do not exceed $1,000.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property and purchases of certain recyclable waste),

"(D) section 40 (relating to expenses of work incentive programs), and

"(E) section 41 (relating to contributions to candidates for public office).

"(2) PRIOR EXPENDITURES TAKEN INTO ACCOUNT.—If—

"(A) the taxpayer made qualified insulation expenditures with respect to any residence in any prior taxable year, or

"(B) any prior owner of any residence made qualified insulation expenditures with respect to such residence,

then subsection (a) shall be applied with respect to such residence for the taxable year by reducing (but not below zero) the dollar amounts contained in such subsection by the aggregate of the expenditures described in subparagraphs (A) and (B).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED INSULATION EXPENDITURES.—The term 'qualified insulation expenditures' means any amount paid by an individual for any installation (other than pursuant to a reconstruction of the dwelling unit) which occurs after March 17, 1975, and before January 1, 1977, of insulation in any dwelling unit which—

"(A) at the time of such installation is owned by the individual and used by him as his principal residence (within the meaning of section 1034); and

"(B) is in existence on March 17, 1975, and used on such date by one or more individuals as a residence.

"(2) INSULATION.—The term 'insulation' means any insulation, storm (or thermal) window or door, or any other similar item—

"(A) which is designed to reduce, when installed in or on a building, the heat loss or gain of such building,

"(B) original use of which commences with the taxpayer, and

"(C) which has a useful life of at least 3 years.

"(3) JOINT OWNERSHIP.—In the case of any building which is jointly owned, and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b)(2)) with respect to any qualified insulation expenditures paid during such calendar year by any of such individuals with respect to such building shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year, and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals

during such calendar year for such expenditures.

"(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified insulation expenditures paid by such corporation.

"(d) REDUCTION OF BASIS.—The basis of any property shall not be increased by the amount of any qualified insulation expenditures made with respect to such property to the extent of the amount of any credit allowed under this section with respect to such expenditures.

"(e) TERMINATION.—This section shall not apply to any amount paid after December 31, 1976."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 43. Insulation of principal residence.
"Sec. 44. Overpayments of tax."

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (iv), by striking out "; and" at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause:

"(vi) section 43 (relating to insulation of principal residence); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (D), by striking out "exceed" at the end of subparagraph (E) and inserting in lieu thereof "and" and by inserting after subparagraph (E) the following new subparagraph:

"(F) section 43 (relating to insulation of principal residence), exceed".

(4) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (22) and inserting in lieu thereof a semicolon and by inserting after paragraph (22) the following new paragraph:

"(23) to the extent provided in section 43(d), in the case of property with respect to which a credit has been allowed under section 43."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after March 17, 1975, in taxable years ending after such date.

SEC. 2. RESIDENTIAL SOLAR ENERGY EQUIPMENT.

(a) GENERAL RULE.—Subpart A of chapter IV of subchapter A of chapter 1 (relating to credits allowable) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC. 44. RESIDENTIAL SOLAR ENERGY EQUIPMENT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 40 percent of the qualified solar energy equipment expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $1,000, plus

"(2) 20 percent of the qualified insulation expenditures paid by the taxpayer during the taxable year with respect to such residence to the extent that such expenditures exceed $1,000 but do not exceed $2,000.

"(b) LIMITATIONS.—

"(1) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property and purchases of certain recyclable waste),

"(D) section 40 (relating to expenses of work incentive programs),

"(E) section 41 (relating to contributions to candidates for public office), and

"(F) section 43 (relating to insultation of principal residence).

"(2) PRIOR EXPENDITURES TAKEN INTO ACCOUNT.—If—

"(A) the taxpayer made qualified solar energy equipment expenditures with respect to any residence in any prior taxable year, or

"(B) any prior owner of such residence made qualified solar energy equipment expenditures with respect to such residence, then subsection (a) shall be applied with respect to such residence for the taxable year by reducing (but not below zero) the dollar amounts contained in such subsection by the aggregate of the expenditures described in subparagraphs (A) and (B).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SOLAR ENERGY EQUIPMENT EXPENDITURES.—The term 'qualified solar energy expenditures' means any amount paid by an individual for any installation (other than pursuant to a reconstruction of the dwelling unit) which occurs after March 17, 1975, and before January 1, 1977, of solar energy equipment, in any dwelling unit which—

"(A) at the time of such installation is owned by the individual and used by him as his principal residence (within the meaning of section 1034); and

"(B) is in existence on March 17, 1975, and used on such date by one or more individuals as a residence.

"(2) SOLAR ENERGY EQUIPMENT.—The term 'solar energy equipment' means equipment which conforms to performance criteria established by the National Bureau of Standards, and—

"(A) which is designed, when installed in or on a building, to use solar energy to heat such building or to heat water for use within such building,

"(B) the original use of which commences with the taxpayer, and

"(C) which has a useful life of at least 3 years.

"(3) JOINT OWNERSHIP.—In the case of any building which is jointly owned, and is used during any calendar year as a principal residence, by two or more individuals—

"(A) the amount of the credit allowable under subsection (a) (after applying subsection (b)(2)) with respect to any qualified solar energy equipment expenditures paid during such calendar year by any of such individuals with respect to such building shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of subsection (b)(1)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount paid by such individual during such calendar year for such expenditures bears to the aggregate of the amounts paid by all of such individuals during such calendar year for such expenditures.

"(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual—

"(A) shall be treated as owning the dwelling unit which he is entitled to occupy as such stockholder; and

"(B) shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any qualified solar energy equipment expenditures paid by such corporation.

"(d) REDUCTION OF BASIS.—The basis of any property shall not be increased by the amount of any qualified solar energy equipment expenditures made with respect to such property to the extent of the amount of any credit allowed under this section wtih respect to such expenditures.

(e) TERMINATION.—This section shall not apply to any amount paid after December 31, 1976."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 44. Residential solar energy equipment.
"Sec. 45. Overpayments of tax."

(2) Section 56(a)(2) (relating to imposition of minimum tax) is amended by striking out "and" at the end of clause (v), by striking out "; and" at the end of clause (vi) and inserting in lieu thereof ", and", and by inserting after clause (vi) the following new clause:

"(vii) section 44 (relating to residential solar energy equipment); and".

(3) Section 56(c)(1) (relating to tax carryovers) is amended by striking out "and" at the end of subparagraph (E), by striking out "exceed" at the end of subparagraph (F) and inserting in lieu thereof "and", and by inserting after subparagraph (F) the following new subparagraph:

"(G) section 44 (relating to residential solar energy equipment), exceed".

(4) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and by inserting after paragraph (23) the following new paragraph:

"(24) to the extent provided in section 44(d), in the case of property with respect to which a credit has been allowed under section 44."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid after March 17, 1975, in taxable years ending after such date.

Mr. MOSS. Mr. President, this follows the general concept of the Domenici amendment, in that it provides for rebate of money for insulating of homes, and contains a special provision for solar energy.

This is a matter that I have been concerned with for a long time. In fact, on February 13 of 1973 I introduced the first bill on this matter, and that was incorporated in the emergency energy bill on the 15th of November 1973 and adopted unanimously by the Senate. Of course, that bill was vetoed by the President, so it was lost. Thereafter, on the 15th of January, I introduced again a bill of this sort.

What do I suggest by way of modification of the Domenici amendment? It is to substitute the proposal introduced by Chairman ULLMAN of the House Ways and Means Committee in terms of this tax incentive for residential energy con-

servation and improvements, which would modify it in this respect:

A 40-percent tax credit on the first $500 of cost of insulation, storm windows, and so on, that are installed in a dwelling home, and a 20-percent tax credit on the second $500, which is a total of $1,000 that a person might receive as a tax credit base for appropriate insulation of his home.

For solar and heating devices, we have the same percentages, 40 and 20, but the first 40 percent would be for $1,000, then 20 percent for the second $1,000, and, therefore, there could be a $2,000 ceiling on using solar energy, to encourage that.

There is no optional tax deduction, but simply a tax credit, and this is because a tax deduction favors the high-income taxpayer, and is not the incentive to the lower income taxpayer that a tax credit is. It puts the greater incentive where it is needed.

The other thing that it seems to me is a really potent argument for this proposal is that these are the terms of the Ways and Means Committee bill on the House side, and for that reason I would think when it goes to conference, the likelihood of its being accepted in conference is very great, and I would think there would not be much opportunity, on this proposal, to argue about it.

It does have an impact on the treasury, but it also has an impact in creating jobs, both in materials and employment, and in the actual installation of the insulation, and it also has an effect on net exports from this country. Thus, under an econometric study that was made by the Chase Institute, it was determined that the job creation potential and the amount of increased activity in materials are such that the bill is not really a burden on the treasury, but fits in with the two things we are trying to accomplish right now: First, to get people back to work, and second, to conserve energy. This proposal would do both things.

Therefore, I offer this as a modification of the Domenici amendment, and ask for the yeas and nays upon it.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair would like to ask the Senator from Utah is this a substitute for the Domenici amendment or amendment to his amendment?

Mr. MOSS. Well, I have called it a modification because I wanted to make it clear that I am not displacing his idea at all. I simply have a better formula, I think.

The PRESIDING OFFICER. Would it then be a substitute amendment?

Mr. MOSS. I will offer it then as a substitute. It is the Ullman provision that appears on page 75 of H.R. 5005.

Mr. FANNIN. Mr. President, is there any time remaining?

Mr. LONG. Is there a request for time in opposition?

Mr. FANNIN. In opposition.

Mr. LONG. In opposition. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, although I agree with the Senator from Utah that there are very valuable features to his amendment I oppose it because I do not feel that allowing a 40-percent credit on the first $1,000 spent on solar equipment will be enough.

What we are trying to do is to achieve the mass development throughout the United States of solar energy installations We are interested in solar energy, and I think the distinguished Senator only covers heating. I do not see in his proposal that it covers cooling.

Would the Senator respond on whether or not his amendment also provides for cooling?

Mr. MOSS. It covers insulation.

Mr. FANNIN. I am talking about the solar energy part.

Mr. MOSS. Yes, I think it does.

Mr. FANNIN. There is not any explanation there that would cover cooling, and I would certainly feel this is a highly essential part of it. I think we cannot afford to invest the amount of money that the Senator discusses unless we are going to have results of a broader nature than just heating.

As I understand it, the great hope for solar energy cutting down the load of the utilities is to combine solar energy with the heat pump and other devices and supplemental heating and cooling. I just want to be certain that we accomplish that. The Domenici amendment does, but I do not feel, from the information I have on the amendment of the distinguished Senator from Utah, that it accomplishes that objective.

Mr. MOSS. Well, as the Senator well knows, we now have in law a bill that provides that the Housing and Urban Development Administration, in conjunction with the National Aeronautics and Science Administration, is building demonstration homes in a number of places with respect to heating and cooling, and we are trying to get developed the equipment that does that. This is an incentive to step up now and use what we know about the technique that is being perfected.

Mr. FANNIN. I think the distinguished Senator has answered the question, but I just want to elaborate that I do not feel in conference we can hold a $1 billion proposal. So my goal is to try to get something in the bill that will spread the story of solar energy throughout the United States by including a tax incentive which people will investigate. The net result will be that millions upon millions of dollars can be saved by the utilization of solar energy for supplemental heating and cooling.

I do not feel that we should wait until we have all of these solar devices perfected that will also take care of cooling and I think that will be some time in the future—we can now combine it with other devices such as the heat pump, and get immediate results.

Mr. MOSS. I do appreciate the Senator's comments.

The principal recommendation, I think, on this is we are likely to get this in the bill if we take the modification here because it conforms exactly with what the House Ways and Means Committee has already reported.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. The Senator from New Mexico has time in opposition to the Moss substitute to his amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I might further say to the Senator from Utah that I apologize for not being here when he presented his substitute. I was aware he was going to, but I was in a committee hearing.

May I ask the Senator a few questions about the difference in the two bills?

Mr. MOSS. Yes.

Mr. DOMENICI. First, as I understand it, the Senator's proposal would cover only existing homes to whatever extent it is applicable; it is only for existing homes, is that correct?

Mr. MOSS. That is correct.

Mr. DOMENICI. It does not cover commercial at all in any respect; is that correct?

Mr. MOSS. This does not extend to commercial construction because the owner of a commercial building may take a business deduction in modifying his building.

Mr. DOMENICI. Then it does not cover new homes at all, even though we are aware of a minimum and a maximum existing HUD standard, and all the new homes are required to comply with a minimum, but there is a maximum that is covered by the Domenici-Humphrey amendment but not by the Senator's amendment; is that correct?

Mr. MOSS. That is right. This does not cover new homes because we already have a provision in this bill for credit for those building new homes. This is to encourage those to insulate their homes that already have an existing home, and it is to meet this.

In addition to that, as the Senator well knows, because he helped with the bill, we have in addition the fact that HUD and NASA are operating right now, building demonstration new homes.

Mr. DOMENICI. On the other hand, speaking of the existing provisions in the bill regarding new construction, I still ask the question of the Senator, this has not special treatment for insulation or solar energy with reference to new homes?

Mr. MOSS. No. They must rely on that other incentive rather than this incentive.

Mr. DOMENICI. I ask the Senator what is there in the existing proposal that would be an incentive?

The PRESIDING OFFICER. All time on the amendment of the Senator from New Mexico has expired.

Under the previous order, the Chair lays before the Senate the motion to close debate on H.R. 2166, the time to be equally divided and controlled by the Senator from Louisiana (Mr. LONG) and the Senator from Nebraska (Mr. CURTIS).

Who yields time?

Mr. LONG. Mr. President, I ask unanimous consent that the Senator from Alabama be given 10 minutes of my time, that 10 minutes of my time might be taken for the Senator from Alabama to offer his amendment.

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

Mr. SPARKMAN. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON INDUSTRIAL DEVELOPMENT BONDS

(a) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$5,000,000" in the heading of subparagraph (D) and by inserting in lieu thereof "$10,000,000";

(2) by striking out "$5,000,000" in subparagraph (d)(1) and by inserting in lieu thereof "$10,000,000.

(b) The amendments made by subsection —— shall apply with respect to obligations issued after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SPARKMAN. Mr. President, this is essentially a small business proposition and one that instead of costing the Government money will actually make a profit to the Treasury of the United States because what it does is to lift to a reasonable level the amount that would be available for industrial development bonds. Those bonds are issued, they are tax-exempt bonds, for the purpose of allowing development companies to build plants. Ordinarily they are small plants that will employ 25, 30, 50 people, but it will create jobs in places where they are needed, and will actually pay a profit to the Federal Government as the result of their production.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

The PRESIDING OFFICER. Will the Senator yield?

Mr. LONG. Will the Senator yield? This amendment was offered in the committee and it was discussed and voted on.

Now, it is not germane to the bill as it stands, but I think that——

Mr. SPARKMAN. However——

Mr. LONG. Wait just a minute. I think this amendment should be voted on by the Senate. It was voted on by the committee, and I ask unanimous consent that the amendment offered by the Senator be considered germane to the bill.

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

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

Mr. LONG. Yes.

Mr. SPARKMAN. The Senator will recall last night that was established on his request.

Mr. LONG. That is what I wanted to get clear.

Mr. SPARKMAN. Yes.

Mr. LONG. Senator, when cloture is voted, if it is, we can then proceed to handle this amendment in the ordinary fashion after the others we have agreed to vote on and, at that point——

Mr. SPARKMAN. That is the point of the Senator's unanimous consent request.

Mr. LONG. That is what I had in mind. At that point there will be more Senators here. In fact, I ask that this amendment be made the pending amendment after we have disposed of the other amendments we have already agreed to vote on.

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

Mr. WEICKER. Will the Senator yield for a minute?

Mr. LONG. Yes.

The PRESIDING OFFICER (Mr. FORD). The Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask unanimous consent that an amendment printed as Calendar No. 39, but without the strike section, which relates to tax-free interest on savings accounts, be considered germane.

Mr. LONG. Mr. President, I am going to give consent to his amendment that would add a tax advantage for the——

Mr. CURTIS. I will object on the germaneness.

Mr. WEICKER. It would be to——

The PRESIDING OFFICER. Will the Senator use his microphone so he can be heard?

Mr. LONG. I yield to the Senator on my time.

The Senator, I believe, would have an exemption——

Mr. WEICKER. For interest that stems from savings accounts, where those savings accounts are involved with money going to the homebuilding industry.

Mr. LONG. Mr. President, I ask unanimous consent the Senator may offer an amendment as an addition to the bill which would provide for an exemption of interest on savings accounts. That is what he has in mind.

Mr. WEICKER. That is correct.

The PRESIDING OFFICER. Without objection——

Mr. PASTORE. Now, wait a minute, please.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PASTORE. Reserving the right to object, why can we not dispose of this amendment before the cloture petition, if we begin to——

Mr. LONG. I would like to dispose of a lot of them before cloture.

Mr. PASTORE. I do not think it would take long.

Mr. LONG. We have nine other amendments waiting to be voted on.

Mr. PASTORE. I understand they have been discussed.

Mr. LONG. The other amendments have been discussed.

Mr. WEICKER. I would like to protect myself, if I could, so that if cloture—the hour comes, I am not left out without an opportunity to present my amendment.

Mr. PASTORE. I have no serious objection to it, but only as a question of expedition, I was wondering why we could not take it up right now.

Mr. WEICKER. A time now, before or after——

Mr. LONG. Well, I have nine other amendments I want voted on first.

So I ask unanimous consent that the Senator may offer an amendment to add at the end of the bill an amendment dealing with a deduction for interest on deposits in qualified savings institutions.

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

Mr. LONG. Now, Mr. President——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. If the Senator has not prepared it, I believe there is an amendment somewhere to strike the provision with regard to the tax credit on new homes, and that would be germane. But if there is no such amendment at the desk, I ask consent that it be in order for someone to offer an amendment to strike the provision that deals with a tax credit on the purchase of new homes.

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

Mr. LONG. Now, Mr. President, I send to the desk two additional amendments. I believe these are germane to the bill, but I ask they be regarded as read.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk proceeded to read the amendments.

Mr. CURTIS. Well, germane——

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc.

Mr. LONG. I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. Mr. President, I have an amendment that corrects a date in reference to the private pension law that we completed some time back.

I ask unanimous consent that the rule on germaneness be waived regarding this amendment.

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

Mr. CURTIS. I send the amendment to the desk.

Mr. BEALL. Will the Senator yield?

Mr. LONG. I yield to the Senator from Maryland.

The PRESIDING OFFICER. Without objection, the request regarding the amendments of the Senator from Louisiana is agreed to.

Mr. LONG. All I am asking is that the amendments I offered simply be regarded as read. That is all I am asking.

I do not believe that is need for the germaneness provision, since I believe they are germane anyway. I just ask they be regarded as read.

Mr. BEALL. I have an amendment at the desk offered by Mr. GOLDWATER and myself relating to condominium taxation. May I bring it up now? It is nongermane.

Mr. LONG. It is not germane?

Mr. BEALL. It is not germane.

The PRESIDING OFFICER. The Senator from Nebraska, is the Senator asking for immediate consideration of his amendment?

Mr. LONG. Mr. President, I ask unanimous consent that that amendment be regarded as germane for purposes of the rule without broadening the germaneness requirement in any other respect.

The PRESIDING OFFICER. Without objection——

Mr. BEALL. Bring it up now——

Mr. LONG. I want to start voting, Senator.

Mr. BEALL. We will not be able to vote until after cloture.

Mr. LONG. If I can get consent, we can.

The PRESIDING OFFICER. Will the Senator from Louisiana make clear one point, the last motion was in regard to the amendment of the Senator from Nebraska?

Mr. LONG. Yes, the Senator simply sent an amendment to the desk and asked it be regarded as germane and I had no objection.

Mr. BEALL. No. 170 is at the desk.

The PRESIDING OFFICER. I was referring to the Senator from Nebraska, and the Senator from Maryland now has an amendment before or on the desk?

Mr. LONG. I am simply asking that be considered germane without prejudice to other amendments.

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

Mr. LONG. Now, Mr. President, we have before us a number of amendments with regard to which it was agreed that the Senate would meet and seek to reach a decision before cloture was invoked.

Under the rule, we would not have 1 hour to discuss whether or not we are going to invoke cloture.

In my judgment, that would be a waste of time and so in order to save that time, because it is going to be a long workday anyway, I would suggest that we agree by unanimous consent to proceed to vote on those amendments that we had agreed to vote on after cloture.

It had previously been understood they would be voted on prior to cloture.

I ask unanimous consent that the Senate now proceed to vote on the first of the amendments which the Senate had agreed to vote on immediately after cloture.

The PRESIDING OFFICER. Without objection——

Mr. CURTIS. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. I want to cooperate, but just to understand it fully and get the record straight, it will be—we can yield part of our hour to discussion of a particular vote that is coming up——

Mr. LONG. It was these amendments with regard to which there is a time limitation.

We came in with the understanding that these amendments would briefly come and would have votes, there would not have been time for all Senators to put their amendments under the limitations and to have had a vote on them.

Therefore, rather than vote on these which we came in this morning to do, consent was given they be regarded as germane and voted on immediately.

For example, we came here with the understanding we were going to vote on the amendment by Senator HART, relating to the Chrysler Corp. We were going to vote on that amendment this morning before cloture.

Now, Mr. President, now that we are ready to vote on all those amendments, rather than spending an hour talking about cloture, I want the Senate to simply proceed to start voting.

I think we should vote on the Chrysler amendment first.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, reserving the right to object, how many votes will there be, may I ask the distinguished manager of the bill?

The PRESIDING OFFICER. Nine.

Mr. MANSFIELD. Now, I think in fairness, we ought to have a brief quorum call, not to exceed 5 minutes, so that we can put Senators on notice——

Mr. LONG. Would the Senator withhold that for a moment?

Mr. MANSFIELD. Surely.

Mr. LONG. Mr. President, I send to the desk an amendment to the Hart amendment which modifies it, to make it more as it was when it was reported by the committee, and the Senator from Michigan (Mr. PHILIP A. HART) has asked his amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The modification is as follows:

In amendment number 262, substitute for the amendment to the penultimate sentence of section 301(d)(5) of the bill the following: insert immediately before the period on l. 11, fig. 72 ", and only if such employer transfers such amount within one year from the date of the election under section 172 (b)(1)(E) of such Code".

Mr. MANSFIELD. Mr. President, I do not object, but I would suggest a 5-minute quorum call.

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

Mr. MANSFIELD. 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. MANSFIELD. Mr. President, may I make that the hour for the beginning of the vote 11 o'clock, and that will give Members plenty of chance——

The PRESIDING OFFICER. Senator, there is a quorum in progress.

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

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

Mr. MANSFIELD. And I raise my request from 5 minutes to the hour of 11 o'clock.

Mr. PASTORE. Will the majority leader—

Would the majority leader ask unanimous consent that after the 15-minute vote, the other votes be 10 minutes?

Mr. MANSFIELD. Yes.

Mr. President, I make that request. The first vote will take 15 minutes. The others are back to back, and there will be eight or nine. I suggest that they be 10-minute votes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BEALL. 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. BEALL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. LONG. Mr. President, I suggest the absence of a quorum. I would like the Members to be notified that we are going to start to vote.

The PRESIDING OFFICER. 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.

AMENDENT NO. 170

Mr. BEALL. Mr. President, I call up my amendment No. 170 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BEALL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. BEALL's amendment, which is cosponsored by Mr. GOLDWATER, is as follows:

At the end of the bill insert the following new section:

SEC. . (a) Section 501(c) of the Internal Revenue Code of 1954 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(20) Corporations or organizations, such as condominium associations, homeowner associations, or cooperative housing corporations (as defined in section 216(b)(1)), not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation, and operated exclusively for the management, operation, preservation, maintenance, or landscaping of the common areas and facilities owned by such corporation or organization or its members situated contiguous to such houses, apartments, or other dwellings, or for the management, operation, preservation, maintenance, and repair of such houses, apartments, or other dwellings owned by the corporation or organization or its members, but only if no part of the net earnings of such corporation or organization inures (other than through the performance of related services for the members of such corporation or organization) to the benefit of any member of such corporation or organization or other person."

(b) Section 512(a) of the Code is amended to add after paragraph (4) the following:

"(5) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(c)(20).—

"(A) GENERAL RULE.—In the case of an organization described in section 501(c)(20), the term 'unrelated business taxable income' means the gross income (excluding any membership income), less the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding any membership income), both computed without regard to the modification provided in paragraph (1) of subsection (b).

"(B) MEMBERSHIP INCOME.—For purposes of subparagraph (A), the term 'membership

income' means the gross income from assessment, fees, charges, or similar amounts received from members of the organization for expenditure in the preservation, maintenance, and management of the common areas and facilities of or the residential units in the condominium or housing development."

(c) The amendment made by this section applies to taxable years beginning after December 31, 1973.

Mr. BEALL. Mr. President, I ask unanimous consent that my colleague from Maryland (Mr. MATHIAS) be added as a cosponsor.

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

Mr. BEALL subsequently said: Will the Senator yield for a unanimous-consent request?

Mr. LONG. Yes.

Mr. BEALL. Mr. President, I ask unanimous consent that on the amendment that I introduced which was recently adopted, in addition to the cosponsor mentioned at the time I called up my amendment, the following be added as cosponsors: Senators FONG, STEVENS, CRANSTON, HATFIELD, MCCLELLAN, THURMOND, TUNNEY, TAFT, and BUCKLEY.

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

Mr. BEALL. Mr. President, I am today proposing an amendment designed to exempt from income taxation the membership contributions in reserve funds accumulated by condominium housing associations, homeowner associations, and cooperative housing corporations in order to defray future, high-cost maintenance and repair bills.

This legislation, if enacted by the Congress, would overcome recent Internal Revenue Service rulings which held that condominiums and housing associations are in fact corporations under the law, and thus can be taxed at corporate levels. The practical effect of these rulings, if allowed to stand by the Congress, would severely hamper the development of such housing concepts by placing heavy tax penalties on the accumulation of reserve funds, and thus require associations to make heavy assessments on homeowners whenever extensive repairs must be made.

Mr. President, condominium and cooperative home ownership has become a most attractive—and often the only—way for many Americans to own a home. We are familiar with it in this area. In urban areas, and other areas of dense population, such as resorts, condominiums, and cooperatives offer an efficient method of housing large numbers of people in a relatively small area.

A recent survey of 25 metropolitan areas revealed that half of all new housing units in these areas in 1973 were condominium units. At a time when this Nation is facing severe housing problems, particularly for low- and moderate-income persons, it seems to me highly unwise to lay tax barriers before the development of this promising concept.

In this period of spiraling inflation, especially in the housing market, single-family homes are simply out of the reach of many Americans. In the Washington area an average existing home now sells at about $49,700, a 9.5-percent increase over 1973, and the average new home sells for $48,900, an 8.4-percent increase over the same period. Obviously, for young families, retirees, for moderate-income people, such prices are completely out of reach. The condominium and cooperative concepts offer them the chance to be a homeowner. Congress has throughout our tax laws recognized the social good of homeownership, and has encouraged its development by allowing deductions for such things as mortgage interest and property tax payments. To permit these latest IRS decisions to stand would fly in the face of our effort to assist Americans in owning their home.

Let us look at what a condominium really is. A condominium is simply a plan of ownership which permits individuals to own directly a portion of the building in which they live, as well as part of the land underneath it. It provides for the separate ownership by each owner of a unit or apartment in the building and for the common ownership of the underlying land and public or commonly used improvements.

Owners typically are responsible for the maintenance of the interior of their units. But to meet the maintenance needs of commonly held areas, they form associations to handle these chores. Usually, this ownership management association takes the form of a corporation, in order to protect owners from unlimited liability.

Homeowner associations, usually found in planned unit developments, and cooperatives also make use of this vehicle to accomplish needed maintenance.

Unit owners then pay, usually in monthly installments, a sum to the management organization or the association to meet these maintenance costs. The bulk of the monthly assessment will be used for utilities, current maintenance and repairs and capital replacement and repairs. However, a smaller portion of this fee will be set aside in a reserve for future capital replacement and repairs, such as for major repairs to roofs, sidewalks, heating and air conditioning equipment and recreational facilities. Of particular note is that most lenders and private mortgage insurers require reserves. The same is true of secondary purchasers of mortgages such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

It is these reserve funds which will bear the burden of this capricious and unfair IRS decision. The amount of this tax involved could well be as high as 48 percent at the Federal level, in addition to any State corporation tax.

There are over 20,000 "community associations," which include condominiums, home associations in planned unit developments and townhouse communities, in the country today, a number I might add that is growing at a rate of about 4,000 associations per year. To allow these rulings to stand would be to force each and every owner to pay the high tax assessments on this reserve fund, an amount which is often in the tens of thousands of dollars.

And is it fair? I do not believe so. To prove my point, take this example:

If citizen A and citizen B decide to establish a joint bank account to pay for future repairs to their driveway, they will not be penalized for their thrift by having those deposited funds taxed.

Yet, when a condominium, homeowner, or cooperative housing association pools its resources, essentially for the same reason, it is taxed at corporate levels.

Additionally such a tax is, in my judgment, double taxation on these residents. The owner has already paid income taxes on the money deposited with the association for maintenance, but he must in effect pay another higher tax when that money goes into the reserve.

So what we have, in fact, is a situation whereby Government and private lenders are requiring the maintenance of a reserve as a good, sound financial procedure, but another Government agency—the IRS—has decided, in effect, to preclude the development of such a viable fund by taxing it to death.

Some of my colleagues are probably asking themselves, "How did these associations get into this position?"

On January 15, 1974, the Internal Revenue Service, in Revenue Ruling 74–17, ruled that organizations—

Formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the code.

This decision reversed the traditional IRS interpretation which stated that organizations which are operated primarily for the purpose of bringing about civic betterment and social improvement, such as condominiums, were tax-exempt.

On March 6, 1974, much of the substance of Revenue Ruling 74–17 was applied to homeowners associations although not in such an all-inclusive order, as was the case with condominiums. In Revenue Ruling 74–99, a homeowners' association may qualify for exemption under section 501(c)(4) of the code, if, first, it serves a "Community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental; second, does not conduct activities directed to the exterior maintenance of private residences; and third, offers the common areas or facilities it owns for the use of the general public.

Thus, although some homeowner associations will still be tax-exempt, most will no longer receive the exemption they also have previously enjoyed.

Cooperatives also face these same heavy tax burdens when they accumulate excess assessments. In *Park Place, Inc.* v. *Commissioner of Internal Revenue* (57 T.C. 767 (1972) the Court found that excess assessments from members, over and above, those amounts used for current operating expenses, were taxable. Thus, this ruling also prohibits cooperatives from accumulating reserves necessary for the accomplishment of long-term or costly maintenance tasks.

Mr. President, the individual homeowner does not have to pay a tax on the money he saves and expends for maintenance. But because of these rulings, the

condominium, cooperative, and planned unit development homeowner does. In effect, the Internal Revenue Service has made the performance of these services much more costly to these homeowners than to other homeowners. The discrimination could not be clearer.

Mr. President, my amendment seeks to end that discrimination. It would exempt from corporate taxes the income derived by condominium homeowners and cooperative housing associations from owner assessments for the purpose of maintaining, repairing, and replacing common property items. The measure requires that such corporation be operated exclusively for the preservation, maintenance, management, operation, and repair of the common buildings, grounds and facilities of the association, and does not allow such associations to engage in any profitmaking ventures not connected with the performance of services for the benefit of individual members of the association.

Additionally, membership in these associations, for the purposes of the amendment, would be limited to owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation. Thus, by inclusion of this standard, we are precluding the use of this exemption by commercial operations who might seek such favorable tax treatment.

Finally, to make absolutely certain that this new section will not be subject to abuse, my proposal includes a special rule applicable to such organizations as I have described which makes it unmistakably clear that only membership income—that income derived from assessments, fees, or charges received from members of the association for maintenance and management of the development—is exempt, and that other income, from whatever source, including interest, is still subject to taxation.

In short, all this legislation does is exempt from tax those reserve funds accumulated by housing associations through membership assessments for the purpose of maintaining the common buildings, grounds, and facilities of condominium, cooperative or homeowner associations.

Mr. President, condominiums, cooperatives, and homeowner associations are not organized for profit. They are organized for the mutual benefit of the association members, and for the community at large. A well-run, properly maintained condominium development improves the area in which it is located, as well as providing possibly the only opportunity for potentially millions of Americans to own a home.

My amendment merely seeks to return things to the way they were prior to the time these two discriminatory tax rulings were made.

I do not believe Congress wants to place disincentives before potential homeowners, and thus I urge the Senate to rectify this situation by acting favorably on this legislation.

I would suggest to the distinguished chairman of the committee and the ranking minority member that this amendment is something that does not do any injustice at all to the equity of our tax system. As a matter of fact, it will bring about a greater equity and provide an inducement for people to engage in this type of homeownership.

I ask the chairman and ranking member if they would be willing to accept the amendment.

Mr. LONG. Mr. President, I believe this is a good amendment. There are some points which I believe can be worked out in conference. I know of no opposition to the amendment. I am prepared to accept the amendment.

Mr. GOLDWATER. Mr. President, this amendment of which I am a cosponsor is similar to a bill that I now have pending before the Finance Committee, S. 411. My bill and this amendment would exempt from double taxation the membership contributions and assessments which are accumulated in reserve funds established by condominium and homeowners' associations, and by cooperative housing corporations, to defray future maintenance and repair bills.

In recent revenue rulings, the Internal Revenue Service has held that these reserve funds are subject to income tax at corporate tax levels. These rulings are unfair.

They discourage the setting aside of money for future housing improvements and repairs, and they clearly impose a double tax on the money deposited with community housing associations and corporations by providing that the members must pay a second and higher tax, on amounts for which they have already paid individual income taxes, when these amounts go into the reserve.

Mr. President, let me emphasize that we are not talking about the tax on dividends, interest, or capital gains. I am only referring to that portion of the assessments or dues that are set aside for future improvements and replacements to private residences by community housing organizations.

A homeowner who lives in a noncondominium residence or a noncooperative apartment corporation is not taxed on the principal he puts in a reserve for such purposes, and why, I must ask, should the members of townhouse, condominium, and cooperative housing corporations?

It is downright disgraceful to accept a tax ruling against citizens which amounts to "double tax jeopardy," and I urge approval of our amendment to the Tax Reduction Act which will correct this situation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I call up the amendment which I have just sent to the desk, and ask for its immediate consideration. It relates to the time for making contributions to certain pension plans.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CURTIS. Mr. President, I ask 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. — Time for Making Certain Contributions to Pension Plans.

Amend Section 2001(1) of Public Law 93-406, the Employee Retirement Income Security Act of 1974, by adding at the end thereof a new paragraph:

"(7) Notwithstanding any other provision of law, amounts contributed before the day after the date on which the tax return on a self-employed individual (within the meaning of Sec. 404 of the Internal Revenue Code of 1954) is due including any extensions of time, to a plan described in such section shall be treated as contributed before the end of the taxable year to which such return relates, if such individual so elects.

Mr. CURTIS. Mr. President, this amendment corrects a date by which contributions to a private pension plan have to be made to make them uniform for all years. It is a correction of a date. It could have no consequences to the Treasury. I believe it will be accepted.

Mr. President, my amendment would make a minor but necessary change in the Keogh plan provisions of the pension reform act to correct what I believe was an error in expressing the intent of Congress.

As you know, the Retirement Income Security Act of 1974, Public Law 93-406, liberalized the self-employed or so-called Keogh plans to increase the 10 percent, or maximum $2,500 annual set-aside subject to tax deductions under a Keogh plan to a new allowance of 15 percent of earned income—up to $7,500 a year.

The law provides that for 1976 and future years the taxpayer can make his Keogh plan contribution up until the time of filing his return—that is, up until April 15 or the end of any extension period. However, for 1974 and 1975, the law provides that the contribution must have been made prior to the end of the calendar year—December 31. I believe this is unfair, particularly in view of the fact that the liberalization of the Keogh plan provisions could be expected to induce more taxpayers than ever before to take advantage of the deduction. I believe that the law as written is also illogical, since there is no reason I can discover to treat a taxpayer wishing to make a Keogh plan contribution differently in 1974 and 1975 than in 1976 or later years.

Moreover since this is new legislation it would be logical to grant more than rather less time to comply in the first years.

A further point is that taxpayers normally do not have the facts in nand at the end of the calendar year to calculate what a 15 percent of income contribution to a Keogh plan should be—but this information does become apparent as work progresses on one's income tax return due April 15.

A parallel situation exists with regard to corporations, which are allowed under the tax code to make charitable contributions—which in effect are also deductions from gross income—up until 60 days after the close of their fiscal year.

Mr. President, my amendment would simply amend the Retirement Income Security Act to provide that Keogh plan contributions made by the date on which

the tax return of a self-employed individual is due, including any extensions of time, shall be treated as contributed before the end of the taxable year to which such return relates, if such individual so elects. This allows the taxpayer to do for 1974 and 1975 what present law allows them to do for 1976 and thereafter.

Mr. LONG. Mr. President, I know of no objection to this amendment. I would be prepared to take the amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LONG. Mr. President, unless someone else has an amendment that can be disposed of briefly, or that would be noncontroversial, I would suggest that we now have a quorum call, and at the end of the quorum call we proceed to vote on amendment No. 262.

The PRESIDING OFFICER. Is the Senator suggesting the absence of a quorum?

Mr. LONG. I ask unanimous consent that after a quorum has been determined to be present, the Senate then proceed to vote on amendment No. 262.

Mr. PASTORE. Will the Senator yield on that point? Is the Senator suggesting a live quorum? That is the only way that can be determined. I hope we do not get into a live quorum. Just have a quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. PASTORE). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a nongermane amendment to be offered by the Senator from Alabama (Mr. ALLEN), who is detained in the Rules Committee, counting votes, be considered after the vote on cloture; that there be a time limitation on the amendment of 10 minutes, the time to be divided in the usual manner.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment by Mr. ALLEN, while the germaneness has been waived, will not thereby make germane other amendments that might be relevant to the Allen amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

Mr. LONG. I yield.

Mr. LEAHY. Mr. President, I ask unanimous consent that Herbert Jolovitz, a member of my staff, may have the privilege of the floor during all votes pertaining to the tax bill.

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

Mr. DOLE. Mr. President, does the Senator from Kansas correctly understand that earlier this morning, the chairman obtained unanimous consent to consider anything in the original committee bill to be germane, notwithstanding the outcome of the cloture vote?

Mr. LONG. That is correct.

Mr. DOLE. So that anything that was in that bill could be offered, whether or not cloture is invoked?

Mr. LONG. It was agreed that anything that was in the Senate Finance Committee amendment or anything that was germane to what was in the Senate Finance Committee amendment would be relevant.

Mr. MANSFIELD. Vote!

Mr. LONG. Mr. President, under the previous order, I believe the clerk should call the roll.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Michigan (Mr. PHILIP A. HART). 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. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—50

Abourezk	Hansen	Montoya
Baker	Hart, Philip A.	Nelson
Bentsen	Hartke	Pastore
Brooke	Hruska	Pearson
Case	Huddleston	Percy
Clark	Inouye	Proxmire
Dole	Johnston	Roth
Eagleton	Kennedy	Scott, Hugh
Eastland	Laxalt	Scott,
Fannin	Leahy	William L.
Fong	Long	Stafford
Ford	Mansfield	Stennis
Garn	McClure	Symington
Glenn	McGee	Thurmond
Goldwater	McGovern	Tower
Gravel	Metcalf	Williams
Griffin	Mondale	Young

NAYS—46

Allen	Cranston	McIntyre
Bartlett	Culver	Morgan
Bayh	Curtis	Moss
Beall	Domenici	Muskie
Bellmon	Hart, Gary W.	Nunn
Biden	Haskell	Pell
Brock	Hatfield	Randolph
Buckley	Hathaway	Ribicoff
Bumpers	Helms	Schweiker
Burdick	Hollings	Sparkman
Byrd,	Humphrey	Stevenson
Harry F., Jr.	Jackson	Stone
Byrd, Robert C.	Javits	Talmadge
Cannon	Magnuson	Tunney
Chiles	Mathias	Weicker
Church	McClellan	

NOT VOTING—3

Packwood	Stevens	Taft

So Mr. PHILIP A. HART'S amendment was agreed to.

Mr. PASTORE. 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?

Mr. GRIFFIN. I move to lay that motion on the table.

Mr. PASTORE. I ask for the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second. The yeas and nays are ordered on the motion to reconsider the vote.

Mr. GRIFFIN. No, Mr. President, I moved to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

Mr. PASTORE. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. MCINTYRE). The question is on agreeing to the motion to lay on the table the motion to consider the vote by which the amendment of the Senator from Michigan (Mr. PHILIP A. HART) was agreed to.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Debate is not in order during a rollcall. The Senate will be in order. Senators will take their seats. There are six or seven Senators holding conversations in the aisles.

The clerk may proceed.

The rollcall was resumed.

Mr. NELSON. Mr. President, the Senate is not in order. We cannot hear the votes.

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats and desist from conversations, or take them to the cloakrooms. Senators must maintain order so that the roll may be called.

The rollcall was resumed and concluded.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—53

Abourezk	Hansen	Mondale
Baker	Hart, Philip A.	Montoya
Bentsen	Hartke	Nelson
Biden	Helms	Pearson
Brock	Hruska	Percy
Brooke	Huddleston	Proxmire
Buckley	Inouye	Randolph
Case	Javits	Roth
Clark	Johnston	Scott, Hugh
Dole	Kennedy	Scott,
Eagleton	Laxalt	William L.
Fannin	Leahy	Stafford
Fong	Long	Stevenson
Ford	Mansfield	Symington
Garn	McClellan	Thurmond
Glenn	McClure	Tower
Gravel	McGee	Williams
Griffin	McGovern	Young

NAYS—43

Allen	Beall	Burdick
Bartlett	Bellmon	Byrd,
Bayh	Bumpers	Harry F., Jr.

Byrd, Robert C.	Hatfield	Nunn
Cannon	Hathaway	Pastore
Chiles	Hollings	Pell
Church	Humphrey	Ribicoff
Cranston	Jackson	Schweiker
Culver	Magnuson	Sparkman
Curtis	Mathias	Stennis
Domenici	McIntyre	Stone
Eastland	Metcalf	Talmadge
Goldwater	Morgan	Tunney
Hart, Gary W.	Moss	Weicker
Haskell	Muskie	

NOT VOTING—3

Packwood	Stevens	Taft

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. We proceed to the next amendment, the amendment offered by the distinguished Senator from California (Mr. TUNNEY).

Mr. LONG. Mr. President, I ask that this rollcall be limited to 10 minutes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. GARY W. HART). The clerk will suspend the rollcall until the Senate is in order. Senators will clear the aisles and clear the well. The Senate will be in order.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Senate will be in order.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. BIDEN (when his name was called). Present.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—56

Abourezk	Hart, Philip A.	Mondale
Bayh	Hartke	Montoya
Bentsen	Haskell	Moss
Brooke	Hatfield	Muskie
Buckley	Hathaway	Nunn
Bumpers	Helms	Pastore
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Humphrey	Schweiker
Case	Inouye	Scott, Hugh
Clark	Javits	Stafford
Cranston	Johnston	Stennis
Culver	Kennedy	Stevenson
Eagleton	Leahy	Stone
Eastland	Long	Thurmond
Ford	Mathias	Tunney
Glenn	McGee	Weicker
Gravel	McGovern	Williams
Hart, Gary W.	Metcalf	

NAYS—39

Allen	Fong	Nelson
Baker	Garn	Pearson
Bartlett	Goldwater	Pell
Beall	Griffin	Percy
Belimon	Hansen	Proxmire
Brock	Hruska	Roth
Byrd, Harry F., Jr.	Jackson	Scott, William L.
Chiles	Laxalt	Sparkman
Church	Magnuson	Symington
Curtis	Mansfield	Talmadge
Dole	McClellan	Tower
Domenici	McClure	Young
Fannin	McIntyre	
	Morgan	

ANSWERED "PRESENT"—1

Biden

NOT VOTING—3

Packwood	Stevens	Taft

So Mr. TUNNEY's amendment was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that the next rollcall be limited to 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. It is 10 minutes.

The PRESIDING OFFICER. It is 10 minutes.

Mr. MOSS. Mr. President——

The PRESIDING OFFICER. The Senator from Utah.

Mr. MOSS. Mr. President, I understand that my amendment is the next one on the list.

Mr. President, I ask unanimous consent that I may modify my amendment and ask the Senator from New Mexico if this modification would be acceptable to his amendment in the event that it is accepted now.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I accept the Senator's modification as he presents it at the desk to my pending amendment.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from New Mexico will be accordingly modified.

The amendment, as modified, is as follows:

At the end of the last page, insert the following Title entitled, "structural Energy Conservation Incentives."

SECTION 1. (a) The Congress finds that—

(1) present national energy sources are limited and the capacity of the national energy supply system to meet future demand is threatened;

(2) it is in the national interest to conserve energy by moderating the demand for fossil fuels and by improving the efficiency with which such fuels are used;

(3) significant energy savings for the Nation and the consumer may be achieved by applying existing methods of energy conservation to the thermal design of various residential units and

(4) it is an important national objective to encourage sound investment practices which improve the thermal design of various residential units and increase the use of solar energy in heating and cooling such units.

(b) It is the purpose of this Act to establish a system of income tax credits and income tax deductions in order to promote improvement of the thermal design of various residential units and to promote the use of solar-energy devices in residences.

INCOME TAX CREDIT FOR CERTAIN EXPENDITURES RELATING TO THERMAL DESIGN OF RESIDENCES

SEC. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as section 43 and by inserting immediately after section 41 the following section:

"SEC. 42. EXPENDITURES RELATING TO THERMAL DESIGN OF TAXPAYER'S RESIDENCE.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter

"(1) an amount equal to the ordinary and necessary expenses paid by a taxpayer during the taxable year for the improvement of the thermal design of any residential units by that taxpayer through the purchase of conventional materials or through the purchase of solar heating and cooling equipment;

"(2) an amount equal to the ordinary and necessary expenses paid by a taxpayer, including a contractor, during the taxable year for the installation by that taxpayer, of insulation and caulking materials to the extent these materials exceed in the amount the specifications for such materials in the Department of Housing and Urban Development Minimum Property Standards, and storm windows, storm doors, and solar heating and cooling equipment, in any new residential unit; and

"(3) An amount equal to the ordinary and necessary expenses paid by a taxpayer during the taxable year for the improvement of the thermal design of any new or existing commercial building by that taxpayer through the purchase of conventional materials or through the purchase of solar heating and cooling equipment

"(A) (1) 40 percent of the qualified insulation expenditures for conventional materials paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $500, plus

"(2) 20 percent of the qualified insulation expenditures for conventional materials paid by the taxpayer during the taxable year with respect to such residence to the extent that such expenditures exceed $500; and

"(b) GENERAL LIMITATION.—(1) The credit allowed by subsection (a) shall be limited to—

"(B) (1) 40 percent of the qualified solar energy equipment expenditures paid by the taxpayer during the taxable year with respect to any residence to the extent that such expenditures do not exceed $1,000, plus

"(2) 20 percent of the qualified insulation expenditures paid by the taxpayer during the taxable year with respect to such residence to the extent that such expenditures exceed $1,000 but do not exceed $2,000.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), section 38 (relating to investment in certain depreciable property), and section 41 (relating to contributions to candidates for public office).

"(c) CARRYBACK AND CARRYOVER OF UNUSED CREDITS.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by subsection (3)(2) for such taxable year (hereinafter in this subsection referred to as the 'unused credit year'), such excess shall be—

"(1) a credit carryback to any taxable year—

"(A) during which the provisions of this section are in effect; and

"(B) which precedes the unused credit year; and

"(2) a credit carryover to each of the 4 taxable years following the unused credit year.

"(d) DEFINITIONS.

"(1) CONVENTIONAL MATERIALS.—For purposes of this section, the term 'conventional materials' includes caulking materials and insulation, storm windows, storm doors, and such other materials as so defined by the Secretary of the Treasury, in cooperation with the Federal Energy Administrator and the Secretary of HUD.

"(2) SOLAR HEATING AND COOLING EQUIP-

MENT.—For purposes of this section, the term 'solar heating and cooling equipment' means any solar heating and cooling equipment, solar electric generation devices and solar energy assisted heat pumps, which;

"(A) meets the definitive performance criteria prescribed by the Secretary of HUD under section 8 of the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409; 88 Stat. 1073)."; or which

"(B) meets adequately definitive performance criteria to be certified acceptable for receipt of a tax credit or deduction by the Secretary of the Treasury in cooperation with the Secretary of HUD. The Secretary of the Treasury shall take such appropriate actions to accelerate the development of 'adequately definitive' performance criteria to allow certification of such equipment by not later than 180 days following enactment.

"(3) For purposes of this section the term residential units shall include single family units and individual residential units within a multifamily structure.

"(b) The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the following new items:

"Sec. 42. Expenditures relating to thermal design of taxpayer's residence.
"Sec. 43. Overpayments of tax.".

REPORT

(a) The Secretary of the Treasury or his delegate shall prepare an annual report in consultation with the Administrator of the Federal Energy Administration. Such report shall be transmitted to the Congress not later than September 15 of each year, beginning with 1976 include:

(1) information with respect to the number and amounts of credits and deductions taken under the amendments made by the foregoing provisions of this Act; (2) the nature of thermal design improvements made by taxpayers with respect to their principle residences; (3) the geographical areas of the United States in which such residences were located;

(2) The Administrator of the Federal Energy Administration, in consultation with the Secretary of the Treasury, shall—

(1) prepare an analysis of the energy savings achieved through operation of such amendments;

(2) coordinate all Federal studies of incentives to conserve energy or increase the development of such clean and renewable energy resources as, but not limited to, solar energy policy and program recommendations on additions or changes to the Federal Energy Incentives Program (including the tax credit and tax deduction amendments; and

(3) submit interim reports in conjunction with the report of Section 4(a), including findings on energy savings and on recommendations for incentives modifications.

(c) The Secretary of the Treasury shall prepare guidelines relating to Sec. 42(d) above and submit these to Congress for approval within 90 days following enactment of this legislation.

TECHNICAL AMENDMENTS

SEC. 5. (a) Section 56(a)(2)(A) of the Internal Revenue Code of 1954 (relating to imposiiton of minimum tax) is amended—

(1) in clause (iv) thereof, by striking out "and"; and

(2) by adding at the end thereof the following new clause:

"(vi) section 42 (relating to expenditures relating to thermal design of taxpayer's residence); and".

(b) Section 6096(b) of the Internal Revenue Code of 1954 (relating to income tax liability) is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

EFFECTIVE DATE

SEC. 6. The amendments made by the foregoing provisions of this Act shall apply to expenses incurred during taxable years beginning after December 31, 1974, and ending before January 1, 1980. Such amendments shall terminate at the close of December 31, 1979, except that taxpayers may continue to take credit carryovers as provided by section 42(d)(2) of the Internal Revenue Code of 1954 (relating to carryback and carryover of unused credit), as enacted by Section 2(a) of this Act.

Mr. MOSS. Mr. President, I ask unanimous consent that the yea and nay vote on my amendment be vitiated and no vote held upon it since it is now included in the amendment of the Senator from New Mexico.

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

The Senator from Louisiana.

Mr. LONG. Mr. President, I have discussed the matter with others, and with the understanding——

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

The Senators will take their seats.

Mr. LONG. With the understanding, Mr. President, that on the next rollcall after 2 minutes the 5 minute warning will be sounded. I ask that the next rollcall be limited to 7 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on the amendment of the Senator from New Mexico, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. The rollcall will be suspended until conversations stop.

Will Senators take their seats and clear the aisles? The rollcall is being delayed by conversations on the floor.

The clerk will proceed.

The second assistant legislative clerk resumed and concluded the call of the roll.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—64

Abourezk	Hansen	Mondale
Allen	Hart, Gary W.	Montoya
Baker	Hart, Philip A.	Moss
Bayh	Hatfield	Nelson
Beall	Hathaway	Pastore
Brooke	Hollings	Pearson
Buckley	Humphrey	Pell
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Ribicoff
Case	Javits	Schweiker
Church	Kennedy	Scott, Hugh
Clark	Laxalt	Scott, William L.
Cranston	Leahy	Sparkman
Culver	Magnuson	Stafford
Dole	Mansfield	Stevenson
Domenici	Mathias	Thurmond
Fannin	McClellan	Tower
Ford	McClure	Tunney
Garn	McGee	Williams
Goldwater	McGovern	Young
Gravel	McIntyre	
Griffin	Metcalf	

NAYS—32

Bartlett	Eagleton	Morgan
Bellmon	Eastland	Muskie
Bentsen	Fong	Nunn
Biden	Glenn	Percy
Brock	Hartke	Proxmire
Bumpers	Haskell	Roth
Burdick	Helms	Stennis
Byrd, Harry F., Jr.	Hruska	Stone
	Huddleston	Symington
Chiles	Johnston	Talmadge
Curtis	Long	Weicker

NOT VOTING—3

Packwood	Stevens	Taft

So Mr. DOMENICI's amendment, as modified, was agreed to.

The PRESIDING OFFICER (Mr. HASKELL). The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 59, nays 37, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—59

Abourezk	Hart, Gary W.	Montoya
Baker	Hart, Philip A.	Morgan
Bayh	Hartke	Muskie
Beall	Haskell	Nelson
Bentsen	Hathaway	Pastore
Biden	Hollings	Pell
Brooke	Huddleston	Percy
Bumpers	Humphrey	Proxmire
Burdick	Inouye	Randolph
Case	Jackson	Ribicoff
Church	Javits	Roth
Clark	Kennedy	Schweiker
Cranston	Leahy	Scott, Hugh
Culver	Magnuson	Stafford
Dole	Mansfield	Stevenson
Eagleton	Mathias	Symington
Ford	McGee	Tunney
Glenn	McGovern	Weicker
Gravel	Metcalf	Williams
Griffin	Mondale	

NAYS—37

Allen	Fannin	McIntyre
Bartlett	Fong	Moss
Bellmon	Garn	Nunn
Brock	Goldwater	Pearson
Buckley	Hansen	Scott, William L.
Byrd, Harry F., Jr.	Hatfield	
	Helms	Sparkman
Byrd, Robert C.	Hruska	Stennis
Cannon	Johnston	Stone
Chiles	Laxalt	Talmadge
Curtis	Long	Thurmond
Domenici	McClellan	Tower
Eastland	McClure	Young

NOT VOTING—3

Packwood	Stevens	Taft

So Mr. JAVITS' amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote.

Mr. PASTORE. I move to lay that on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Amendment No. 186, by the Senator from North Carolina. The yeas and nays have been ordered. The clerk will call the roll.

Mr. STENNIS. Mr. President, will the Chair state the title of the amendment?

The PRESIDING OFFICER. The title of the amendment is "Congressional-Cabinet Salary Control."

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFICER. The Senate will be in order.

Mr. NELSON. Mr. President, there are still Members conversing in the aisles. May we have order in the Senate pursuant to the rules?

The PRESIDING OFFICER. The clerk will suspend until all the Senators have taken their seats.

The Senator will proceed.

Mr. NELSON. Mr. President, I think the Chair is going to have to speak more loudy. Some of the Senators cannot hear.

The PRESIDING OFFICER. The Chair is exercising his voice as far as one can be amplified by a microphone.

The clerk will now proceed.

The second legislative clerk resumed the call of the roll.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 19, nays 77, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—19

Allen	Garn	Nunn
Brock	Goldwater	Roth
Buckley	Hansen	Stone
Byrd, Harry F., Jr.	Helms	Symington
Curtis	Laxalt	Talmadge
Fannin	McClure	Thurmond
	Morgan	

NAYS—77

Abourezk	Gravel	Metcalf
Baker	Griffin	Mondale
Bartlett	Hart, Gary W.	Montoya
Bayh	Hart, Philip A.	Moss
Beall	Hartke	Muskie
Bellmon	Haskell	Nelson
Bentsen	Hatfield	Pastore
Biden	Hathaway	Pearson
Brooke	Hollings	Pell
Bumpers	Hruska	Percy
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Schweiker
Chiles	Javits	Scott, Hugh
Church	Johnston	Scott, William L.
Clark	Kennedy	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stennis
Dole	Magnuson	Stevenson
Domenici	Mansfield	Tower
Eagleton	Mathias	Tunney
Eastland	McClellan	Weicker
Fong	McGee	Williams
Ford	McGovern	Young
Glenn	McIntyre	

NOT VOTING—3

Packwood	Stevens	Taft

The PRESIDING OFFICER. On this vote there were 19 yeas and 77 nays. The amendment is rejected.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Would it be in order to suggest that those who voted for this amendment voluntarily comply with it, despite the fact that they lost?

The PRESIDING OFFICER. That would not be in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

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

Mr. ROBERT C. BYRD. Mr. President, I would like to address a question to the distinguished manager of the bill, and I do so without impugning the motives of any Senator and certainly with no disrespect for the distinguished author of the amendment. The question is this: Is there anything in the present Federal laws that would prohibit any Member of the House of Representatives or the Senate from turning back all of his salary of $42,500 a year, or any portion thereof, to the Federal Treasury?

Mr. LONG. No, there is nothing whatever. As a matter of fact, they can do that and get a charitable deduction for up to 50 percent of their total income that they donate back.

Mr. ROBERT C. BYRD. All right. So any Member of either body who desires to return to the Federal Treasury a portion of his salary or all of it, can do so without any legal inhibitions or prohibitions?

Mr. LONG. Nothing would prevent him if he so desired.

Mr. CURTIS. Will the Senator yield on that point also?

Mr. LONG. Yes.

The PRESIDING OFFICER. The 1 minute has expired.

Mr. CURTIS. I yield myself 1 minute.

The PRESIDING OFFICER. There is no time to be yielded.

Mr. BROCK. Mr. President, I ask unanimous consent that the Senator from Nebraska may have 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PASTORE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CURTIS. Mr. President, I move that the Senate stand in recess for 2 hours.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Nebraska may proceed for 1 minute.

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

Mr. CURTIS. Mr. President, in fairness to the distinguished Senator from North Carolina, those Senators who availed themselves of the privilege of appearing here at 8 o'clock this morning when the Senate convened would have heard the debate.

The amendment was offered as an incentive to get a balanced budget. There was nothing in it that said a Senator was not worth a certain salary, or that a member of the Cabinet was not worth that much. It was offered as an incentive to work for a balanced budget, a disincentive to running a deficit, and I resent this ridicule of any Members of the Senate when they offer amendments in good faith. There are many of us who would gladly offer this amendment if it provided an incentive to bring about a balanced budget.

Now, of course, we can all make any charitable contributions we wish, but I believe we should extend the right to every Senator not only to offer amendments as he chooses, but to vote as his conscience dictates.

The PRESIDING OFFICER. The time has expired.

Mr. HELMS. Mr. President, I ask unanimous consent to proceed for 10 seconds.

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

Mr. HELMS. Mr. President, the Senator from North Carolina sincerely regrets that he obviously has stepped on the toes of some of the big spenders of the Senate.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Mr. President, may we hear again the result of that last rollcall? I think it came out over 100 votes.

Mr. LONG. Regular order, Mr. President.

Mr. GOLDWATER. I am sincere. I think it came out to 107 votes.

The PRESIDING OFFICER. The Senator is correct. Apparently the correct vote was 19 yeas, 77 nays.

Mr. GOLDWATER. I thank the Chair.

Mr. LONG. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. HASKELL). The question is on agreeing to the amendment No. 195 of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

The second assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 30, nays 66, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—30

Bentsen	Fannin	McClure
Biden	Gravel	McGovern
Brock	Griffin	Moss
Brooke	Hart, Philip A.	Muskie
Burdick	Haskell	Pell
Case	Hatfield	Percy
Clark	Javits	Stevenson
Cranston	Long	Stone
Curtis	Mansfield	Tunney
Eagleton	Mathias	Williams

NAYS—66

Abourezk	Church	Helms
Allen	Culver	Hollings
Baker	Dole	Hruska
Bartlett	Domenici	Huddleston
Bayh	Eastland	Humphrey
Beall	Fong	Inouye
Bellmon	Ford	Jackson
Buckley	Garn	Johnston
Bumpers	Glenn	Kennedy
Byrd, Harry F., Jr.	Goldwater	Laxalt
Byrd, Robert C.	Hansen	Leahy
Cannon	Hart, Gary W.	Magnuson
Chiles	Hartke	McClellan
	Hathaway	McGee

McIntyre	Proxmire	Stafford
Metcalf	Randolph	Stennis
Mondale	Ribicoff	Symington
Montoya	Roth	Talmadge
Morgan	Schweiker	Thurmond
Nelson	Scott, Hugh	Tower
Nunn	Scott,	Weicker
Pastore	William L.	Young
Pearson	Sparkman	

NOT VOTING—3

Packwood	Stevens	Taft

So Mr. PERCY's amendment was rejected.

The PRESIDING OFFICER. The next vote on amendment No. 37. The question is on agreeing to the amendment of the Senator from Maine (Mr. HATHAWAY). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 24, nays 72, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—24

Abourezk	Gravel	Mathias
Allen	Hart, Gary W.	McGee
Bayh	Hartke	McGovern
Case	Haskell	Metcalf
Clark	Hatfield	Mondale
Cranston	Hathaway	Montoya
Culver	Jackson	Schweiker
Ford	Long	Sparkman

NAYS—72

Baker	Glenn	Nunn
Bartlett	Goldwater	Pastore
Beall	Griffin	Pearson
Bellmon	Hansen	Pell
Bentsen	Hart, Philip A.	Percy
Biden	Helms	Proxmire
Brock	Hollings	Randolph
Brooke	Hruska	Ribicoff
Buckley	Huddleston	Roth
Bumpers	Humphrey	Scott, Hugh
Burdick	Inouye	Scott,
Byrd,	Javits	William L.
Harry F., Jr.	Johnston	Stafford
Byrd, Robert C.	Kennedy	Stennis
Cannon	Laxalt	Stevenson
Chiles	Leahy	Stone
Church	Magnuson	Symington
Curtis	Mansfield	Talmadge
Dole	McClellan	Thurmond
Domenici	McClure	Tower
Eagleton	McIntyre	Tunney
Eastland	Morgan	Weicker
Fannin	Moss	Williams
Fong	Muskie	Young
Garn	Nelson	

NOT VOTING—3

Packwood	Stevens	Taft

So Mr. HATHAWAY's amendment was rejected.

Mr. MANSFIELD. Mr. President——

The PRESIDING OFFICER. The Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the automatic quorum under the cloture rule be negated.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President——

The PRESIDING OFFICER. The clerk will state the motion to invoke cloture, the——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from South Dakota be recognized for not to exceed 1 minute.

Mr. ABOUREZK. Thirty seconds.

Mr. MANSFIELD. For 30 seconds.

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

CHANGE OF REFERENCE—S. 1251

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Government Operations Committee be discharged from further responsibility for S. 1251, a bill to provide for improved government organization, and that it be appropriately referred.

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

TAX REDUCTION ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

CLOTURE MOTION

The PRESIDING OFFICER. The time for debate under the unanimous-consent agreement having expired, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon H.R. 2166, to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

Ernest F. Hollings, John O. Pastore, Alan Cranston, Frank Church, William D. Hathaway, Richard (Dick) Stone, Warren G. Magnuson, Floyd K. Haskell, Thomas F. Eagleton, Joseph R. Biden, Jr., Gary W. Hart, Quentin N. Burdick, Abraham Ribicoff, Vance Hartke, Thomas J. McIntyre, Mike Mansfield, Daniel K. Inouye, Claiborne Pell, Lee Metcalf.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on H.R. 2166, to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT), is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The yeas and nays resulted—yeas 83, nays 13, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—83

Abourezk	Glenn	McIntyre
Baker	Gravel	Metcalf
Bayh	Griffin	Mondale
Beall	Hansen	Montoya
Bellmon	Hart, Gary W.	Morgan
Bentsen	Hart, Philip A.	Moss
Biden	Hartke	Muskie
Brock	Haskell	Nelson
Brooke	Hatfield	Nunn
Buckley	Hathaway	Pastore
Bumpers	Hollings	Pearson
Burdick	Hruska	Pell
Byrd, Robert C.	Huddleston	Percy
Cannon	Humphrey	Proxmire
Case	Inouye	Randolph
Chiles	Jackson	Ribicoff
Church	Javits	Roth
Clark	Johnston	Schweiker
Cranston	Kennedy	Scott, Hugh
Culver	Laxalt	Stafford
Curtis	Leahy	Stevenson
Dole	Long	Stone
Domenici	Magnuson	Symington
Eagleton	Mansfield	Tunney
Fannin	Mathias	Weicker
Fong	McClure	Williams
Ford	McGee	Young
Garn	McGovern	

NAYS—13

Allen	Goldwater	Sparkman
Bartlett	Helms	Stennis
Byrd,	McClellan	Talmadge
Harry F., Jr.	Scott,	Thurmond
Eastland	William L.	Tower

NOT VOTING—3

Packwood	Stevens	Taft

The PRESIDING OFFICER. On this vote the yeas are 83, and the nays are 13. Three-fifths of those duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Who yields time?

Mr. SPARKMAN. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON INDUSTRIAL DEVELOPMENT BONDS.

(a) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$1,000,000" in subparagraph (A) and by inserting in lieu thereof "$10,000,000";

(2) by striking out subparagraphs (D), (E), (F), and (G) thereof.

(b) The amendments made by subsection (a) shall apply with respect to obligations issued after the date of enactment of this Act.

Mr. SPARKMAN. Mr. President, I shall make a very brief statement on this matter.

This amendment would amend the present act relating to the tax-exempt industrial development bonds. There is a limit on it now of a million dollars. These bonds are used to aid local development companies to erect buildings

that may be necessary for some small company to occupy and to carry on the industry. It is essentially a small-business measure.

We have had this in existence for a long time. The figure used to be much higher. Finally, a few years ago, it was reduced. There was a sort of formula whereby the maximum was set at $10 million, and there was a proviso that if $10 million or more were put into it, there would be a carryback, and so forth.

This amendment simplifies it and sets the maximum amount at $10 million that can be issued for these small businesses.

What happens is that a local community that will organize a local industrial agency may issue tax-exempt bonds for the purpose of doing what is necessary to get the company started. Ordinarily, most of those companies would have 25, 30, or 50 employees. As I say, it is essentially a small-business matter.

This may sound as though it would cost the Government money, but actually, it would make money for the Government. It would put unemployed people to work in small business, and in a very short time that business would be paying taxes, the employees would be paying taxes, and the Government, in the long run, would not lose any money.

I am not going to make an extensive statement. That is the essence of it, as I see it.

Mr. RIBICOFF. Mr. President, in behalf of the committee, we have to oppose this amendment.

Before 1968, all bonds—State, municipal, and industrial development bonds—were tax exempt. In 1968, there was deep concern because of the wild proliferation of industrial revenue bonds. So Congress changed the law, and we generally said that industrial revenue bonds are not tax exempt, but we made two exceptions.

First, we said that on any industrial bond issue, whether it be $10 million or $100 million, the first $1 million was tax exempt. Thus, on a $100 million bond issue, only the first $1 million was exempt.

Second, we said that if the total issue of industrial revenue bonds was less than $5 million, then that total issue was exempt.

The amendment I oppose would provide a flat $10 million exemption for all industrial revenue bonds. This is the reason why we oppose this amendment: We all know that our cities and towns are in economic distress. Any encouragement of industrial development bonds will compete against State and municipal bonds. As the supply of all types of bonds goes up, the demand will remain the same, so the price of our municipal and State bonds will go down and interest rates will go up. This is going to drive up the cost to all our cities and States in trying to finance their problems.

Second, industrial development bonds were invented as a way for the community to attract industry. Now, virtually all the States have these bonds.

I recall, during my years as Governor of Connecticut, that we did not have these bonds, and we saw some of the States issue these bonds and lure industry away from the State of Connecticut. Now, Connecticut, like almost every other State in the Union, has bonds, so that advantage no longer is there for my State. Therefore, there is no longer any incentive for a business to move from one place to another, because all our States and municipalities have this privilege. Therefore, the community is buying nothing for the investment it is making.

Third, industrial development bonds are, in reality, a use of the tax code for essentially a private purpose. Industrial development bonds are not backed up by the full faith and credit of the States or municipalities. They are backed up by the economic well-being and long-term profits of the industry affected. After the bonds are paid off, the property is owned by the private industry. Given the economic problems of towns and cities in meeting their day-to-day responsibilities of providing basic services, building schools, and other basic needs, the encouragement of more industrial development bonds can only hurt towns and cities throughout the country.

I have asked the Joint Committee on Taxation for the figures on the revenue losses under the proposal of the distinguished Senator from Alabama.

They say that, on the assumption that $1 billion of these bonds would be issued each year, they anticipate the following losses to the Federal Treasury: in 1975, $520 million; in 1976, $62 million; in 1977, $108 million; in 1978, $150 million; in 1979, $240 million.

What we are doing is laboring under a delusion that this is going to help any municipality or State to create jobs. What we are trying to do is lure industry away from one locality to another. But that is pretty rough to do now, because every municipality is the same. So we will have private industry shopping around for where they can buy or have a building built for them cheap, giving them a competitive advantage with other industries in the same field.

I think that Congress, in its wisdom, after having looked at the proliferation of these industrial bonds, cut it back to $1 million and put a cap on it of $5 million, and it would be a mistake for Congress now to change its policy to go back to $10 million.

It would hurt many communities, bring no basic gains, and at the same time, involve a very substantial loss. So, in behalf of the Committee on Finance, I oppose that amendment.

Mr. CURTIS. Mr. President, I yield myself 5 minutes.

The distinguished Senator from Connecticut is very eloquent and persuasive, and he is equally eloquent and persuasive when he is wrong—which is not often, but this time he is.

An abuse did arise in industrial development bonds and some of them were issued for $90 million. Congress, in its wisdom, put a cap on it. With the added cost growing, that cap is inequitable. It ought to be raised to $10 million. That is our case.

Classically, over the years, the bureaucracy and the Treasury have a classical opposition to this. But at this time, we are faced with the problem of creating jobs and activity over the country. Are we going to do all of that with Federal credit? If the Small Business Administration lends money for a local industry, it costs the Treasury. If the Federal Government guarantees a loan for some sort of development, that adds to the debt of the country.

What this amendment does is permit localities to use their credit to provide an industry. The Federal Government does not guarantee it, the Federal Government does not lend the money.

It is not a question of pirating industries from one State to the other. That is an old, worn-out argument. That might have had some validity 25 years ago, but it has not now. I can give an illustration of the use of this.

We have, in my home town, which is a town of 2,600 people, a meatpacking plant. It provides jobs for about 60 people. The farmers built it. They voted revenue bonds to do so. They are paying off their bonds. There was not the slightest way that the Federal Government could lose anything on it. The feedback of payroll taxes and income taxes from those 60 people employed has meant much to the Federal Government. They used local credit at a time when the burdens on our Federal Government are so great.

This amendment was considered in the committee and was voted down—but not unanimously, by any sense. When the distinguished Senator from Connecticut says he speaks for the Committee on Finance in opposing this, he does not speak for me.

Mr. RIBICOFF. If the Senator will yield, I think I speak for the majority of the Committee on Finance at the request of the chairman.

Mr. CURTIS. I am afraid the Senator did not so state.

Mr. RIBICOFF. Yes, the Committee on Finance voted against it.

Mr. CURTIS. No, no, the distinguished Senator said that, speaking for the Committee on Finance, he opposed this amendment.

Mr. RIBICOFF. The chairman asked me if I would oppose this amendment for the committee. I suppose, speaking for the chairman—I do not know how he is going to vote. He asked me to speak against it. I do not speak for the Senator. I think the Committee on Finance voted it down. I think if the vote in the Committee on Finance was negative, I can say that, speaking for a majority, they turned this down.

Mr. CURTIS. The Senator may speak for the majority who voted that way, but there were six of us in the Committee on Finance who voted for it. It was a public session. I assume that the reason the chairman turned the opposition over to the distinguished Senator from Connecticut is that he was one of those who opposed it. I think that is the proper way to handle this.

Mr. President, this was not opposed unanimously by the Committee on Finance—far from it. It does not involve Federal Government borrowing, or Federal Government credit, it does not involve Federal Government guarantees. The loss in revenue is greatly exaggerated. It allows for no feedback of additional revenue by reason of the activity of the measure.

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

Mr. RIBICOFF. Mr. President, I intend to move to table the amendment, but I shall refrain to give the distinguished Senator from Alabama whatever additional time he wishes.

Mr. SPARKMAN. I appreciate that. I shall speak very briefly.

We have had this law on the statute books, as pointed out by the Senator from Connecticut, for a good many years. It has operated at different levels and it is true that when there was no limit, I think there were some cases that were really abuses of the power. But then we limited it to $10 million, with the possibility of involving even as much as $50 million. Then we cut it down to $1 million. The system is still there, but it is just a million dollars now.

There are some plants, naturally, that need more money than that. I wish to say that over the years that we have had this program working, I have never known of a city or a town or a State that objected to it. As a matter of fact, I know from experience that it has meant much in many of the smaller towns and communities, where private enterprise came in there. They were not moving from somewhere else. Local people, ordinarily, were the ones who would put up the building and start the operation with, as the Senator from Nebraska pointed out, the income from those workers becoming taxable, the profits from the operation of the business becoming profitable, and they have been profitable operations for the localities in which they operated.

Mr. President, there never was, to my knowledge, any plant seduced away from another area. If there is such a thing as local operation by local people, this is it. It means much to the communities, it means much to the workers who get employment there, and it means much to the Treasury of the United States, too, because they do not put out any money. But they do start getting money from the operations.

I very strongly advocate the amendment.

Let me say this with reference to some statement made about the Senator from Connecticut. Let me say in all fairness to the chairman of the committee that he told me that he would ask the Senator from Connecticut to handle this on the floor, because he had been in opposition in the committee. So that is quite understandable in that respect.

Mr. RIBICOFF. Just two words, Mr. President. The Treasury is strongly opposed to this amendment.

Mr. President, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table (putting the question). The ayes appear to have it, and the motion is agreed to.

Mr. CURTIS. I ask for a division, Mr. President.

The PRESIDING OFFICER. The result has been announced, and the request is not in order.

The Chair recognizes the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I yield myself such time as I may require. It will not be too long. I shall not speak on the pending amendment.

Mr. President, I shall not vote for this bill, but at the time of voting, the Senate will probably be too busy for me to make any remarks. I just want to say a few things about what we are doing.

I was thinking last night about all the different things taking place in this country, and around this world in relation to this country, and the question came to my mind, What has happened to my country?

Let me try to explain why I shall vote against this piece of legislation. To begin with, it was suggested first by the President of the United States as a way to end a recession—not a depression, because we are not in that yet—a way we thought might attack inflation; but it has no bearing at all on inflation.

Mr. President, I think I understand the thinking behind the suggestion that the Federal Government can put people to work and, by putting Federal money, which is really the people's money, into jobs, that they can prevent a depression or cure recession.

Mr. President, this all came about back about 1934 when an Englishman who later became a lord, John Keynes, came to this country in the middle of our depression. He is the one who suggested the full employment approach, the idea that the Federal Government can always save the economy.

He is the one who talked our country into going off the gold standard. And I must say, Mr. President, in spite of what some people think and in spite of what I have heard on this floor, this approach had no bearing at all on the depression of the 1930's. I know something about that depression. I was running a business at that time. There were 17 million people out of work in 1939. At one time there were almost 20 million people out of work, in a work force less than half what it is today.

The only thing that saved the depression in the 1930's was the coming of World War II. The whole concept of Keynesianism has proved to be disastrous every place it has been tried. Is has practically bankrupted England, and is on the way to bankrupting our country, because what has happened as a result of this false idea that the Federal Government can do something about the economy is that we have increased our credit by over 400 percent in the last 10 years, while at the same time we have only increased our productivity by about 28 percent.

Our credit has been increased by the printing of paper money, money that has absolutely no value at all. A dollar in my pocket is only worth what you think it is when you and I get to talking about something I might buy from you. It has no gold behind it. It is absolutely worthless except as a means of barter, sort of like the shells that the Indians used, wampum or something like that, which had nothing behind it but what someone thought it was worth.

We have added to our deficit year after year after year, under the mistaken idea that if we keep on doing it, some day the economy is going to grow so greatly by it that all of the deficits will be paid back.

This is absolutely wrong, Mr. President. As I said, I saw this tried in the 1930s, and I saw it fail. The only time that you can apply the Keynesian theory to economics and have it work is during wartime, and this is the first time we have been out of a war economy, now, since 1939. The moment we began to look like we would get out of it and did not take proper steps to get back on some sound basis, this economy of ours started into trouble. We are still in it. And, while this bill may have some little effect, it is not going to have the effect that people in this body, the Congress, or the President think it will have.

I have sat here on this floor and I have listened to free enterprise being castigated. I have listened to the whole concept of our economy being torn apart. I remind my colleagues that there is only one way in the world this country can produce money. That is to produce profit, to produce enough profit so that the company can reinvest a part of that profit in new structures, new equipment, new ideas.

I hear it stated here that this bill for $30 billion will create new jobs. Sure it will; worthless jobs that mean nothing to our economy. Perhaps it will also create some tax reductions.

Mr. President, we in Congress have to take the full blame for the state of inflation in this country and, yes, around the world, because many, many countries have pinned their currency to our dollar, and they are now realizing that was a false pin, and if there was any way to get out of it, believe me, they would. In fact, we see the Middle Eastern countries now attempting to do that.

So, Mr. President, I am going to vote against this measure, because it is not going to do what we think it will. We have seriously damaged some important parts of our economy—though not as seriously, probably, as we would have if we had not followed the advice of the Senator from Montana (Mr. MANSFIELD) yesterday and sort of gotten this thing back on a decent track.

As an example to show what is causing me worry, I sat here the other night and heard distinguished Members of this body plead to take $4 billion out of the general fund to pay increases in social security. If it is good for the social security recipient, let me remind you, it is good for every retired civil servant, every retired military man, and every retired person who has ever been connected with the Federal Government. If we had done that, we would have opened a door to what I believe would have been complete disaster. Mr. President, I may be wrong, and I hope and pray that I am, but if we face a deficit this year that approaches $40 billion or $45 billion, and then look at an $80 billion to $100 billion deficit next year, I have to make the prophecy that this country will not remain solvent for 5 more years, and we will see total national bankruptcy. There is no other way to go. You cannot do that in business, you cannot do it in your

private lives, and there is no way to do it in government, particularly.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. GOLDWATER. Yes.

Mr. CURTIS. I commend my colleague for his statement. The estimate of an $80 billion deficit for next year. I am sure, was based upon an estimate that this tax reduction would be much more modest thn it is. So a vote for this bill is not a vote to support an $80 billion deficit, but more likely about a $95 billion or a $96 billion deficit

Mr. GOLDWATER. I have to agree with my friend from Nebraska, because I have not taken into consideration the almost certain passage of some health bill this year, that could in itself range from a few billion dollars to as high as $60 billion or $70 billion.

Mr. President, as long as I have the floor, and I have spoken about this bill I would like to mention some other things that bother me today about the direction our country has taken.

It was sickening to me to read the paper last night to see that Hue has been evacuated, when we fought like tigers three times to save Hue. It bothers me to see coming true what I prophesied a year ago that, without continued financial aid from the United States, South Vietnam would go down the tube. This does not bother me just because it happens to be South Vietnam. It does concern me because I think under two Presidents and one Secretary of Defense that was the worst-conceived, worst-fought war in the history of warfare, and I hope to be around when the proper tails are pinned upon the people responsible for that. But that is beside the point.

We now see the Government of South Vietnam being pushed back into an almost defenseless position in Saigon, without naval power to speak of, with limited airpower, and with the United States of America saying "no" to what is a moral commitment.

Now we are in South Vietnam because President Eisenhower promised them we would, and we kept our word. Three different Presidents or four different Presidents have promised South Vietnam and Cambodia monetary aid.

Now, we are not giving it. What does that do? I think it almost certainly seals the fate of South Vietnam. It certainly seals the fate of Cambodia and Laos, and now we have Thailand trying to get us out of that country. I will say to my colleagues when that domino of Thailand begins to teeter, we are going to be asked to answer the $64,000 question: What do we do about the defense of Southeast Asia, because if Thailand falls, and we lose the isthmus of Thailand, we will deny oil to the entire Pacific Ocean as it comes from the Middle East. I hope I am wrong.

What bothers me is I have been right too doggone often. Maybe I ought to go someplace where I cannot think. But I see these things in the paper, I listen to them on television, I listen to debates on the floor, and read the RECORD of what is going on in the other body, and I am worried.

Now we see Portugal going Communist. A great newspaper like the New York Times cannot see anything wrong with it. What do we do about a refueling base in the Azores? I happen to have been stationed out there during part of World War II. I saw that base start.

We never could have supplied Israel without Portugal's help, and to my friends in this body who are devoted to the protection and defense of Israel, write it off if Portugal comes under communism this next week. Yet we have not heard one word about this from our Secretary of State. Of course, it is kind of hard to get a word from Aswan Dam. Maybe he ought to come home. We have not heard one word coming from the President. I have not heard anything about it on the floor of this body.

Portugal can—the ownership of Portugal by the Communists can—deny the 6th Fleet the use of the Mediterranean almost as certainly as the Soviets can now deny that 6th Fleet its use because of land-based aircraft surrounding the whole perimeter of the Mediterranean.

Mr. President, just a few days ago the beleaguered, set-upon CIA revealed that it had raised a Soviet submarine. Why, to listen to some of the press and the media and some of my friends in this body, in Congress, some of my friends downtown, you would think we had just burned the American flag.

I think this is probably the greatest stroke of intelligence that this country has ever pulled off. And they say, "Oh, is it worth $350 million?" Who knows? We may have learned enough about their warhead—whether we have I do not know—to be able to say that we can scrub $2 billion or $3 billion or $4 billion orth of defensive equipment that I have been battling for. I do not know what they found.

But the CIA has done an outstanding job. And yet, morning, noon, and night we hear that something is wrong with the CIA.

If I had been the President of the United States, and they only had a tail on 10,000 people in this country, I would have been a little upset because of what I see in this town, with people able to sell top secret documents, steal top secret documents, writers in our press telling us, who have access to any secret that we have, and are willing to divulge it. I think we need a stronger CIA.

I can tell Senators this: In my contacts in this field around the world, we are losing credence, and we are losing it fast. When we lose top men in the CIA, as we have lost them because of criticism, and because of the very plain fact that in that business you do not stay exposed very long, because you do not stay alive very long—when we lose the services of men like we have lost in the CIA, we have been hurt. This bothers me.

We now have a Rockefeller commission studying the CIA. I am on a committee in the Senate studying the CIA. The House has a committee studying the CIA. Now they want to appoint three more committees to see about the submarine and what happened.

It is getting so, Mr. President, that there are no secrets in this country. No country can live in the hostile world in which we live today without intelligence, intelligence of what the enemy is capable of doing, what they might do and are capable of, and what are our allies willing to do.

This is what bothers me, too. Our allies are beginning to question the integrity and the honesty of our country. Why? Because we are dumping a little country like South Vietnam. Not of much importance, you say. I happen to think it is, but some of my colleagues do not think so.

So, Mr. President, I am worried, and the final thing that bothers me, and this all adds up to it, is a very obvious loss of confidence among our people in our form of government.

When less than 50 percent of the people turned out to vote last November, we knew what it meant. They have lost faith in this constitutional republic that is the greatest Government ever created on the face of the Earth. It has provided more freedom for more people than all the governments of all time. It has provided more living for more people than all the governments of all time. I am not saying it is perfect, but we have got to do something in this body to make it more understandable and acceptable to the people of this country.

I suggest that when we go on the rampages on which we have been going in the past week relative to this so-called tax cut—and I know people honestly believe it will help, and they are entitled to that thought—when we are looked on, as we must be looked on, as an irresponsible group of people by our fellow citizens, I think it is time we did something about it.

As I travel all over the United States, I have approached over 500 good men and women, as dedicated to this country as they can be. I have discussed with them what we as a Nation are doing, and yet something is not working. It might be leadership—I doubt it. I think we have able leadership in this body. I think we are engaging in far too much politics about what is going on in our daily lives. I do not think we are candid enough with the people. I do not think we tell them the truth.

So, Mr. President, while I only expected to get up and tell you why I was not going to vote for this bill, I guess I have gone on, but, having voted against cloture, I guess I am allowed to say something once in a while.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 275

Mr. MONDALE. Mr. President, I call up my amendment No. 275.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, 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 in the committee

amendment insert the following new sections:

SEC. . INCREASE IN PERCENTAGE STANDARD DEDUCTION.

(a) INCREASE.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(1) $3,000 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,500 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,500 in the case of a married individual filing a separate return."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $3,000 ($2,500 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)))."

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to taxable years beginning after December 31, 1974.

SEC. . INCREASE IN LOW-INCOME ALLOWANCE.

(a) IN GENERAL.—Section 141(c) (relating to low-income allowance) is amended—

(1) by striking out "$1,300" and inserting in lieu thereof "$1,800"; and

(2) by striking out "$650" and inserting in lieu thereof "$900".

(b) CONFORMING AMENDMENT.—Section 6012(a)(1) (relating to persons required to make returns of income) is amended by striking out "$2,050" each place that it appears and inserting in lieu thereof "$2,550", and by striking out "$2,800" each place that it appears and inserting in lieu thereof "$3,300".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to taxable years beginning after December 31, 1974.

Mr. MONDALE. Mr. President, this amendment would restore the standard deduction provisions that were contained in the House bill, but which were dropped by the Senate Committee on Finance.

The amendment would guarantee that all taxpayers receive a tax cut under the Senate bill at least as large as the one they would have received under the House bill. Most would receive a substantially larger tax cut. There is a fact sheet on each Senator's desk showing in detail the effect of this amendment on taxpayers with different incomes and different family sizes.

Mr. President, I ask unanimous consent that that fact sheet appear immediately following the conclusion of my remarks in the RECORD.

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

(See exhibit No. 1.)

Mr. MONDALE. The revenue loss from this amendment would be $2.97 billion.

During Finance Committee consideration of H.R. 2166, I offered an amendment to give each taxpayer the option of taking either a $200 credit or the present $750 exemption for themselves and each of their dependents.

My intention was that this $200 optional credit would be an addition to the individual tax cut provisions in the House bill. However, the Committee on Finance was concerned that the $6 billion extra revenue loss from simply adding the $200 optional credit to the House bill would be too large.

The committee therefore decided to substitute the $200 credit for the House minimum and maximum standard deduction provisions. This resulted in an additional revenue loss of only $1 billion.

In general, the $200 optional credit is a more effective and equitable way of granting relief to a broad range of taxpayers than the House standard deduction provisions.

However, some taxpayers would save less in taxes under the Senate bill than they would have under the House version.

Single taxpayers and married couples without dependents with incomes below $10,000 are in this category. So are many taxpayers with incomes between $12,000 and $20,000 who use the standard deduction.

To remedy this problem, the amendment I propose would raise the minimum standard deduction—low-income allowance—to $1,800, increase the percentage standard deduction to 16 percent from the present 15 percent, and raise the maximum standard deduction to $2,500 for single taxpayers and $3,000 for joint returns.

The percentage and maximum standard deduction provisions in this amendment are identical to those in the House version of H.R. 2166.

The minimum standard deduction—or low-income allowance—however, is lower. The House bill raised the minimum standard deduction to $1,900 for single returns and $2,500 for joint returns. My amendment simply raises it to $1,800 for everyone. It is now $1,300.

Mr. CURTIS. Will the Senator yield?

Mr. MONDALE. I shall yield in about 2 minutes, when I complete my remarks.

The reason for this is that the $200 optional credit serves the same purpose for which the low-income allowance was originally designed—making sure that no one with an income below the poverty level pays a Federal income tax on income which almost by definition is absolutely essential to their survival.

Keeping the low-income allowance at $1,800 saves approximately $2 billion, compared to the cost of simply adding the $200 optional credit to the House bill. Almost all of this $2 billion would otherwise go to taxpayers who already receive large tax reductions from the $200 optional credit.

I believe the standard deduction provisions in the House bill represent a valuable improvement in our tax system. They would greatly simplify the task of filling out income tax returns each year for millions of Americans. Under the House bill, it is estimated that more than 9 million taxpayers would shift to using the standard deduction and away from the more difficult task of itemizing.

The higher standard deduction would also ease the tax burden substantially for many taxpayers earning between $10,000 and $20,000 who do not own their own homes, and who, therefore, usually do not itemize their deductions. With the increasing price of homes and high interest rates, many Americans in these income brackets simply cannot afford to buy a home. Increasing the standard deduction would enable them to share in some measure in the tax benefits our tax system provides to their neighbors who are fortunate enough to own their own homes.

Mr. President, I believe my amendment represents an effective melding of the House standard deduction provisions with the Senate's $200 optional credit. If we are able to adopt this amendment on the floor today, it should greatly simplify and expedite consideration of this aspect of the bill in the House-Senate conference.

I hope, therefore, that we can adopt these constructive House provisions, and help speed the way toward a quick conference and rapid approval of this much-needed tax relief.

Just before yielding to the Senator from Nebraska, I would like to make this point.

When the bill came from the House it had one major failure which was quickly recognized by most tax analysts. That was that there was a gap. There was no relief for Americans who itemized their deductions. There was a liberalization of standard deduction, but no relief for families, usually those owning homes, who itemize.

So what we did in the Senate committee was to move to correct that gap, but in moving it in the form of a substitute, we created another gap, namely, for those who do not itemize their deductions and take the standard deduction.

The amendment I offer now would take the best of the House bill, it would take the best of the Senate bill, and combine them so that there is relief granted equitably up and down the income brackets, bringing most of the relief to persons in middle- and low-income brackets without having notches that deal unfairly with people in low income brackets, single taxpayers, married couples without dependents, or, unless we change this, taxpayers who can benefit from the standard deductions, usually because they do not own their own homes.

EXHIBIT 1

FACT SHEET—MONDALE-HUMPHREY-RIBICOFF AMENDMENT NO. 275

Purpose—To restore the minimum and maximum standard deduction provisions contained in the House version of H.R. 2166, but dropped from the Finance Committee version.

Effect—The amendment will assure that no taxpayer receives a tax reduction under the Senate bill lower than the reduction that would have been received under the House bill.

Cost—Revenue loss of $2.97 billion. (1974 income levels.)

Provisions—Increases the minimum standard deduction (also known as the low income allowance) to $1,800, increases the percentage standard deduction to 16 percent, and the maximum standard deduction to $2,500 for single persons and $3,000 for joint returns. Under this amendment, therefore, the standard deduction would amount to 16 percent of a taxpayer's adjusted gross income, but

no less than $1,800, and no more than $2,500 for single returns and $3,000 for joint returns.

COMPARISON WITH CURRENT LAW AND HOUSE BILL

	Current law	House bill	Mondale amendment
Minimum standard deduction (low income allowance)	$1,300	[1] $1,900 [2] $2,500	$1,800
Percentage standard deduction	15	16	16
Maximum standard deduction	$2,000	[1] $2,500 [2] $3,000	[1] $2,500 [2] $3,000

[1] Singles.
[2] Joints.

The Mondale amendment does not fully restore the House minimum standard deduction provision because it overlaps very substantially with the $200 optional credit (which may be taken in place of the $750 personal exemption) added by the Finance Committee. Keeping the minimum standard deduction at $1,800 saves approximately $2 billion (compared to the House provision), almost all of which would go to the same taxpayers who already receive a large tax reduction under the $200 optional credit.

IMPACT ON INDIVIDUAL TAXPAYERS

The attached tables show the impact of the amendment on taxpayers with varying income and family sizes. However, the tables do not show the impact of changes in the percentage and maximum standard deduction, since it is assumed in the tables that all taxpayers have deductible personal expenses of at least 17 percent, which exceeds both the current (15%) and proposed (16%) percentage standard deduction. To take one example, a married couple with no dependents earning $17,500 with deductions equal to 10% their income who now take the standard deduction would save $225 in taxes if the standard deduction provisions in the proposed amendment are adopted, but this saving is not reflected in the attached tables. In the tables, the tax reductions noted result from the following provisions:

House bill—Increase in minimum standard deduction to $1,900 for single returns and $2,500 for joint returns, increase in percentage standard deduction to 16%, and increase in maximum standard deduction to $2,500 for single returns and $3,000 for joint returns.

Finance Committee Substitute—$200 optional credit in lieu of $750 personal exemption, and reduction of 1 percentage point in tax rates applicable to first $4,000 of taxable income.

Mondale Amendment—Finance Committee Substitute, plus $1,800 minimum standard deduction, 16% percentage standard deduction, and maximum standard deduction of $2,500 for single returns and $3,000 for joint returns.

The numbers in parenthesis indicate the increase (+) or decrease (−) in tax reduction—compared to the House bill—under the Finance Committee Substitute and the Mondale Amendment.

SINGLE PERSON

AGI	Present law tax	Tax reduction: House bill	Tax reduction: Finance Committee substitute	Tax reduction: Mondale amendment
3,000	138	89	95 (+6)	138(+49)
5,000	491	114	94(−20)	185(+71)
6,000	681	114	83(−31)	189(+75)
8,000	1,087	113	63(−50)	169(+56)
10,000	1,482	48	57 (+9)	82(+34)
12,500	1,996	0	45(+45)	45(+45)
15,000	2,549	0	40(+40)	40(+40)
17,500	3,145	0	40(+40)	40(+40)
20,000	3,784	0	40(+40)	40(+40)
25,000	5,230	0	40(+40)	40(+40)
30,000	6,850	0	40(+40)	40(+40)
35,000	8,625	0	40(+40)	40(+40)
40,000	10,515	0	40(+40)	40(+40)

MARRIED COUPLE, NO DEPENDENTS

AGI	Present law tax	Tax reduction: House bill	Tax reduction: Finance Committee substitute	Tax reduction: Mondale amendment
3,000	28	28	28	28
5,000	322	182	190 (+8)	270(+88)
6,000	484	194	171(−23)	266(+72)
8,000	837	217	155(−62)	239(+22)
10,000	1,152	152	146 (−6)	168(+16)
12,500	1,573	83	110(+27)	110(+27)
15,000	2,029	0	96(+96)	96(+96)
17,500	2,516	0	65(+65)	65(+65)
20,000	3,035	0	47(+47)	47(+47)
25,000	4,170	0	40(+40)	40(+40)
30,000	5,468	0	40(+40)	40(+40)
35,000	6,938	0	40(+40)	40(+40)
40,000	8,543	0	40(+40)	40(+40)

MARRIED COUPLE, 1 DEPENDENT

AGI	Present law tax	Tax reduction: House bill	Tax reduction: Finance Committee substitute	Tax reduction: Mondale amendment
3,000	0	0	0	0
5,000	208	173	207 (+34)	207 (+34)
6,000	362	185	249 (+64)	344(+159)
8,000	694	202	212 (+10)	296 (+94)
10,000	1,010	152	203 (+51)	226 (+74)
12,500	1,408	75	145 (+70)	145 (+70)
15,000	1,864	0	131(+131)	131(+131)
17,500	2,329	0	77 (+77)	77 (+77)
20,000	2,848	0	59 (+59)	59 (+59)
25,000	3,960	0	40 (+40)	40 (+40)
30,000	5,228	0	40 (+40)	40 (+40)
35,000	6,668	0	40 (+40)	40 (+40)
40,000	8,251	0	40 (+40)	40 (+40)

MARRIED COUPLE, 2 DEPENDENTS

AGI	Present law tax	Tax reduction: House bill	Tax reduction: Finance Committee substitute	Tax reduction: Mondale amendment
3,000	0	0	0	0
5,000	98	98	98	98
6,000	245	175	245 (+70)	245 (+70)
8,000	559	189	277 (+88)	361 (+172)
10,000	867	152	261 (+109)	283 (+131)
12,500	1,261	71	199 (+128)	199 (+128)
15,000	1,699	0	166 (+166)	166 (+166)
17,500	2,156	0	104 (+104)	104 (+104)
20,000	2,660	0	72 (+72)	72 (+72)
25,000	3,750	0	40 (+40)	40 (+40)
30,000	4,988	0	40 (+40)	40 (+40)
35,000	6,398	0	40 (+40)	40 (+40)
40,000	7,958	0	40 (+40)	40 (+40)

MARRIED COUPLE, 4 DEPENDENTS

AGI	Present law tax	Tax reduction: House bill	Tax reduction: Finance Committee substitute	Tax reduction: Mondale amendment
3,000	0	0	0	0
5,000	0	0	0	0
6,000	28	28	28	28
8,000	312	172	312(+140)	312(+140)
10,000	586	136	380(+244)	401(+265)
12,500	976	71	314(+243)	314(+243)
15,000	1,371	0	238(+238)	238(+238)
17,500	1,826	0	174(+174)	174(+174)
20,000	2,285	0	97 (+97)	97 (+97)
25,000	3,330	0	40 (+40)	40 (+40)
30,000	4,508	0	40 (+40)	40 (+40)
35,000	5,858	0	40 (+40)	40 (+40)
40,000	7,373	0	40 (+40)	40 (+40)

Mr. MONDALE. I yield to the Senator from Nebraska.

Mr. CURTIS. I thank the distinguished Senator.

My purpose is to make clear what is proposed here.

The House raised the minimum standard deduction from $1,300 to $1,900. It got to the Committee on Finance and we adopted the Mondale amendment which, in lieu thereof, gave taxpayers the right to elect a $200 credit instead of taking a $750 personal exemption.

Mr. MONDALE. Take one or the other, that is correct.

Mr. CURTIS. One or the other.

Now, can the Senator tell us what the cost was of the Mondale amendment?

Mr. MONDALE. $5.9 billion.

Mr. CURTIS. Pardon?

Mr. MONDALE. $5.9 billion.

Mr. CURTIS. $5.9 billion.

Now, what does the Senator propose to do at this time?

Mr. MONDALE. $2.97 billion.

Mr. CURTIS. Additional?

Mr. MONDALE. That is correct.

Mr. CURTIS. In other words, the Senator's amendment would increase the loss of revenue from 5.9 to 8.6?

Mr. MONDALE. I do not think the Senator's arithmetic is exactly correct, but his point is well taken.

Mr. CURTIS. Well, whatever it adds up to.

Mr. MONDALE. Yes, and there must be some here who can help us add it.

Mr. CURTIS. Well, a pretty high figure, to me.

Mr. MONDALE. The Senator will be pleased to know I joined with the Senate yesterday and today in closing some of those tax loopholes, so that we picked up $3 billion in revenue.

Mr. CURTIS. Yes, but who is this additional money going to go to?

Mr. MONDALE. Principally, these taxpayers: single taxpayers, married couples without dependents, and Americans between $10,000 and $20,000 a year who do not itemize but take the standard deduction, and usually they do so because they are renters and not homeowners. Those are the ones who would get the benefits.

There is a table on the Senator's desk that shows none get a tremendous amount. But the Senate committee's work, while I strongly favored it because it incorporated my optional tax credit, did, upon analysis, have certain flaws in it.

It was unfair to single taxpayers below $10,000 a year. It was unfair to Americans who do not itemize their deductions but take standard deductions, and it was unfair to married couples without dependents.

We are trying to distribute it a little more fairly.

Mr. CURTIS. I want to say to the Senator that I thank him for yielding.

Inasmuch as time is limited, I will not ask any more questions, but I will speak for a couple of minutes on my own time.

Mr. MONDALE. Fine.

I yield the floor.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator from Nebraska.

Mr. CURTIS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 55 minutes.

Mr. CURTIS. I yield myself 2 minutes.

Mr. President, we have a number——

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

Mr. CURTIS. I am happy to yield to the Senator.

Mr. LONG. Mr. President, may I ask unanimous consent that further debate under the Mondale amendment be limited to a half-hour to be divided between the Senator from Minnesota and the Senator from Nebraska?

Mr. CURTIS. Well, I am not going to charge——

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. A half-hour to my time.

Mr. LONG. Well, then——

Mr. CURTIS. That would be all right if I can farm it out without it being charged to me.

Mr. LONG. Yes.

Mr. CURTIS. OK.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CURTIS. All right, I yield myself 2 minutes.

Now, here is the situation, the committee has already provided for a 12-percent rebate. We have already provided for a $200 tax credit in lieu of the personal exemption. We have already provided for earned income credit, 10 percent, with a maximum of $400, and they get that back if they do not pay any taxes.

We have also reduced the tax rates. The amendment of the distinguished Senator from Minnesota would increase a $5.9 billion by something over $2 billion.

I call attention to the fact that it is a vote to increase the deficit, and I oppose the amendment.

Mr. HUMPHREY. Mr. President, I wish to voice my strong support for the amendment by my colleague from Minnesota which provides for increasing the levels of the low-income allowance and the standard deduction. My Tax Relief Act of 1975 contained such provisions and I still believe that they are necessary at this time. I wish to briefly point out the reasons why such increases would be helpful.

The present low-income allowance level of $1,300 was established in 1972 to correspond with the poverty line at that time. Because of the severe inflation we have experienced in the past 2 years, the $1,300 level no longer corresponds in any real sense to the poverty level, which for a family of four has increased by around $1,200. The result is that a family of four with an income right at the poverty level now pays over $150 a year in taxes. This, of course makes no sense and must not be tolerated.

Let me speak now on the more general standard deduction. One of the reasons that inflation has had such a sharp impact on tax burdens is that it reduces the real value of the standard deduction I will illustrate through a simple example.

The average four-person family in 1973 with an income of $13,000 which took the standard deduction paid $1,391 in Federal income taxes. This left $11,609 of disposable income. Assume the family's income rose 8 percent in 1974, about the national average increase, to $14,040. Because of higher taxes—$1,609—its after-tax income would be $12,431, only 7 percent higher. Thus, the diminished value of the standard deduction and the exemption actually increased the tax burden on this family from 10.7 percent of income to 11.5 percent.

Even if this family's income had risen by the rate of inflation, 12 percent, its after-tax purchasing power would have declined 3 percent from 1973 to 1974. The main point to remember is that this 3-percent decline would be entirely due to the diminished value of exemptions and deductions in a period of inflation.

Tax burdens have also increased particularly for lower- and middle-income taxpayers, because tax brackets are fixed in dollar terms rather than real terms. The result is that many taxpayers have moved into higher tax brackets, even though their real income remains the same.

To conclude, these increases in the levels of the low-income allowance and the standard deduction are economically sound and would help restore equity to the tax system. We must remember that this is the only postwar recession, and we have had five others, in which taxes as a percent of total personal income have risen. So let us now take action to adjust these deduction levels to take account for the inflation of the last 2 years, which in turn will provide equitable relief to all low- and middle-income Americans.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I would strongly urge the Senator from Minnesota not to press the amendment. I will explain why.

I believe the Mondale amendment that was agreed to in the committee was a very good amendment, and I still think so. If we agree to this amendment as it is proposed here, when we go to conference with this, it would mean that what the House sent us on the standard deduction is locked in and is not subject to negotiation.

For example, a logical compromise would be to tell the House conferees that we would consider accepting their version, provided they would give the taxpayer the option to use the Mondale approach if that were more to the taxpayer's advantage, and that would increase the cost above the House or Senate figure. That is a logical compromise.

If we go to the House with this further modification of the original Mondale amendment, then the House will take the view that their part is already agreed to, and that this would cost an extra $3 billion in addition to all the other Senate cost increases.

So there we would be. As a matter of fiscal responsibility, they cannot accept any more of the Mondale amendment. That would then mean that we would just have the House bill without the good work done by the Senator from Minnesota in either respect.

I would not want that to happen.

I think what the Senator has done, particularly for the benefit of people with families, is a very fine and laudable contribution to this bill.

I hope the Senator would not press it because I am afraid he is likely to defeat his own purpose, or it might work out that way.

Mr. MONDALE. I have the point of the distinguished floor manager, and I appreciate his comments.

I feel very, very strongly that the present individual income tax structure does not provide relief in an effective way for taxpayers with families in the $6,000 to $18,000 or $20,000 bracket.

I understand and clearly see what the distinguished floor manager is suggesting here, namely, that it will be easier to hold the optional tax credit in the conference by perhaps acceding in the course of the negotiations to the provisions of this amendment—which are already found in the House bill—if we leave it in the present form.

I would like to have a few minutes to discuss this with my cosponsors before I go further.

Mr. LONG. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that I might suggest the absence of a quorum without it being charged against my time.

The PRESIDING OFFICER. Quorum calls are not charged against the time of the Senators.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. 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. MONDALE. Mr. President, I have talked with my cosponsors, my colleague from Minnesota (Mr. HUMPHREY) and my colleague from Connecticut (Mr. RIBICOFF), and they agree that with this realization and understanding it would probably be wise at this point to withdraw the amendment, knowing that it would probably improve our chances of holding the $200 optional credit in conference.

Mr. LONG. I believe that would be a wise thing.

Mr. MONDALE. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Kansas.

Mr. DOLE. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, 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:

On page 87, between lines 13 and 14, insert the following new section:

SEC. 304. ELECTION TO SUBSTITUTE NET OPERATING LOSS CARRYBACK YEARS FOR CARRYFORWARD YEARS.

(a) IN GENERAL.—Subparagraph (E) of section 172 (b) (1) (relating to years to which net operating loss may be carried) is amended to read as follows:

"(E) (i) In lieu of any net operating loss carryover to which a taxpayer would otherwise be entitled under this section, a taxpayer may elect to carry back any net operating loss for a number of taxable years equal to the number of taxable years to which such loss could have been carried forward, and the carryback so elected shall be added to the number of taxable years for which the taxpayer is otherwise entitled under this section to carry back such net operating loss. Except as provided in section 381(c)(25), and except as provided in paragraph (3)(E), an election under this subparagraph shall apply

not only with respect to such net operating loss but also to the taxable year of such loss.

"(ii) Unless he is described in clause (iii), a taxpayer may not elect to have the provisions of clause (i) apply unless he establishes an employee stock ownership plan (as described in subsection (g)). This clause does not apply to any credit or refund attributable to a net operating loss or losses incurred in taxable years ending after the date of the first such election made by the taxpayer.

"(iii) The provisions of clause (ii) do not apply to any taxpayer the sum of whose credits or refunds resulting from electing to have the provisions of section 172(b)(1)(E) apply to net operating losses incurred in taxable years ending on or before the date of such first election does not exceed $10,000,000."

(b) SPECIAL RULES.—Section 172(b)(3) (relating to special rules) is amended by striking out subparagraphs (E) and (F), and by inserting in lieu thereof the following:

"(E)(i) An election made under paragraph (1)(E) may be revoked by the taxpayer at any time within 60 months after the close of the taxable year in which the election was made. If a taxpayer revokes such an election, the election may be revoked more than 60 months after the close of the taxable year during which the election was made only with the consent of the Secretary or his delegate. The taxpayer's liability for tax for all taxable years beginning with the earliest taxable year affected by the carryback of the net operating loss under election shall be redetermined as if the election had never been made with respect to each taxable year in which the taxpayer has a net operating loss to which the election applies, as of the end of the period within which the taxpayer could have carried forward such loss (without regard to the amount of such loss) if the election had never been made. The amount of the taxpayer's liability for tax for the taxable year in which the election is revoked shall be increased (as of the end of such taxable year) by an amount equal to the amount by which such redetermined liability with respect to each such loss year exceeds the tax paid for all such taxable years with respect to each such loss year except that with respect to each such loss year as to which such period ends after the year of revocation, the amount of the taxpayer's liability for tax for the last year in such period shall be increased (as of the end of such taxable year) by an amount equal to the amount by which such redetermined tax liability with respect to such loss year exceeds the tax paid for all such taxable years with respect to such loss year. An election revoked on or before the time for filing a return for a taxable year (including any extensions thereof) is considered as made during that year. In redetermining the liability of a taxpayer for tax for preceding taxable years under this clause, the amount of such liability shall be reduced by an amount equal to the amount transferred (or treated as transferred) by the taxpayer to an employee stock ownership plan described in section 301(d) of the Tax Reduction Act of 1975 or to a supplemental unemployment compensation benefit plan described in such section in meeting the requirements of subsection (b)(1)(E) of this section. If the taxpayer was not required to transfer any amounts to such a plan under subsection (b)(1)(E) because of the provisions of clause (iii) thereof, the preceding sentence does not apply.

"(ii) An election under paragraph (1)(E), and a revocation of such election under this subparagraph, shall be made in such manner and at such times as the Secretary or his delegate may by regulations prescribe. No election may be made under paragraph (1)(E) by any taxpayer described in subparagraph (F) or (G) of paragraph (1). No election may be made under paragraph (1)(E) with respect to any foreign expropriation loss to which paragraph (1)(D) applies.

"(iii) If an election made by the taxpayer under subsection (b)(1)(E) with respect to a net operating loss incurred in any taxable year is revoked by the taxpayer, he may not make another election under that subsection with respect to that year. If a taxpayer has revoked an election made under subsection (b)(1)(E) with respect to a net operating loss incurred in any taxable year, and such taxpayer makes an election under such subsection with respect to a net operating loss incurred in a later taxable year, no part of the net operating loss for the taxable year wtih respect to which the election was revoked may be carried over to any taxable year beginning after the taxable year in which the second or other subsequent election under subsection (b)(1)(E) is made.".

(c) CARRYOVERS IN CERTAIN CORPORATE ACQUISITIONS.—Section 381(c) (relating to items in the case of certain corporate acquisitions) is amended by adding at the end thereof the following new paragraph:

"(25) TREATMENT OF NET OPERATING LOSSES WHERE TO SUBSTITUTE CARRYBACKS FOR CARRYOVERS HAS BEEN MADE.—The acquiring corporation shall be bound by an election made by the distributor or transferor corporation under section 172(b)(1)(E) unless different rules with respect to the years to which a net operating loss may be carried apply among the group consisting of the distributor or transferor corporations and the acquiring corporation, in which case the acquiring corporation shall use the carryback and carry-forward period prescribed by regulations of the Secretary or his delegate, and the rules of section 172(b)(3)(E)(i) shall apply to the extent required by such regulations."

(d) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 172(b)(1)(A) is amended by striking out "In the case" and inserting in lieu thereof "Except as provided in subparagraph (E), in the case".

(2) Paragraph (3) of section 172(b) is amended by inserting "(and so much of paragraph (1)(E) as relates to paragraph (1)(A)(ii))" after "(1)(A)(ii)" each place it appears.

(e) TECHNICAL AMENDMENTS.—

(1) Section 6654(f) is amended to read as follows:

"(f) TAX COMPUTED AFTER APPLICATION OF CREDITS AGAINST TAX.—For purposes of subsections (b) and (d) the term 'tax' means—

"(1) the sum of—

"(A) the tax imposed by this chapter 1 (other than by section 56), plus

"(B) the tax imposed by chapter 2, minus

"(2) the sum of—

"(A) the credits against tax allowed by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages), plus

"(B) any increase in liability for tax determined under section 172(b)(3)(E) (relating to revocation of special carryback election)."

(2) Section 6655(e)(1)(B) is amended—

(A) by striking out "and" at the end of clause (ii),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new clause:

"(iv) any increase in liability tax determined under section 172(b)(3)(E) (relating to revocation of special carryback election)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to net operating losses for taxable years ending after January 1, 1970.

(2) TRANSITIONAL RULES.—If an election is made under section 172(b)(1)(E) of the Internal Revenue Code of 1954 with respect to any net operating loss in a taxable year ending before the date of the enactment of this Act—

(A) in the case of a deficiency for any taxable year attributable to the application of such net operating loss, section 6501(h) of such Code shall be applied as if such loss were for the taxpayer's first taxable year ending after such date of enactment.

(B) in the case of an overpayment for any taxable year attributable to the application of such net operating loss, sections 6511(d)(2) and 6611(f)(1) of such Code shall be applied as if such loss were for the taxpayer's first taxable year ending after such date of enactment, and

(C) the period for submitting an application for a tentative carryback adjustment under section 6411(a) of such Code with respect to such net operating loss shall not expire before the day which is 90 days after such date of enactment.

(g) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING SUBSTITUTION OF LOSS CARRYBACK YEARS FOR LOSS CARRYFORWARD YEARS.—In order to meet the requirements of this subsection—

(1) A corporation (hereinafter referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (5) and which meets all other requirements of this subsection.

(2) The plan referred to in paragraph (1) must be an individual account plan established in writing which—

(A) is a stock bonus plan, a stock bonus and money purchase pension plan, or a profit-sharing plan,

(B) is designed to invest primarily in employer securities, and

(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe.

(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the application of the provisions of section 46(a)(1)(E) of the Internal Revenue Code of 1954, or the requirements of section 172(b)(1)(E) of such Code) to the account of each participant at the close of each plan year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000 per year) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). Notwithstanding the first sentence of this paragraph, the allocation to participant's accounts may be extended for such additional period or periods as may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954.

(4) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.

(5) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, or under section 172 of such Code (if applicable), the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund, to transfer (not less rapidly than ratable over 10 years) employer

securities to the plan having an aggregate value at the time of the claim of, in the case of an employer making an election under section 172(b)(1)(E) of such Code, at least 25 percent of the total amount of the refund or credit of any overpayment of tax claimed by the employer in its first carryback adjustment application or claim for refund pursuant to such election. In the case of an employer who, on March 13, 1975, maintained a supplementary unemployment compensation benefit plan for its employees which meets the requirements of section 501(c)(17) of such Code, the requirements of such subparagraph shall be treated as satisfied if the employer transfers no more than half of the amount required under such subparagraph to such supplementary unemployment compensation benefit plan. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(6) Notwithstanding any other provision of law to the contrary, if the plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

(A) stock transferred under paragraph (5) and distributed to participants, to the extent that it is considered income under the Internal Revenue Code of 1954, shall be taxed in accordance with the provisions of section 72 thereof (treating the participant as having a basis of zero in the contract) rather than under section 83 of such Code,

(B) no amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and

(C) the plan must meet the requirements of sections 410 and 415 of such Code.

(7) If the amount of the credit determined under section 46(a)(1)(D) of the Internal Revenue Code of 1954, or the amount of the adjustment or refund resulting from the carryback of the net operating loss under the election made under section 172(b)(1)(E) of such Code, is recaptured in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the original plan agreement.

(8) For purposes of this subsection, the term—

(A) "employer securities" means common stock issued by the employer or its affiliate with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or its affiliate, or securities issued by the employer or its affiliate convertible into such stock, and

(B) "value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities.

(9) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection.

(10) If, at any time within 120 months following the date on which the plan is established under this subsection the employer fails to meet any requirement imposed under this subsection or under any obligation undertaken to comply with the requirement of this subsection, he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after it occurs. The amount involved shall not exceed the amount of the credit or refund or adjustment, and shall not be less than one-half of 1 percent of the amount such person is required to transfer to the plan described in this section during such 10-year period. The amount of such penalty may be collected by the Secretary of the Treasury and the same earned which a deficiency in the payment of Federal income tax may be collected.

(15) Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary no deduction shall be allowed under sections 162, 212, or 401 of such code for amounts transferred to an employee stock ownership plan or a supplementary unemployment compensation benefit plan and taken into account under this subsection.

Mr. DOLE. Mr. President, the energy crisis and the deepening recession have placed some U.S. companies in desperate financial condition, requiring extensive layoffs because of severe cash shortages and inability to borrow. Particularly affected are some automobile, shoe, and electronics manufacturers, airlines and airline suppliers, and others. These companies have experienced unusually large losses after earlier periods of substantial fully taxed profits. The existing unduly short-loss carryback period—3 years—prevents such companies from recovering the tax overpayments that result from properly averaging losses and profits so that they pay only on true net profits.

An extended net operating loss carryback period is desperately needed to provide these companies with a quick infusion of cash to enable them to rehire workers and resume full operation. The companies most needing assistance will obtain it at once from such a change and will immediately put such funds into circulation to stimulate the economy.

REVITALIZING THE ECONOMY

Mr. President, the Ways and Means Committee panels of distinguished economists—January 27–30, 1975—unanimously agreed that loss carryback relief would be extremely effective to combat the recession. It will help companies most needing it by refunding taxes previously paid which they should recover. Carrybacks provide immediate cash, representing overpaid taxes, not tax forgiveness, since income cannot fairly be determined on a year-by-year basis but should be averaged. The effect, however, is much the same as the tax relief proposed for low income individuals—an immediate infusion of new purchasing in the economy with strong stimulative results. Workers will be rehired; new materials, components, and machines will be ordered. There is a striking parallel in the basic equity of providing tax relief to low income individuals and to companies which have suffered catastrophic losses from the energy crisis and the recession. Both need the help and both will respond to the relief by increased purchasing of goods and services, thereby helping to revitalize the economy.

The Internal Revenue Code already contains a long list of extended carryback and carryover periods for particular industries or circumstances, demonstrating the inadequacy of the existing general rules in many cases.

Any revenue loss from such a proposal is, for the most part, temporary only. If additional carryback years are allowed only as a substitute for existing carryforward years, the revenue loss will be recovered in future years to the extent the carryforwards would have been used under existing law. Most companies will use losses as carryforwards; others will be able to sell the benefits of the carryforwards to new interests. Additional carrybacks are preferable, however, particularly under current economic conditions, because they provide an immediate infusion of cash to the companies needing it most. They do so while at the same time reducing the tax shelter problem of trafficking in loss carryforwards.

Further, the proposal would have widespread application—to small business—which has long sought an increased loss carryback period—as well as large, to individuals engaged in business as well as corporations. Representatives of small business testified in favor of such a proposal before the Senate Finance Committee on March 10, 1975.

PROPOSED CHANGE

It is proposed that all taxpayers be allowed to elect to substitute their carryforward years under existing law as additional carryback years for losses occurring in the 1970–75 period. Thus any taxpayer—a corporation or an individual—could, with respect to losses in taxable years beginning on or after January 1, 1970, and ending on or before December 31, 1975, elect an 8-year carryback period and no carryforward period instead of 3 back and 5 forward under present law. A regulated transportation company entitled to 3 back and 7 forward under existing law could elect to carry such losses back 10 years—with no carryforwards. No increase in the total carryover period would occur.

The election would be allowed only if the taxpayer's loss for any such year exceeds 200 percent of average income for the preceding 4 years. This will restrict the election to unusually large losses—in general, to taxpayers which could not use the loss carrybacks within the normal 3-year carryback period.

The amendment I offer would allow this treatment for losses in the years 1970 through 1975, the period most directly affected by the earlier 1970–71 recession, the energy crisis, and the current deeper recession. Allowance of the treatment for these years will provide the desperately needed help for those particular industries previously mentioned which have suffered unusually large losses. It is necessary to allow the treatment for 1970 and later years to deal fairly with the adverse effects on particular U.S. industries which are now at their worst.

EMPLOYEE STOCK OWNERSHIP PROGRAM

The proposal would insure that employees of larger companies benefitting, as well as the companies themselves, would share to a substantial degree in the relief. In general, listed companies which take advantage of the new averaging provision would be required to contribute 25 percent of the tax refund obtained from the extended carryback over a period of 10 years in value of common stock of the corporation to an employee stock ownership plan, or, in some cases in part, to a supplemental unemployment benefits plan. The contri-

butions of company stock would be limited so as not to dilute the existing equity of the company by more than 15 percent; this recognizes the problems of companies with very large losses and sharply depressed stock prices.

Employees will, of course, derive further benefit from the carryback proposal since the cash infusions will assist employers in maintaining or increasing existing employment levels.

REVENUE EFFECT

As previously indicated, in evaluating the revenue loss effect, it is essential to take into account the fact that the allowance of losses by way of extended carrybacks is offset by the revenue loss which would have resulted in the future from deduction of such losses as carryforwards. Present law is sufficiently flexible to allow a taxpayer with loss carryforwards either to use them itself or at the very least to sell much of the benefit of such losses, in which case they cause a revenue loss.

In other words, to the extent that more effective use of carrybacks is possible, carryforwards are eliminated. If such carryforwards would have been used in any event, whether as a result of transactions with new interests or otherwise, the revenue loss is limited to the effect of simply allowing the losses at an earlier time. In that event, the only real revenue effect is an interest factor.

The importance of the amendment to a company now is the immediate availability of the cash to help it through its current cash shortage which has been caused by the recession—1970–71 and 1971–75—and the energy crisis of 1973, up to the present time.

Mr. President, having said that and having made that formal statement, I think it may be obvious to some that this amendment is almost identical to the amendment adopted by the Committee on Finance; and at the time, it was called the Pan Am-Chrysler-Lockheed amendment. I wish to clarify, if at all possible, that this amendment is not strictly for big business. So far as this Senator knows, there is no Chrysler or Lockheed or Pam Am interest in the State of Kansas.

I wish to set the record straight and assure Senators that this amendment, which is virtually identical to that adopted by the committee, would apply to any taxpayer, including individuals, small businesses, as well as large corporations.

I have some information with respect to a number of small companies. I understand that there are 500 footwear companies in this country that belong to the American Footwear Industry Association, and about 200 of these corporations would be helped by this amendment.

I am informed that, based on the prospective application of this provision, if enacted, the John Swenson Granite Co., in Concord, N.H., for example, would receive an anticipated refund of some $800,000. American Girl Fashions, Inc., of Ware, Mass., a women's shoe producer, would receive an anticipated refund of about $3 million.

A textile company in a Southern State, if this amendment is adopted, would receive an anticipated refund of about $2.5 million.

Another shoe company in Massachusetts would receive an anticipated refund of about $25,000, and a granite fabricator in Brooklyn, N.Y., would receive an anticipated refund of about $35,000.

For what will these funds be used? They will be used for payroll and supplies, working capital, new equipment, and the like.

Mr. President, the Joint Committee on Internal Revenue and Taxation has estimated that of the $1 billion which would be refunded under this proposal, approximately $750,000 would go to about 200 to 300 individuals owning corporations of all sizes. I say that again to demonstrate and to underscore and to emphasize this is not a bailout amendment for Lockheed. It is not a bailout amendment for Pan American. It is an amendment that applies right across the board to all enterprises. It applies to the entire business sector.

It would apply, for example, to farmers, businessmen, housing contractors, and manufacturers who have been hard hit by cheap foreign imports, and to practically anyone who has suffered extraordinary losses during these inflationary times.

This amendment will not provide these taxpayers with any windfall. They will be getting back their own tax dollars which they have previously paid to the Government.

As I said earlier in my statement, most businessmen are now permitted an 8-year period in which to carry losses back and forward. Under present law, it is a 3-year back and a 5-year forward formula. This amendment simply permits the average taxpayer to elect a loss averaging period for 8 years back and zero forward. If they later wish to switch back to the general rule of carrybacks and carryforwards, they will have to pay back to the Treasury the tax benefit they derived under this amendment.

Finally, if there is any something-for-nothing element in this amendment, it is for the millions of individual employees of corporations who will be getting, at no cost to them, stock of the employer equal to 25 percent of the refund received by the corporations.

The agreement to turn over 25 percent of the refund in the form of stock is the result of the efforts of the distinguished chairman of the Committee on Finance, and it is given to the employees as a precondition to the application of this amendment. In other words, if the agreement is not made to turn over the stock, then there is no benefit from this amendment to that employer.

In short, and in conclusion, this amendment applies to all taxpayers, individuals, and corporations of any size. They will not be permitted to use any more years for averaging their losses than the law now provides. They will be required to repay any tax benefit if they later revoke the extended carryback election.

Finally, millions of employees will be getting a cost-free stake in their own companies.

Mr. President, earlier today, we had an amendment similar in scope but perhaps somewhat stricter in application, applying to just one corporation—applying to Chrysler Corp. It was the intention, or at least the thought, of the Senator from Kansas at that time to add this amendment as a substitute. After some thought and some consultation, it was agreed that perhaps it might be best to see what happens so far as Chrysler Corp. is concerned. When the tax rebate package left the Committee on Finance, it included the Chrysler Corp. amendment, which was adopted, and a motion to table failed by a vote of 53 to 43.

It also contained the provision that I have now discussed—not just Pan Am, not just Lockheed, but some 200 to 300 corporations and individuals. It seems to this Senator that in fairness and equity, if we said less than 2½ hours ago that we are willing to give Chrysler Corp., in this amendment that this Senator voted for, some benefit of averaging and carryback and carryforward, this amendment has even greater merit and greater appeal. Because under this amendment, there will be a requirement of the ESOP or stock ownership plan, of 25 percent, going back to the employees at no cost to the employees at all.

I believe that, despite what it may be called by the press and advertised as by some, it does have great merit and it will be of benefit. I certainly hope that it will be adopted—if not accepted by the chairman, adopted by the Senate.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material relating to this amendment.

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

PROFILES OF SELECTED SMALL COMPANIES WHICH WOULD BENEFIT FROM THE ENACTMENT OF SEC. 304 OF H.R. 2166

[The net operating loss carryback provision of the tax reduction bill]

Name	Location	Business	Number of employees	Anticipated refund	Anticipated use of funds
1. John Swenson Granite Co	Concord, N.H	Granite quarrier and fabricator	170 in 1970, 20 today	$800,000	Payroll and supplies.
2. American Girl Fashions, Inc	Ware, Mass	Women's shoe producer	2,000 in 1966, 200 today	3,000,000	Working capital.
3. Bernie Shoe Co	Haverhill, Mass	do	170 in 1966, 100 today	25,000	Payroll and supplies.
4. Joseph Weiss & Sons, Inc	Brooklyn, N.Y	Granite fabricator	20 today	35,000	New equipment.
5. A textile company (name available upon request).	A Southern State	Textile manufacturer	9,000 in 1968, 5,000 today	2,500,000	Equipment and supplies.

Note: These corporations are representative of the type of small company which would benefit from the enactment of sec. 304. A more detailed description of each is attached.

[Memorandums]

MARCH 19, 1975.

JOSEPH WEISS & SONS, INC., BROOKLYN, N.Y.

Re: H.R. 2166, § 304.

PROFILE OF A COMPANY WHICH WOULD BENEFIT FROM AN EXTENSION OF THE NET OPERATING LOSS CARRYBACK PERIOD

Joseph Weiss & Sons, Inc. is a small owner operated New York granite and marble fabricator which was founded in 1952 in Brooklyn. The company made moderate profits for the first twenty years of its existence and paid substantial amounts in federal income taxes.

Since 1973, however, this company has incurred large losses which have depleted its working capital. Under existing law it is not able to carry these current losses back far enough to fully offset them against previous profits. If section 304 of H.R. 2166 is enacted, however, it will be permitted to carry its losses back an additional five years, thereby providing it with an immediate refund in the neighborhood of $35,000.

The funds received will be used by the company to replenish its working capital and to provide for new equipment.

MARCH 19, 1975.

AMERICAN GIRL FASHIONS, INC., (FORMERLY CONSOLIDATED NATIONAL SHOE CORP.), WARE, MASS.

Re: H.R. 2166, § 304.

PROFILE OF A COMPANY WHICH WOULD BENEFIT FROM AN EXTENSION OF THE NET OPERATING LOSS CARRYBACK PERIOD

Among the companies which would benefit from an extension of the net operating loss carryback period would be American Girl Fashions, Inc., a large employer in Massachusetts, Maine and New Hampshire.

American Girl Fashions, Inc. was originally founded in Lynn, Massachusetts in 1917 as a women's shoe manufacturer. Over the years it expanded its operations until in 1968 it was a large publicly held company, with numerous factories and over 2,000 employees.

In 1969 it began to suffer losses, however, and has recently been forced to file a petition under Chapter 11 of the Bankruptcy Laws in order to permit it to reorganize its affairs. Most of its plants have been closed. Employment has declined from over 2,000 in 1968 to approximately 200 at the present time.

Under existing law, American Girl is not able to offset its recent substantial losses ($12 million in the past five years) with previous profits. If § 304 of H.R. 2166 is enacted permitting corporations to carry their losses back for an additional five year period, however, American Girl would receive an immediate refund in the neighborhood of four million dollars from taxes previously paid. These funds would be promptly put to use for the purchase of additional materials and payroll, and would materially assist in the recovery of this substantial New England employer and taxpayer.

MARCH 19, 1975.

A SOUTHERN TEXTILE MANUFACTURER

Re: H.R. 2166, § 304.

PROFILE OF A COMPANY WHICH WOULD BENEFIT FROM AN EXTENSION OF THE NET OPERATING LOSS CARRYBACK

Among the companies which would benefit from legislation extending the period for carrying back net operating losses is a southern textile manufacturer (name available upon request). This company made a profit in every year from 1911 to 1968, and in the period from 1941 to the present, it has paid 66 million dollars in income taxes.

In 1969, it began suffering losses, at first because of intense import competition, and later because of the recession. As a result, it has been forced to close a substantial portion of its plants. Since this company is one of the largest employers in its state, the resulting layoff of 45 percent of its labor force (approximately 4,000 employees) has had a significant effect upon the state's economy.

The recent losses have also had a disastrous effect on the company's stockholders. No dividends have been paid since 1968, and the market price of the company's stock has declined by 84 percent since 1966.

The company has suffered cumulative tax losses in the past four years of 20 million dollars, and under existing law it is unable to fully offset these losses against previous profits. If section 304 of H.R. 2166 is enacted permitting corporations to carry losses back for five additional years, the company will obtain an immediate refund of approximately 2.5 million dollars from taxes paid during earlier periods. These funds will be used to replenish badly depleted working capital so that more supplies can be purchased and more employees put back to work.

MARCH 19, 1975.

BERNIE SHOE CO., HAVERHILL, MASS.

Re: H.R. 2166, § 304.

PROFILE OF A COMPANY WHICH WOULD BENEFIT FROM AN EXTENSION OF THE NET OPERATING LOSS CARRYBACK PERIOD

The Bernie Shoe Company is a small owner operated Massachusetts shoe manufacturer which was founded in 1946 in Haverhill, Massachusetts. Over the years it grew and prospered, earning profits and paying federal income taxes. By 1966 it employed nearly 170 workers and its sales had risen to over $1.5 million.

Since 1970, however, it has incurred losses which, although not large by big company standards, are substantial for it. In recent years it has cut back its operation in part because of the lack of working capital. At the present time it has only about 100 employees, a decrease of 40 percent since 1966.

Under existing law Bernie Shoe Company is not able to carry its present losses back far enough to fully match them up with earlier profits, and accordingly, it has net operating losses which it is not able to use. However, if legislation is enacted permitting corporations to carry their losses back an additional five years, Bernie Shoe Company will offset its current losses against earlier profits, and will receive an immediate refund in the neighborhood of $25,000. The funds received by this small company will be promptly put to use for the purchase of additional materials and to meet payroll.

MARCH 19, 1975.

JOHN SWENSON GRANITE CO., CONCORD, N.H.

PROFILE OF A COMPANY WHICH WOULD BENEFIT FROM AN EXTENSION OF THE NET OPERATING LOSS CARRYBACK:

Among the companies which would benefit from legislation extending the period for carrying back net operating losses is the John Swenson Granite Company. This company was founded in 1883 and has been an important source of economic activity in the Concord, New Hampshire area for nearly 90 years. The company quarries and processes granite into monuments, curbing and building stone.

The John Swenson Granite Company had a very profitable experience from its founding in 1883 until the late 1960's. Since that time it has suffered substantial losses and at present has a large cumulative net operating loss, which under existing legislation, it is not able to offset against profits made in earlier years. If section 304 of H.R. 2166 is enacted, however, permitting corporations to carry their losses back an additional five years, the John Swenson Granite Company will receive an immediate refund in the neighborhood of $800,000. These funds will replenish badly depleted working capital enabling the company to purchase additional supplies and reemploy some of its laid-off workers.

Mr. LONG. Mr. President, the Senator from Louisiana voted for the amendment in the committee and frankly, I honestly think that the amendment has more merit than some of the other provisions in the bill. For example, there is a provision in the House-passed bill, that doubles the amount of favorable tax treatment for small business so that the surtax exemption is raised from $25,000 to $50,000. While that is a desirable item, I really think that it would not do so much to help the ailing economy as would the Senator's amendment, which would prevent some of these major companies, which are having to lay off a great number of their people, from going out of business or from having to bring to an end for example, to the rebate scheme which is helping to move the automobiles out of inventory, and matters of that sort. I really think that with two items of about equal cost, it would be better to help those who are having a difficult time, even though they have paid a great deal of taxes to this country in years gone by, by a tax-averaging arrangement than it would be to provide a further tax cut to somebody who did not expect it and will be surprised to find that he got it, merely because we doubled the tax exemption, for example. Looking at priorities, I am inclined to feel there is great merit to the Senator's suggestion and I am inclined to vote for it. I do not believe we are under time control.

Mr. President, I ask for the yeas and nays on the Dole amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, the Senator from Kansas is willing to proceed without the yeas and nays.

Mr. LONG. I think that there should be a rollcall vote on it, Mr. President. That is why I asked for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. SYMINGTON) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 24, nays 70, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—24

Baker	Garn	Nelson
Brock	Gravel	Pearson
Brooke	Griffin	Scott, Hugh
Chiles	Hartke	Talmadge
Clark	Inouye	Thurmond
Cranston	Long	Tower
Dole	McClure	Tunney
Fong	Montoya	Young

NAYS—70

Abourezk	Glenn	McIntyre
Allen	Goldwater	Metcalf
Bartlett	Hansen	Mondale
Bayh	Hart, Gary W.	Morgan
Beall	Hart, Philip A.	Moss
Belmon	Haskell	Muskie
Bentsen	Hatfield	Nunn
Biden	Hathaway	Pastore
Buckley	Helms	Pell
Bumpers	Hollings	Percy
Burdick	Hruska	Proxmire
Byrd, Harry F., Jr.	Huddleston	Randolph
	Humphrey	Ribicoff
Byrd, Robert C.	Jackson	Roth
Cannon	Javits	Schweiker
Case	Johnston	Scott, William L.
Church	Kennedy	Sparkman
Culver	Leahy	Stafford
Curtis	Magnuson	Stennis
Domenici	Mansfield	Stevenson
Eagleton	Mathias	Stone
Eastland	McClellan	Weicker
Fannin	McGee	Williams
Ford	McGovern	

NOT VOTING—5

Laxalt	Stevens	Taft
Packwood	Symington	

So Mr. DOLE's amendment was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I ask unanimous consent that staff members Barbara Harris and Jeremiah Buckley be permitted to remain on the floor for the remainder of the consideration of this bill.

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

Mr. STAFFORD. Mr. President, earlier I filed an amendment which I shall not call up at this time——

The PRESIDING OFFICER. May we have order.

Mr. STAFFORD. Mr. President, I will yield to the Senator from Kentucky, with the understanding that I shall not lose the floor, for a unanimous-consent request.

Mr. FORD. Mr. President, I ask unanimous consent that a member of my staff, Tom Preston, be allowed the privileges of the floor for the remainder of the day.

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

Mr. STAFFORD. Mr. President, as I said a moment ago, earlier I filed an amendment which I shall not call up at this time because of developments that have taken place since——

The PRESIDING OFFICER. Will the Senator suspend? The Senate is not in order. The Senator may proceed.

Mr. STAFFORD. I do not want to take any action now that may further delay our action on passage of tax reduction legislation that is so important to our Nation.

I do, however, want to make a few remarks on a provision in H.R. 2166 that I believe is detrimental to a balanced and efficient transportation system in this country.

The amendment I filed would have deleted section 401 of the bill, a provision that would repeal excise taxes on trucks and buses, along with their parts and accessories.

Late in the last Congress we passed a measure permitting heavier trucks to use the Interstate System. I opposed that action primarily because of increased safety hazards, but also because of higher costs required to maintain a safe and efficient highway system.

Estimates by the Federal Highway Administration of maintenance and construction cost increases resulting from the heavier weights amounted to over $150 million a year in current dollars.

Revenues from the taxes which section 401 would repeal amounted to $744,793,000 in 1974. Thus, if the excise tax is repealed, Congress will, within 3 months, have provided a subsidy to the trucking industry on the order of $850 million.

It seems to me particularly ironic at this time to rush through a change of this magnitude when the Senate recently devoted many hours of debate to the question of increasing assistance to bankrupt railroads by $347 million.

The railroads, especially in the Northeast and Midwest, are in dire straits. Many suggest that a major cause of this situation is the competitive edge given to truck transportation by virtue of the fact that Federal, State, and local governments provide and maintain truck rights-of-way, that is, the Nation's highways.

One measure of this advantage is given in the recent preliminary report by the U.S. Railway Association, which notes that class I and II regulated motor carriers spent only 5.9 percent of their revenues for "user charges"—both State and Federal—while class I railroads spent almost 21 percent of their revenues on maintenance of right-of-way facilities. To increase the competitive edge of trucks at this time seems particularly ill advised.

A related issue is the question of whether trucks pay their fair share of the cost of the Nation's highway system. Truckers have long contended, in testimony before the Public Works Committee and elsewhere, that the existing tax structure represents a balance between truck user benefits from, and contributions to, the Highway Trust Fund.

Some economic analyses, including one done by DOT, however, have concluded that heavy trucks do not pay their share of highway construction costs, even under present tax rates.

The Committee on Public Works, over the past several years, has heard repeated testimony from State and county highway officials, from automobile associations, and safety experts, that there is a pressing need to rebuild and upgrade existing highways.

Many billions of dollars are required—not to construct new roads but to render the present network safe and efficient. It is said that an investment in improving the highway system produces long-term economic benefits, and that the investment must be made now to insure that highway transportation does not suffer the same fate as the railroads.

Surely this is no time to reduce the investment required from those profiting most from an efficient highway system.

Finally, the Public Works Committee will be looking at the entire Federal-aid highway program this year and making recommendations to the Finance Committee with regard to the highway trust fund, which is scheduled to expire in October 1977.

Repeal of this source of revenue, which in 1974 contributed 12.3 percent of the income to the trust fund, could limit other options for modifying the trust fund, such as turning back to the States a portion of gasoline tax revenues.

To relieve the trucking industry of a substantial share of its obligation to contribute to the cost of reconstructing highways which its vehicles tear up while simultaneously giving trucks further economic advantage over rails, seems to this Senator too high a price to pay for a scheme which might only eventually result in higher employment.

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

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Does the Senator from Florida wish to offer an amendment?

Mr. LONG. Mr. President, I ask that the Senator from South Carolina be recognized for 1 minute.

Mr. ROBERT C. BYRD. Mr. President, I yield then to the Senator from South Carolina, and I have an amendment which I would like to call up.

I would ask unanimous consent that following the amendment of Mr. HOLLINGS and the amendment of Mr. CHILES, that I be recognized to call up my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I call up my plowback clarification amendment. I have checked with the leader and the minority leader on the other side, and I ask the clerk to state the amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

At the end of the Internal Revenue Act, section 613A., Limitations on percentage depletion in case of oil and gas wells, subsection "(e), Plowback Limitation," after "(3) Qualified investment carryover", add a new subsection "(4) Royalty Owners", and renumber all succeeding sections accordingly:

"(4) ROYALTY OWNERS.—

"(1) General rule shall not apply in the case of the deduction for depletion with respect to a producer's share of production from a royalty interest.

Mr. HOLLINGS. Mr. President, in drawing up our compromise amendment yesterday that we presented to the Senate, I thought in the Cranston plowback provisions they included section 4 of the Senator from Texas (Mr. BENTSEN) relative to royalty owners.

At one time the distinguished Senator from Oklahoma (Mr. BARTLETT) asked me if that was in that version and my answer was, "yes." I am only submitting an amendment now—and we can just by voice vote put it in—to put it just exactly where we said it was; namely, that the Bentsen plowback provision relative to exempting royalty owners would be in this bill.

The merit is, of course, that the royalty owner could lease his tract, he should not be required to go into that business, particularly with respect to independents.

I am trying to put the amendment exactly where I represented it to be at the time the Senate adopted it yesterday afternoon.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from South Carolina and this is agreeable.

Mr. HOLLINGS. I yield to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Mr. President, just to be perfectly clear, on the Hollings amendment, the intent is to exempt the landowner royalties from the plowback provisions. Is that correct?

Mr. HOLLINGS. That is correct. When you look at the amendment on page 9 where they include the plowback provision, they put it into the Cranston amendment, but in clipping pages 9, 10, and 11 they made a mistake on the top paragraph, paragraph 4, which referred to the royalty owner. That is what we thought was included. It was a clipping error on their part. When we took that, we thought we were including the full Bentsen plowback. The intent is clear, that the royalty owner is only the owner of the property and he could not in good conscience be required to go into the oil business on a plowback provision. It does not relate whatever to his income. If he is the landowner, he is exempt from the plowback provision.

Mr. JOHNSTON. I thank the Senator.

The PRESIDING OFFICER. The Senator from South Carolina has the floor.

Mr. HOLLINGS. I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. (Putting the question.)

The amendment was agreed to.

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. LONG. Mr. President——

The PRESIDING OFFICER. I am informed there was a previous agreement to recognize the Senator from Florida.

Mr. CHILES. It is a unanimous-consent request, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida.

Mr. CHILES. I call up my amendment in the form of a substitute and request its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. CHILES. Mr. President, 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:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reduction Act of 1975".

(b) TABLE OF CONTENTS.—

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act 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 the Internal Revenue Code of 1954.

TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES

SEC. 101. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6428. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for his first taxable year beginning in 1974 in an amount equal to 7.5 percent of the amount of his liability for tax for such taxable year.

"(b) MINIMUM PAYMENT.—The amount treated as paid by reason of this section shall not be less than the lesser of—

"(1) the amount of the taxpayer's liability for tax for his first taxable year beginning in 1974, or

"(2) $75 ($37.50 in the case of a married individual filing a separate return).

"(c) MAXIMUM PAYMENT.—

"(1) IN GENERAL.—The amount treated as paid by reason of this section shall not exceed $150 ($75 in the case of a married individual filing a separate return).

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The excess (if any) of—

"(A) the amount which would (but for this paragraph) be treated as paid by reason of this section, over

"(B) the applicable minimum payment provided by subsection (b),

shall be reduced (but not below zero) by an amount which bears the same ratio to such excess as the adjusted gross income for the taxable year in excess of $20,000 bears to $10,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$10,000' for '$20,000' and by substituting '$5,000' for '$10,000'.

"(d) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for the taxable year shall be the sum of—

"(1) the tax imposed by chapter 1 for such year, reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs), and

"(E) section 41 (relating to contributions to candidates for public office), plus

"(2) the tax on amounts described in section 3102(c) or 3202(c) which are required to be shown on the taxpayer's return of the chapter 1 tax for the taxable year.

"(e) DATE PAYMENT DEEMED MADE.—The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or

"(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.

"(f) JOINT RETURN.—For purposes of this section, in the case of a joint return under section 6013 both spouses shall be treated as one individual.

"(g) MARITAL STATUS.—The determination of marital status for purposes of this section shall be made under section 143.

"(h) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) NO INTEREST ON INDIVIDUAL INCOME TAX REFUNDS FOR 1974 REFUNDED WITHIN 60 DAYS AFTER RETURN IS FILED.—In applying section 6611(e) of the Internal Revenue Code of 1954 (relating to income tax refund within 45 days after return is filed) in the case of any overpayment of tax imposed by subtitle A of such Code by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, "60 days" shall be subtitled for "45 days" each place it appears in such section 6611(e).

(c) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Section 6428. Refund of 1974 individual income taxes."

SEC. 102. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

Any payment considered to have been made by any individual by reason of section 6428 of the Internal Revenue Code of 1954 shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES

SEC. 201. TAX CREDIT FOR PERSONAL EXEMPTIONS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by renumbering section 42 as 45 and by inserting after section 41 the following new section:

"SEC. 42. PERSONAL EXEMPTIONS.

"(a) GENERAL RULE.—There shall be allowed to the taxpayer as a credit against tax for the taxable year in lieu of the deduction provided for personal exemptions under section 151 (if such credit results in the imposition of a lower tax under this chapter), an amount equal to $185 multipled by the number of exemptions which would otherwise be allowed to such taxpayer under section 151. Such credit shall not exceed the tax imposed by this chapter (determined without regard to subsection (b)) for the taxable year.

"(b) DEFINITION.—For purposes of this title, in the case of an individual, the term 'tax imposed by this chapter' means the tax imposed by this chapter reduced by the

amount of the credit allowed under this section."

(b) TECHNICAL AMENDMENTS.—

(1) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Personal exemptions.
"Sec. 43. Earned income.
"Sec. 44. Purchase of principal residence.
"Sec. 45. Overpayments of tax."

(2) Section 2(e) (relating to definitions and special rules) is amended to read as follows:

"(e) CROSS REFERENCES.—

"(1) For definition of taxable income, see section 63.

"(2) For definition of tax imposed by this chapter, see section 42(b).".

(3) Section 63 (relating to taxable income defined) is amended—

(A) by striking out "subsection (b)" in subsection (a) and inserting in lieu thereof "subsections (b) and (c)", and

(B) by inserting at the end thereof the following new subsection:

"(c) INDIVIDUALS ALLOWED THE CREDIT UNDER SECTION 42.—With respect to individuals who are allowed a credit under section 42 (relating to personal exemptions), except for the purposes of sections 1 and 3, the term 'taxable income' means the amount determined under this chapter without regard to section 42.".

(4) Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(f) INDIVIDUALS ALLOWED A CREDIT UNDER SECTION 42.—With respect to any taxpayer who is allowed a credit under section 42 (relating to personal exemptions), any reference to personal exemptions allowed under this section shall be considered to be a reference to the exemptions which would be allowed under this section without regard to section 42.".

(5) Section 6201 (a) is amended by adding at the end thereof the following new paragraph:

"(5) OVERSTATEMENT OF TAX LIABILITY.—If on any return or claim for refund of income taxes under subtitle A there is an overstatement of liability for tax with respect to the credit allowable under section 42 (relating to personal exemptions) or the deduction allowable under section 151 (relating to deductions for personal exemptions), the amount of such liability shall be recomputed by the Secretary or his delegate in the same manner as a mathematical error appearing on the return.".

SEC. 202. CREDIT FOR CERTAIN EARNED INCOME.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 42, as added by this Act, the following new section:

SEC. 43. EARNED INCOME.

"(a) ALLOWANCE OF CREDIT.—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.

"(b) LIMITATION.—Notwithstanding the provisions of subsection (a), the amount of the credit allowable to a taxpayer under subsection (a) of 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.

"(c) DEFINITION.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who—

"(A) maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of that individual and of a child of that individual with respect to whom he is entitled to claim a deduction under section 151(e)(1)(B) (relating to additional exemption for dependents), and

"(B) does not exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).

"(2) EARNED INCOME.—

"(A) The term 'earned income' means—

"(i) wages, salaries, tips, and other employee compensation, plus

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).

"(B) For purposes of subparagraph (A)—

"(i) except as provided in clause (ii), any amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year,

"(ii) the earned income of an individual shall be computed without regard to any community property laws,

"(iii) no amount received as a pension or annuity shall be taken into account, and

"(iv) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

"(d) REQUIREMENT OF JOINT RETURN.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.

"(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months."

(b) REFUND TO BE MADE WHERE CREDIT EXCEEDS LIABILITY FOR TAX.—

(1) Section 6401(b) (relating to excessive credits) is amended—

(A) by inserting "43 (relating to earned income credit)," before "and 667(b)"; and

(B) by striking out "and 39" and inserting in lieu thereof a comma "39, and 49".

(2) Section 6201(a)(4) (relating to assessment authority) is amended by—

(A) inserting "or 43" after "section 39" in the caption of such section; and

(B) striking out "oil)," and inserting in lieu thereof "oil) or section 43 (relating to personal exemptions),".

(c) AMENDMENT OF SOCIAL SECURITY ACT.—Section 402(a)(7) of the Social Security Act is amended by inserting after "other income" the following: "(including any amounts derived from application of the tax credit established by section 43 of the Internal Revenue Code of 1954)".

SEC. 203. WITHHOLDING TAX.

(a) REQUIREMENT OF WITHHOLDING.—Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Every employer making payment of wages shall deduct and withhold upon such wages (except as otherwise provided in this section) a tax determined in accordance with tables prescribed by the Secretary or his delegate. The tables so prescribed shall be the same as the tables contained in this subsection as in effect on January 1, 1975, except that the amounts set forth as amounts of income tax to be withheld for the remainder of calendar year 1975 and for calendar year 1976 and thereafter shall reflect the amendments made by title II of the Tax Reduction Act of 1975 which are applicable to such years. For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1).".

(b) CONFORMING AMENDMENT.—Section 3402(c)(6) (relating to wage bracket withholding) is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

SEC. 205. CREDIT FOR PURCHASE OF PRINCIPAL RESIDENCE.

Subpart A of part IV of subchapter A chapter 1 (relating to credits allowed), as amended by this Act, is amended by inserting after service 43 the following new section:

"SEC. 44. PURCHASE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a principal residence purchased, constructed, or reconstructed by the taxpayer.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) for all taxable years may not exceed $2,000.

"(2) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a joint return under section 6013, the amount specified under paragraph (1) applies to the joint return. In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$1,000' for '$2,000'.

"(3) CERTAIN OTHER TAXPAYERS.—In the case of individuals to whom paragraph (2) does not apply who purchase a single principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals as prescribed by the Secretary or his delegate, but the sum of the amounts to such individuals shall not exceed $2,000 with respect to that residence.

"(4) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under sections 33, 35, 37, 38, 40, and 41.

"(c) DEFINITIONS.—For purposes of this section.—

"(1) PRINCIPAL RESIDENCE.—The term 'principal residence' means a principal residence (within the meaning of section 1034), and includes, without being limited to, a single family structure, a residential unit in a condominium or cooperative housing project, and a mobile home.

"(2) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the property.

"(3) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date on which he acquired it as his principal residence, then the tax imposed under this chapter for the taxable year following the taxable year during which such disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new residence, then the provisions of paragraph (1) do not apply and the tax imposed by this chapter for the taxable year following the taxable year during which disposition occurs is increased by an amount which bears the same ratio to the amount allowed as a credit for the purchase of the old residence as (A) the adjusted sales price of the old residence (within the meaning of section 1034), reduced (but not below zero) by the taxpayer's cost of purchasing the new residence (within the meaning of such section) bears to (B) the adjusted sales price of the old residence.

"(2) DEATH OF OWNER; CASUALTY LOSS.—The provisions of paragraph (1) do not apply—

"(A) to a disposition is made on account of the death of any individual having a legal or equitable interest in the old residence occurring during the 36 month period to which reference is made under such paragraph, or

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily and involuntarily converted (within the meaning of section 1033(a)).

"(e) PROPERTY TO WHICH SECTION APPLIES.

"(1) IN GENERAL.—The provisions of this section apply to property acquired and occupied by the taxpayer as his principal residence after March 12, 1975, and before January 1, 1977—

"(A) the construction, reconstruction, or erection of which by the taxpayer commences before January 1, 1976, or

"(B) in the case of property not constructed, reconstructed, or erected by the taxpayer, acquired by the taxpayer under a binding contract entered into by the taxpayer before January 1, 1976.

"(2) NEW PROPERTY LIMITATION.—Notwithstanding the provisions of paragraph (1), this section does not apply to the acquisition of any property upon which construction is commenced before March 13, 1975, whether by the taxpayer or by any other person. In the case of reconstruction property to which this section applies, the preceding sentence shall apply only to the period beginning on the date on which reconstruction is begun.

"(3) SELF-CONSTRUCTED PROPERTY BEGUN BEFORE MARCH 13, 1975.—In the case of property the construction, reconstruction, or erection of which was begun by the taxpayer before March 13, 1975, only that portion of the basis of such property properly allocable to construction after March 12, 1975, shall be taken into account in determining the amount of the credit allowable under subsection (a).

"(3) BINDING CONTRACT.—For purposes of this subsection, a contract for the purchase of a residence which is conditioned upon the purchaser's obtaining a loan for the purchase of the residence (including conditions as to the amount or interest rate of such loan) is not considered non-binding on account of that condition.".

SEC. 205. EFFECTIVE DATES.

(a) SECTION 201.—The amendments made by section 201 apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

(b) SECTION 202.—The amendments made by section 202 apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

(c) SECTION 203.—The amendments made by section 203 apply to wages paid after April 30, 1975.

TITLE III—CERTAIN CHANGES IN BUSINESS TAXES

"SEC. 301. INCREASE IN INVESTMENT CREDIT.

(a) INCREASE OF INVESTMENT CREDIT TO 10 PERCENT.—Paragraph (1) of section 46(a) (determining the amount of the investment credit) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) 10-PERCENT CREDIT.—The amount of the credit allowed by section 38 for the taxable year shall by equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).

"(B) 7-PERCENT CREDIT.—Notwithstanding the provisions of subparagraph (A), in the case of property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer before January 22 1975, or

"(ii) which is acquired by the taxpayer before January 22, 1975,

the amount of the credit allowed by section 38 for the taxable year shall be equal to 7 percent of the qualified investment (as defined in subsection (c)).

"(C) TRANSITIONAL RULE.—In the case of property—

"(i) the construction, reconstruction, or erection of which is begun by the taxpayer before January 22, 1975, and

"(ii) the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975,

subparagraph (B) shall apply to the property to the extent of that portion of the basis which is properly attributable to construction, reconstruction, or erection before January 22, 1975, and subparagraph (A) or (D), whichever is applicable, shall apply to such property to the extend of that portion of the basis which is properly attributable to construction, reconstruction, or erection after January 21, 1975.

"(D) 12-PERCENT CREDIT.—In the case of a taxpayer who elects to have the provisions of this subparagraph apply, the amount of the credit allowed by section 38 for the taxable year is an amount equal to 12 percent of the qualified investment (as determined under subsections (c) and (d). In the case of a taxpayer whose qualified investment (as determined under subsections (c) and (d)) for the taxable year exceeds $10,000,000 (determined without regard to carryovers and carrybacks), an election may not be made to have the provisions of this subparagraph apply for the taxable year unless such taxpayer meets the requirements of section 301(d) of the Tax Reduction Act of 1975.

"(E) APPLICATION OF 12-PERCENT CREDIT.—An election by the taxpayer to have the provisions of subparagraph (D) apply shall be made at such time, in such form, and in such manner as the Secretary or his delegate may prescribe. If elected, the provisions of subparagraph (D) apply only to—

"(i) property to which subsection 46(d) does not apply, the construction, reconstruction, or erection of which by the taxpayer is completed after January 21, 1975, but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after January 21, 1975 and before January 1, 1977,

"(ii) property to which subsection 46(d) does not apply, acquired by the taxpayer after January 21, 1975 and before January 1, 1977, and placed in service by the taxpayer before January 1, 1977, and

"(iii) property to which subsection 46(d) applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d)) with respect to qualified progress expenditures made after January 21, 1975 and before January 1, 1977."

(b) PUBLIC UTILITY PROPERTY.—

(1) DETERMINATION OF QUALIFIED INVESTMENT.—Subparagraph (A) of section 46(c)(3) (relating to determination of qualified investment in the case of public utility property) is amended to read as follows:

"(A) To the extent that subsection (a)(1)(B) applies to property which is public utility property, the amount of the qualified investment shall be ½ of the amount determined under paragraph (1)."

(2) INCREASE IN 50-PERCENT LIMITATION.—Section 46(a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

"(A) IN GENERAL.—If, for a taxable year ending after 1974 and before 1981, the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (2) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year begins in:	The tentative percentage is:
1975 or 1976	50
1977	40
1978	30
1979	20
1980	10

"(D) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B).".

(3) LIMITATION IN CASE OF CERTAIN REGULATED COMPANIES.—Section 46(f), as redesignated by section 302(a) of this Act (relating to limitation in case of certain regulated companies, is amended by adding at the end thereof the following new paragraph:

"(8) PROHIBITION OF IMMEDIATE FLOWTHROUGH IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided under subparagraph (D), no additional credit shall be allowed with respect to public utility property (within the meaning of subsection (a)(6)(D)) unless paragraph (1) or (2) applies with respect to such property.

"(B) ADDITIONAL CREDIT.—For purposes of this paragraph, the term 'additional credit' means the credit allowable under section 38 with respect to public utility property (within the meaning of subsection (a)(6)(D)) determined without regard to this paragraph in excess of the credit which would have been allowable if the Tax Reduction Act of 1975 had not been enacted.

"(C) RATABLE FLOWTHROUGH.—Unless the taxpayer makes an election within 90 days after the date of enactment of the Tax Reduction Act of 1975 in the manner prescribed by the Secretary or his delegate (or has previously made such an election) to have the provisions of paragraph (2) apply with respect to public utility property (within the meaning of subsection (a)(6)(D)), the requirements of paragraph (1) shall apply with respect to the additional credit.

"(D) SPECIAL ELECTION FOR IMMEDIATE FLOWTHROUGH.—Subparagraph (A) shall not apply with respect to public utility property (within the meaning of subsection (a)(6)(D)) if, at its own option and without regard to any requirement imposed by an agency described in subsection (c)(3)(B), the taxpayer elects, within 90 days after the

date of enactment of this paragraph, to have the provisions of paragraph (3) apply with respect to such property.

"(E) LIMITATION.—The requirements of this paragraph shall not be applied before the first final determination which is inconsistent with such requirements, determined in the same manner as under paragraph (4)."

(4) EFFECTIVE DATES.—The amendment made by subsection (b)(1) applies to property placed in service after January 21, 1975, in taxable years ending after January 21, 1975. The amendments made by paragraphs (2) and (3) apply to taxable years ending after December 31, 1974.

(c) REPEAL OF DOLLAR LIMITATION ON USED PROPERTY.—Paragraph (2) of section 48(c) is amended by inserting after subparagraph (D) the following new subparagraph:

"(E) EXPIRATION OF LIMITATION.—This paragraph shall not apply with respect to property acquired by the taxpayer after January 21, 1975.".

(d) PLAN REQUIREMENTS FOR TAXPAYERS ELECTING 12-PERCENT CREDIT OR SUBSTITUTION OF LOSS CARRYBACK YEARS FOR LOSS CARRYFORWARD YEARS.—In order to meet the requirements of this subsection—

(1) A corporation (hereinafter referred to as the "employer") must establish an employee stock ownership plan (described in paragraph (2)) which is funded by transfers of employer securities in accordance with the provisions of paragraph (5) and which meets all other requirements of this subsection.

(2) The plan referred to in paragraph (1) must be an individual account plan established in writing which—

(A) is a stock bonus plan, a stock bonus and money purchase pension plan, or a profit-sharing plan,

(B) is designed to invest primarily in employer securities, and

(C) meets such other requirements (similiar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may prescribe.

(3) The plan must provide for the allocation of all employer securities transferred to it or purchased by it (because of the application of the provisions of section 46(a)(1)(E) of the Internal Revenue Code of 1954, or the requirements of section 172(b)(1)(E) of such Code) to the account of each participant at the close of each plan year in an amount which bears substantially the same proportion to the amount of all such securities allocated to all participants in the plan for that plan year as the amount of compensation paid to such participant (disregarding any compensation in excess of the first $100,000 per year) bears to the compensation paid to all such participants during that year (disregarding any compensation in excess of the first $100,000 with respect to any participant). Notwithstanding the first sentence of this paragraph, the allocation to participants' accounts may be extended for such additional period or periods as may be necessary to comply with the requirements of section 415 of the Internal Revenue Code of 1954.

(4) The plan must provide that each participant is entitled to direct the plan as to the manner in which any employer securities allocated to the account of the participant are to be voted.

(5) On making a claim for credit, adjustment, or refund under section 38 of the Internal Revenue Code of 1954, or under section 172 of such Code (if applicable), the employer states in such claim that it agrees, as a condition of receiving any such credit, adjustment, or refund, to transfer (not less rapidly than ratable over 10 years) employer securities to the plan having an aggregate value at the time of the claim of—

(A) at least one-twelfth of the amount of the credit determined under section 46(a)(1)(D) thereof for the taxable year (determined without regard to section 46(a)(2)), or

(B) in the case of an employer making an election under section 172(b)(1)(E) of such Code, at least 25 percent of the total amount of the refund or credit of any overpayment of tax claimed by the employer in its first carryback adjustment application or claim for refund pursuant to such election.

In the case of an employer to whom subparagraph (B) applies, and who, on March 13, 1975, maintained a supplementary unemployment compensation benefit plan for its employees which meets the requirements of section 501(c)(17) of such Code, the requirements of such subparagraph shall be treated as satisfied if the employer transfers no more than half of the amount required under such subparagraph to such supplementary unemployment compensation benefit plan. For purposes of meeting the requirements of this paragraph, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the plan, used to purchase employer securities.

(6) Notwithstanding any other provision of law to the contrary, if the plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

(A) stock transferred under paragraph (5) and distributed to participants, to the extent that it is considered income under the Internal Revenue Code of 1954, shall be taxed in accordance with the provisions of section 72 thereof (treating the participant as having a basis of zero in the contract) rather than under section 83 of such Code,

(B) no amount shall be allocated to any participant in excess of the amount which might be allocated if the plan met the requirements of section 401 of such Code, and

(C) the plan must meet the requirements of sections 410 and 415 of such Code.

(7) If the amount of the credit determined under section 46(a)(1)(D) of the Internal Revenue Code of 1954, or the amount of the adjustment or refund resulting from the carryback of the net operating loss under the election made under section 172(b)(1)(E) of such Code, is recaptured in accordance with the provisions of such Code, the amounts transferred to the plan under this subsection and allocated under the plan shall remain in the plan or in participant accounts, as the case may be, and continue to be allocated in accordance with the original plan agreement.

(8) For purposes of this subsection, the term—

(A) "employer securities" means common stock issued by the employer or its affiliate with voting power and dividend rights no less favorable than the voting power and dividend rights of other common stock issued by the employer or its affiliate, or securities issued by the employer or its affiliate convertible into such stock, and

(B) "value" means the average of closing prices of the employer's securities, as reported by a national exchange on which securities are listed, for the 20 consecutive trading days immediately preceding the date of transfer or allocation of such securities.

(9) The Secretary of the Treasury or his delegate shall prescribe such regulations and require such reports as may be necessary to carry out the provisions of this subsection.

(10) If, at any time within 120 months following the date on which the plan is established under this subsection the employer fails to meet any requirement imposed under this subsection or under any obligation undertaken to comply with the requirement of this subsection, he is liable to the United States for a civil penalty of an amount equal to the amount involved in such failure. The preceding sentence shall not apply if the taxpayer corrects such failure (as determined by the Secretary of the Treasury or his delegate) within 90 days after it occurs. The amount involved shall not exceed the amount of the credit or refund or adjustment, and shall not be less than one-half of 1 percent of the amount such person is required to transfer to the plan described in this section during such 10-year period. The amount of such penalty may be collected by the Secretary of the Treasury and the same earned which a deficiency in the payment of Federal income tax may be collected.

(15) Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary no deduction shall be allowed under sections 162, 212, or 404 of such code for amounts transferred to an employee stock ownership plan or a supplementary unemployment compensation benefit plan and taken into account under this subsection.

SEC. 302. ALLOWANCE OF INVESTMENT CREDIT WHERE CONSTRUCTION OF PROPERTY WILL TAKE MORE THAN 2 YEARS.

(a) GENERAL RULE.—Section 46 (relating to amount of credit) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED PROGRESS EXPENDITURES.—

"(1) IN GENERAL.—In the case of any taxpayer who has made an election under paragraph (6), the amount of his qualified investment for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to his aggregate qualified progress expenditures for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'progress expenditure property' means any property which is being constructed by or for the taxpayer and which—

"(i) has a normal construction period of two years or more, and

"(ii) it is reasonable to believe will be new section 38 property having a useful life of 7 years or more in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) of the preceding sentence shall be applied on the basis of facts known at the close of the taxable year of the taxpayer in which construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

"(B) NORMAL CONSTRUCTION PERIOD.—For purposes of subparagraph (A), the term 'normal construction period' means the period reasonably expected to be required for the construction of the property—

"(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

"(ii) ending on the date on which it is expected that the property will be available for placing in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the lesser of—

"(i) the amount paid during the taxable year to another person for the construction of such property, or

"(ii) the amount which represents that proportion of the overall cost to the taxpayer of the construction by such other person which is properly attributable to that

portion of such construction which is completed during such taxable year.

"(4) SPECIAL RULES FOR APPLYING PARAGRAPH (3).—For purposes of paragraph (3)—

"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—

"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the progress expenditure property, and

"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) CERTAIN BORROWINGS DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for him shall not be treated as an amount expended for such construction.

"(C) CERTAIN UNUSED EXPENDITURES CARRIED OVER.—In the case of non-self-constructed property, if for the taxable year—

"(i) the amount under clause (i) of paragraph (3)(B) exceeds the amount under clause (ii) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (i) for the succeeding taxable year, or

"(ii) the amount under clause (ii) of paragraph (3)(B) exceeds the amount under clause (i) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (ii) for the succeeding taxable year.

"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—In the case of non-self-constructed property, the determination under paragraph (3)(B)(ii) of the proportion of the overall cost to the taxpayer of the construction of any property which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary or his delegate, on the basis of engineering or achitectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

"(E) NO QUALIFIED PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for any period before January 22, 1975 (or, if later, before the first day of the first taxable year to which an election under this subsection applies).

"(F) NO QUALIFIED PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the earlier of—

"(i) the taxable year in which the property is placed in service, or

"(ii) the first taxable year for which recapture is required under section 47(a)(3) with respect to such property,

or for any taxable year thereafter.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY. — The term 'self-constructed property' means property more than half of the construction expenditures for which it is reasonable to believe will be made directly by the taxpayer.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—The term 'non-self-constructed property' means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF SECTION 38 PROPERTY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(6) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary or his delegate.

"(7) TRANSITIONAL RULES.—The qualified investment taken into account under this subsection for any taxable year beginning before January 1, 1980, with respect to any property shall be (in lieu of the full amount) an amount equal to the sum of—

"(A) the applicable percentage of the full amount determined under the following table:

"For a taxable year beginning in:	The applicable percentage is:
1974 or 1975	20
1976	40
1977	60
1978	80
1979	100;

plus

"(B) in the case of any property to which this subsection applied for one or more preceding taxable years, 20 percent of the full amount for each such preceding taxable year.

For purposes of this paragraph, the term 'full amount', when used with respect to any property for any taxable year, means the amount of the qualified investment for such property for such year determined under this subsection without regard to this paragraph."

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 46(c).—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (d).—The amount which would (but for this paragraph) be treated as qualified investment under this subsection with respect to any property shall be reduced (but not below zero) by any amount treated by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 47(a)(3)(C), by the lessee) as qualified investment with respect to such property under subsection (d)), to the extent the amount so treated has not been required to be recaptured by reason of section 47(a)(3)."

(2) DISPOSITION, ETC.—

(A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) PROPERTY CEASES TO BE PROGRESS EXPENDITURE PROPERTY.—

"(A) IN GENERAL.—If during any taxable year any property taken into account in determining qualified investment under section 46(d) ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be new section 38 property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) CERTAIN EXCESS CREDIT RECAPTURED.—Any amount which would have been applied as a reduction of the qualified investment in property by reason of paragraph (4) of section 46(c) but for the fact that a reduction under such paragraph cannot reduce qualified investment below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year in which the property is placed in service.

"(C) CERTAIN SALES AND LEASEBACKS.—Under regulations prescribed by the Secretary or his delegate, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom section 48(d) applies shall not be treated as a cessation described in subparagraph (A) to the extent that the qualified investment which will be passed through to the lessee under section 48(d) with respect to such property does not exceed the qualified progress expenditures properly taken into account by the lessee with respect to such property.

"(D) COORDINATION WITH PARAGRAPH (1).—If after property is placed in service, there is a disposition or other cessation described in paragraph (1), paragraph (1) shall be applied as if any credit which was allowable by reason of section 46(d) and which has not been required to be recaptured before such cessation were allowable for the taxable year the property was placed in service."

(c) CLERICAL AMENDMENTS.—

(1) Paragraph (4) of section 47(a) (as redesignated by subsection (b)(3)(A) of this section) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (3)".

(2) Paragraphs (5) and (6)(B) of section 47(a) are each amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

(3) Paragraphs (1) and (2) of section 48(d) are each amended by striking out "section 46(d)(1)" and inserting in lieu thereof "section 46(e)(1)".

(4) Subsection (f) of section 50B is amended by striking out "section 46(d)" and inserting in lieu thereof "section 46(e)".

SEC. 303. CHANGE IN CORPORATE TAX RATES AND INCREASE IN SURTAX EXEMPTION.

(a) TAX RATES.—Section 11 (relating to tax imposed on corporations) is amended—

(1)(A) by striking out "and" at the end of subsection (b)(1),

(B) by striking out the period at the end of subsection (b)(2) and inserting in lieu thereof a comma and "to which paragraph (3) does not apply, and", and

(C) by adding at the end of subsection (b) the following new paragraph:

"(3) 18 percent, in the case of a taxable year beginning after December 31, 1974, and before January 1, 1976.",

(2)(A) by striking out "and" at the end of subsection (c)(2),

(B) by striking out the period at the end of subsection (c)(3) and inserting in lieu thereof a comma and "to which paragraph (4) does not apply, and", and

(C) by adding at the end of subsection (c) the following new paragraph:

"(4) 30 percent, in the case of a taxable year beginning after December 31, 1974, and before January 1, 1976.".

(b) SURTAX EXEMPTION.—Section 11(d) (relating to surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1561(a) (as in effect for taxable years beginning after December 31, 1974) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(2) Paragraph (7) of section 12 (relating to cross references for tax on corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(3) Section 962(c) (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) is amended by

striking and "$25,000" and inserting in lieu thereof "$50,000".

SEC. 304. EFFECTIVE DATES.

(a) SECTION 302.—The amendments made by section 302 shall apply to taxable years ending after December 31, 1974.

(b) SECTION 303.—

(1) IN GENERAL.—The amendments made by section 303 apply to taxable years ending after December 31, 1974. Such amendments shall cease to apply for taxable years ending after December 31, 1975.

(2) CHANGES TREATED AS CHANGES IN TAX RATE.—Section 21 (relating to change in rates during taxable year) is amended by adding at the end thereof the following new subsection:

"(f) INCREASE IN SURTAX EXEMPTION.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303(b) of the Tax Reduction Act of 1975 in section 11(d) (relating to corporate surtax exemption) shall be treated as a change in a rate of tax."

TITLE IV—CHANGES AFFECTING INDIVIDUALS AND CORPORATIONS

SEC. 401. REPEAL OF EXCISE TAX ON MOTOR VEHICLES.

(a) IN GENERAL.—Part I of subchapter A of chapter 32 (relating to manufacturer's excise tax on motor vehicles) is repealed.

(b) FLOOR STOCKS REFUNDS.—

(1) IN GENERAL.—Where, before the day after the date of enactment of this Act, any tax repealed article (as defined in subsection (e)) has been sold by the manufacturer, producer, or importer and on such day is held by a dealer and has not been used and is intended for sale, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article, if—

(A) a claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before the first day of the tenth calendar month beginning after the day after the date of enactment of this Act based upon a request submitted to the manufacturer, producer, or importer before the first day of the seventh calendar month beginning after the day after the date of enactment of this Act by the dealer who held the article in respect of which the credit or refund is claimed; and

(B) on or before the first day of such tenth calendar month reimbursement has been made to the dealer by the manufacturer, producer, or importer in an amount equal to the tax paid on the article or written consent has been obtained from the dealer to allowance of the credit or refund.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) unless he has in his possession such evidence of the inventories with respect to which the credit or refund is claimed as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, which were applicable with respect to the taxes imposed by part I of subchapter A of chapter 32 of the Internal Revenue Code of 1954, as in effect on the day before the date of enactment of this Act, shall, insofar as applicable and not inconsistent with paragraphs (1) and (2) of this subsection, apply in respect to the credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayment of the tax.

(c) REFUNDS WITH RESPECT TO CERTAIN CONSUMER PURCHASES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), where, with respect to an article which was subject to a tax imposed under part I of subchapter A of chapter 32 of such Code (as in effect on the day before the enactment of this Act), a tax repealed article (as defined in subsection (e)) has been sold to an ultimate purchaser after March 13, 1975, and on or before such date of enactment, there shall be credited or refunded (without interest) to the manufacturer, producer, or importer of such article an amount equal to the tax paid by such manufacturer, producer, or importer on his sale of the article.

(2) LIMITATION ON ELIGIBILITY FOR CREDIT OR REFUND.—No manufacturer, producer, or importer shall be entitled to a credit or refund under paragraph (1) with respect to an article unless—

(A) he has in his possession such evidence of the sale of the article to an ultimate purchaser, and of the reimbursement of the tax to such purchaser, as may be required by regulations prescribed by the Secretary of the Treasury or his delegate under this subsection;

(B) a claim for such credit or refund is filed with the Secretary of the Treasury or his delegate before the first day of the tenth calendar month beginning after the day after the date of the enactment of this Act based upon information submitted to the manufacturer, producer, or importer before the first day of the seventh calendar month beginning after the day after the date of the enactment of this Act by the person who sold the article (in respect of which the credit or refund is claimed) to the ultimate purchaser; and

(C) on or before the first day of such tenth calendar month reimbursement has been made to the ultimate purchaser in an amount equal to the tax paid on the article.

(3) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, were applicable with respect to taxes imposed under part I of subchapter A of chapter 32 of the Internal Revenue Code of 1954, as in effect on the day before the date of enactment of this Act, shall, insofar as applicable and not inconsistent with paragraph (1) or (2) of this subsection, apply in respect of credits and refunds provided for in paragraph (1) to the same extent as if the credits or refunds constituted overpayments of the tax.

(d) CERTAIN USES BY MANUFACTURER, ETC.—Any tax by reason of section 4218(a) of the Internal Revenue Code 1954 (relating to use by manufacturer or importer considered sale) is deemed an overpayment of such tax with respect to any article which was subject to a tax imposed under part I of subchapter A of chapter 32 of such Code as in effect on the day before the date of the enactment of this Act if the tax was imposed on such article by reason of such section 4218(a) after March 13, 1975.

(e) DEFINITION. For purposes of this section—

(1) The term "dealer" includes a wholesaler, jobber, distributor, or retailer.

(2) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made) and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

(3) The term "tax-repealed article" means an article on which a tax was imposed under part I of subchapter A of chapter 32 of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act and is not imposed under such subchapter as in effect on the day after the date of enactment of this Act.

(f) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) applies with respect to articles sold after the date of enactment of this Act.

(2) For purposes of paragraph (1), an article shall not be considered sold before the day after the date of enactment of this Act unless possession or the right to possession passes to the purchaser before such day.

(3) In the case of—

(A) a lease,

(B) a contract for the sale of an article where it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

(C) a conditional sale, or

(D) a chattel mortgage arrangement wherein it is provided that the sale price shall be paid in installments,

entered into before March 14, 1975, payments after such date with respect to the article leased or sold shall, for purposes of this subsection, be considered as payments made with respect to an article sold after such date, if the lessor or vendor establishes that the amount of payments payable after such date with respect to such article has been reduced by an amount equal to that portion of the tax applicable with respect to the lease or sale of such article which is due and payable after such date. If the lessor or vendor does not establish that the payments have been so reduced, they shall be treated as payments made in respect of an article sold before such date.

Amend the title so as to read: "An Act to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to provide a tax credit in lieu of the personal exemption deduction, to provide a credit for certain earned income, to increase the investment credit and the corporate surtax exemption, and for other purposes."

Mr. LONG. Reserving the right to object, is that on an amendment which has been reported upon?

Mr. CHILES. It was.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. CHILES. Mr. President, I have some sheets that would show the effect of this amendment. Basically, what it would do is to scale down the amendment as reported out by the Finance Committee after recommittal, and would provide that where the income tax refund was going to be $8.1 billion, it would be scaled down $2.1 billion by reducing the maximum tax rebate to $150 and the minimum to $75.

Then on the $200 exemption, it would scale that down from $200 to $185 reducing the revenue loss by $2.1 billion.

Then it would eliminate the 1 percent rate decrease on the first $4,000. On the credit for home purchases it would leave that the same way that it came out with the Mansfield substitute. In total, this bill would reduce the revenue loss by $10 billion compared to the bill we are working on now.

It would provide that there would be a total revenue loss for the bill of $19.4 billion as opposed to the Mansfield substitute which was $31.2 billion.

Over $2 billion have been added on the floor so it would be up to over $33 billion, less the moneys that were picked up in the depletion allowance and the foreign tax credit, which is some $3.5 billion there.

I think when we were adopting the recommittal motion we had some direction that we were going to clean the bill up. Many of us felt, even when we were adopting that, that the bill was much too high, especially when we found that the Mansfield recommittal motion had actually added dollars to what the Finance Committee had come out with originally.

Now we see the amendments that have

been adopted on the floor have run this up a couple more billion dollars. I think what we are talking about now is whether we are going to come out of here with a balloon.

The House is at some $21 billion. If we come out at over $30 billion and we are trying to tell the American people that we are attempting to restore their confidence with a tax cut, I am not sure whether we are really restoring their confidence when they look around and find out that we are now talking about a deficit of over $80 billion. We do not know where that is going to end up.

The whole trigger of a tax cut is to try to restore confidence. If you have that tax cut and the people are scared to death that you are being irresponsible and that you are running a deficit of over $80 billion, they are just going to take this money and put it in their sock. They are going to put it anywhere they can except spend it and put it in the economy because they will know a worse day is coming around the corner tomorrow.

Mr. President, with the announcement of a tax cut and the publicity which would go with such an announcement, I believe that it is necessary that guides be established that so much of it has to be spent to be received if we are going to obtain any benefit from such a tax cut. There is the investment tax credit and yet you are giving something to the lower income groups, too. You give to the lower income groups because it is hoped that they will spend it.

I think, by following this procedure, and keeping the tax cut down to under $20 billion, you would have all of the benefits that you could possibly have by a tax cut.

Maybe we will have some shred of trying to have confidence with the American people when we start talking about this deficit.

I am confident right now that the whole economy would react faster than anything else if we were talking about reducing our expenditures $10 billion and giving that back to the people in the form of a tax cut. It would show that we have some kind of a handle and some kind of control.

But we have now gotten into a situation in which we are told that the more we spend and the more we rebate the better things are going to be. If that is true, why are we talking about a $30 billion tax cut? Why not have a $100 billion tax cut? Why are we talking about an $80 billion deficit? Why not have a $100 billion deficit and get back to the roses and honey? I think most of us realize that unless we do something about the confidence of the American people we are still going to be in trouble.

Right now if everybody who has not bought a car was to decide that now is the time to buy one, and if everybody who has held off doing anything at their house would decide now is the time to do it, that would do more to restore confidence than all of the deficits and all of the tax dribblings that we can do.

Now we have this bill on the floor and it has become sort of a Christmas tree. We started writing some tax reform and we started putting a little bit of everything into it.

I think we have gotton completely off the track where we started with it being a tax cut, a simple tax cut bill.

What this bill I propose would try to do would be to bring it back to that, bring it back to some kind of sanity of a tax cut bill, and get it passed so that we could get a bill passed and get on with the business of what we are trying to do.

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

Mr. CHILES. I yield.

Mr. HOLLINGS. Mr. President, I am very sympathetic with the position of the Senator from Florida in his amendment. However, since we have been able for the first time in the history of Congress to do as we did on yesterday; namely, enact almost a $4 billion tax saving for the people—I want to make certain that that tax saving for the people is not eliminated, that the Hollings amendment is not quite cleaned by the amendment of the Senator from Florida. In that event, I think I can support it. But I would have to almost rely on the House to clean it up and vote for any kind of tax bill so I can hold the tax depletion provision and be cleaned up by the House rather than falling into entrapment on the floor of the Senate.

Is the oil depletion amendment affected by the amendment of the Senator from Florida?

Mr. CHILES. I do not think it is. We tried to take the bill as it was yesterday afternoon, with the amendments that had been adopted yesterday afternoon, and work on the substitute from there. We should check that.

Mr. HOLLINGS. This would apply to sections 1, 2, and 3. We added the new section with the depletion amendment. This would not at all affect section 4?

Mr. CHILES. This would not, but I want to make that clear and make sure, because if it would, I would modify it right now. It is not my purpose or intent to change that at all. I was trying to work from where we were yesterday.

Mr. HOLLINGS. Will the Senator make the request that if a modification is necessary, it be modified so as not to modify that section?

Mr. CHILES. I make the unanimous-consent request that, if it is necessary to be modified, it not be modified to affect section 4.

The PRESIDING OFFICER (Mr. PEARSON). Is there objection? The Chair hears none, and it is so ordered.

The modification is as follows:

Insert in the appropriate place:

TAXATION OF FOREIGN AND DOMESTIC OIL AND GAS INCOME AND RELATED INCOME

PART I—TAX TREATMENT OF FOREIGN OIL RELATED INCOME, TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS, CERTAIN DISC INCOME, AND TREATMENT FOR PURPOSES OF THE INVESTMENT CREDIT OF CERTAIN PROPERTY USED IN INTERNATIONAL OR TERRITORIAL WATERS

SEC. 101. ELIMINATION OF FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL RELATED INCOME; SPECIAL RATE OF TAX FOR SUCH INCOME

(a) ELIMINATION OF TAX CREDIT—Section 901(a) of the Internal Revenue Code of 1954 (relating to foreign taxes on mineral income) is amended by adding at the end thereof the following:

"(3) TERMINATION OF CREDIT FOR FOREIGN TAXES ON OIL-RELATED INCOME.—

"(A) In the case of a corporation, no credit is allowed under this subpart for income, war profits, or excess profits taxes paid or accrued during the taxable year to any foreign country or possession of the United States with respect to foreign oil-related income from sources within such country or possession.

"(B) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(i) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells.

(ii) the processing of such minerals into their primary products,

"(iii) the transportation of such minerals or primary products,

"(iv) the distribution or sale of such minerals or primary products, or

"(v) the sale or exchange of assets used in the trade or business described in clause (i), (ii), (iii), or (iv).

"(C) DIVIDENDS, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil related income' includes—

"(i) dividends from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902.

"(ii) amounts with respect to which taxes are deemed paid under section 960(a), and

"(iii) the taxpayer's distributive share of the income of parnerships,

to the extent such dividends, amounts, or distributive share is attributable to foreign oil related income.

"(D) CERTAIN LOSSES.—If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account in computing foreign oil related income for such year.

"(E) DISREGARD OF CERTAIN POSTED PRICES, ETC.—For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement). For purposes of this subparagraph, the term 'foreign oil and gas extraction income' means foreign oil related income described in subparagraph (B)(i) and income derived from sources without the United States and its possessions from the sale or exchange of assets used in connection with the foreign oil related income described in subparagraph (B)(i).".

(b) TAXATION OF FOREIGN OIL RELATED INCOME.—

(1) Section 11(e) of such Code (relating to exceptions from tax imposed on corporations) is amended to read as follows:

"(c) EXCEPTIONS.—

"(1) FOREIGN OIL RELATED INCOME.—Subsection (a) does not apply to foreign oil related income (as defined by section 901(e)(3)(B)).

(2) CERTAIN CORPORATIONS.—Subsection (a) does not apply to a corporation subject to a tax imposed by—

"(A) section 594 (relating to mutual savings banks conducting life insurance business),

"(B) subchapter L (section 801 and following, relating to insurance companies), or

"(C) subchapter M (section 851 and following, relating to regulated investment companies and real estate investment trusts).".

(2) Part II of subchapter A of chapter 1 of such Code (relating to tax on corporations) is amended by redesignating section 12 as 13 and by inserting after section 11 the following new section:

"SEC. 12. FOREIGN OIL RELATED INCOME.

"(a) IN GENERAL.—There is imposed for each taxable year a tax of 24 percent on the taxable income of every corporation which is foreign oil related income (as defined in section 904(e)(3)(B)).

"(b) EXCEPTION.—Subsection (a) does not apply to any corporation described in section 11(e)(2).

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section, including, but not limited to, regulations providing that deductions, credits, and other computations properly allocable to computing foreign oil related income are properly allocated in computing such income.".

(3) The table of sections for such part is amended by striking out the item relating to section 12 and inserting in lieu thereof the following:

"Sec. 12. Foreign oil related income.
"Sec. 13. Cross references relating to tax on corporations.".

(c) The amendments made in this section apply to taxable years beginning after the date of enactment of this Act.

SEC. 102. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS.

(a) Part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to income from sources without the United States) is amended by inserting after subpart II thereof the following new subpart:

"Subpart I—Controlled foreign corporations
"Sec. 985. Amounts included in gross income of United States shareholders.
"Sec. 986. Definitions.
"Sec. 987. Rules for determining stock ownership.
"Sec. 988. Exclusion from gross income of previously taxed earnings and profits.
"Sec. 989. Adjustments to basis of stock in controlled foreign corporations and of other property.
"Sec. 990. Records and accounts of United States shareholders.

"SEC. 985. AMOUNTS INCLUDED IN GROSS INCOME OF UNITED STATES SHAREHOLDERS.

"(a) AMOUNTS INCLUDED.—

"(1) IN GENERAL.—If a foreign corporation is a controlled foreign corporation for an uninterrupted period of 30 days or more during any taxable year, every United States shareholder of such corporation who owns (within the meaning of section 987(a)) stock in such corporation on the last day in such year on which such corporation is a controlled foreign corporation shall include in its gross income, for its taxable year in which or with which such taxable year of the corporation ends, its pro rata share of the corporation's earnings and profits for such year.

"(2) PRO RATA SHARE OF EARNINGS AND PROFITS.—A United States shareholder's pro rata share referred to in paragraph (1) is the amount—

"(A) which would have been distributed with respect to the stock which such shareholder owns (within the meaning of section 987(a)) in such corporation if on the last day, in its taxable year, on which the corporation is a controlled foreign corporation it had distributed pro rata to its shareholders an amount (i) which bears the same ratio to its earnings and profits for the taxable year, as (ii) the part of such year during which the corporation is a controlled foreign corporation bears to the entire year, reduced by

"(B) an amount (i) which bears the same ratio to the amount determined under subparagraph (A), as (ii) the part of such year described in subparagraph (A) (ii) during which such shareholder did not own (within the meaning of section 987(a)) such stock bears to the entire year.

"(b) EARNING AND PROFIT.—For purposes of this subpart, under regulations prescribed by the Secretary or his delegate, the earnings and profits of any foreign corporation, and the deficit in earnings and profits of any foreign corporation, for any taxable year—

"(1) except as provided in section 312(m)(3), shall be determined according to rules substantially similar to those applicable to domestic corporations.

"(2) shall be appropriately adjusted for deficits in earnings and profits of such corporation for any prior taxable year beginning after the date of the enactment of the Trade Reform Act of 1974.

"(3) shall not include any item of income which is effectively connected with the conduct by such corporation of a trade or business within the United States unless such item is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States, and

"(4) shall not include any amount of earnings and profits which could not have been distributed by such corporation because of currency or other restrictions or limitations imposed under the laws of any foreign country.

"(c) COORDINATION WITH ELECTION OF A FOREIGN INVESTMENT COMPANY TO DISTRIBUTE INCOME—A United States shareholder who, for his taxable year, is a qualified shareholder (within the meaning of section 1247(c)) of a foreign investment company with respect to which an election under section 1247 is in effect shall not be required to include in gross income, for such taxable year, any amount under subsection (a) with respect to such company.

"(d) COORDINATION WITH FOREIGN PERSONAL HOLDING COMPANY PROVISIONS.—In the case of a United States shareholder who, for his taxable year, is subject to tax under section 551(b) (relating to foreign personal holding company income included in gross income of United States shareholders) on income of a controlled foreign corporation, the amount required to be included in gross income by such shareholder under subsection (a) with respect to such company shall be reduced by the amount included in gross income by such shareholder under section 551(b).

"SEC. 986. DEFINITIONS.

"(a) UNITED STATES SHAREHOLDER DEFINED.—For purposes of this subpart, the term 'United States shareholder' means, with respect to any foreign corporation, a United States person (as defined in section 957(d)) who owns (within the meaning of section 987(a)), or is considered as owning by applying the rules of ownership of section 987(b), 1 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation.

"(b) CONTROLLED FOREIGN CORPORATION DEFINED.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation of which more than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned (within the meaning of section 987(a)), or is considered as owned by applying the rules of ownership of section 987(b), by United States shareholders on any day during the taxable year of such foreign corporation.

"SEC. 987. RULES FOR DETERMINING STOCK OWNERSHIP.

"(a) DIRECT AND INDIRECT OWNERSHIP.—

"(1) GENERAL RULE.—For purposes of this subpart, stock owned means—

"(A) stock owned directly, and

"(B) stock owned with the application of paragraph (2).

"(2) STOCK OWNERSHIP THROUGH FOREIGN ENTITIES.—For purposes of subparagraph (B) of paragraph (1), stock owned, directly or indirectly, by or for a foreign corporation or foreign estate (within the meaning of section 7701(a)(31)) or by or for a partnership or trust shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for puropses of applying such sentence, be treated as actually owned by such person.

"(b) CONSTRUCTIVE OWNERSHIP.—For purposes of section 986, section 318(a) (relating to constructive ownership of stock) shall apply to the extent that the effect is to treat any United States person as a United States shareholder within the meaning of section 986(a), or to treat a foreign corporation as a controlled foreign corporation under section 986(b), except that—

"(1) in applying paragraph (1)(A) of section 318(a), the stock owned by an unresident alien individual (other than a foreign trust or a foreign estate) shall not be considered as owned by a citizen or by a resident alien individual.

"(2) in applying subparagraphs (A), (B), and (C) of section 318(a)(2), if a partnership, estate, trust, or corporation owns, directly or indirectly, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of a corporation, it shall be considered as owning all of the stock entitled to vote.

"(3) in applying subparagraph (C) of section 318(a)(2), the phrase '10 percent' shall be substituted for the phrase '50 percent' used in subparagraph (C), and

subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a United States person as owning stock which is owned by a person who is not a United States person.

"SEC. 988. EXCLUSION FROM GROSS INCOME OF PREVIOUSLY TAXED EARNINGS AND PROFITS.

"(a) EXCLUSION FROM GROSS INCOME.—For purposes of this chapter, the earnings and profits for a taxable year of a foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 985(a), shall not, when such amounts are distributed directly, or indirectly through a chain of ownership described under section 987(a), to—

"(1) such shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporation, but only to the extent of such portion, and subject to such proof of the identity of such interest as the Secretary or his delegate may by regulations prescribe), or

"(2) a trust (other than a foreign trust) of which such shareholder is a beneficiary, be again included in the gross income of such United States shareholder (or of such United States person or of such trust).

"(b) EXCLUSION FROM GROSS INCOME OF CERTAIN FOREIGN SUBSIDIARIES.—For purposes of section 985(a), the earnings and profits for a taxable year of a controlled foreign corporation attributable to amounts which are, or have been, included in the gross income of a United States shareholder under section 985(a), shall not, when distributed through a chain of ownership described under section 987(a), be also included in the gross income of another controlled foreign

corporation in such chain for purposes of the application of section 985(a) to such other controlled foreign corporation with respect to such United States shareholder (or to any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder in the controlled foreign corporation, but only to the extent of such portion, and subject to such proof of identity of such interest, as the Secretary or his delegate may prescribe by regulations).

"(c) ALLOCATION OF DISTRIBUTIONS.—For purposes of subsections (a) and (b), section 316(a) shall be applied by applying paragraph (2) thereof, and then paragraph (1) thereof—

"(1) first, to earnings and profits attributable to amounts included in gross income under section 985(a), and

"(2) then to other earnings and profits.

"(d) DISTRIBUTIONS EXCLUDED FROM GROSS INCOME NOT TO BE TREATED AS DIVIDENDS.—Any distribution excluded from gross income under subsection (a) shall be treated, for purposes of this chapter, as a distribution which is not a dividend.

"SEC. 989. ADJUSTMENTS TO BASIS OF STOCK IN CONTROLLED FOREIGN CORPORATIONS AND OF OTHER PROPERTY.

"(a) INCREASE IN BASIS.—Under regulations prescribed by the Secretary or his delegate, the basis of a United States shareholder's stock in a controlled foreign corporation, and the basis of property of a United States shareholder by reason of which it is considered under section 987(a)(2) as owning stock of a controlled foreign corporation, shall be increased by the amount required to be included in its gross income under section 985(a) with respect to such stock or with respect to such property, as the case may be, but only to the extent to which such amount was included in the gross income of such United States shareholder.

"(b) REDUCTION IN BASIS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary or his delegate, the adjusted basis of stock or other property with respect to which a United States shareholder or a United States person receives an amount which is excluded from gross income under section 988(a) shall be reduced by the amount so excluded.

"(2) AMOUNT IN EXCESS OF BASIS.—To the extent that an amount excluded from gross income under section 988(a) exceeds the adjusted basis of the stock of other property with respect to which it is received, the amount shall be treated as gain from the sale or exchange of property.

"SEC. 990. RECORDS AND ACCOUNTS OF UNITED STATES SHAREHOLDERS.

"(a) RECORDS AND ACCOUNTS TO BE MAINTAINED.—The Secretary or his delegate may by regulations require each person who is, or has been, a United States shareholder of a controlled foreign corporation to maintain such records and accounts as may be prescribed by such regulations as necessary to carry out the provisions of this subpart.

"(b) TWO OR MORE PERSONS REQUIRED TO MAINTAIN OR FURNISH THE SAME RECORDS AND ACCOUNTS WITH RESPECT TO THE SAME FOREIGN CORPORATION.—Where, but for this subsection, two or more persons would be required to maintain or furnish the same records and accounts as may by regulations be required under subsection (a) with respect to the same controlled foreign corporation for the same period, the Secretary or his delegate may by regulations provide that the maintenance or furnishing of such records and accounts by only one such person shall satisfy the requirements of subsection (a) for such other persons.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 864(c)(4)(D) of such Code is amended to read as follows:

"(D) No income from sources without the United States shall be treated as effectively connected with the conduct of a trade or business within the United States if it consists of dividends, interest, or royalties paid by a foreign corporation in which the taxpayer owns (within the meaning of section 958(a)), or is considered as owning (by applying the ownership rules of section 958(b)), more than 50 percent of the total combined voting power of all classes of stock entitled to vote.".

(2) Section 951 of such Code is amended by adding at the end thereof the following:

"(e) TAXABLE YEARS ENDING AFTER ENACTMENT OF THE TRADE REFORM ACT OF 1974.—No amount shall be required to be included in the gross income of a United States shareholder under subsection (a) (other than paragraph (1)(A)(ii), or paragraph (1)(B) of such subsection) with respect to a taxable year of a controlled foreign corporation beginning after the date of the enactment of the Trade Reform Act of 1974.".

(3) Section 1016(a)(20) of such Code is amended by striking out "section 961" and inserting in lieu thereof "sections 961 and 990".

(4) Section 1246(a)(2)(B) of such Code is amended by inserting "or 985" after "section 951" and by inserting "or 988" after "section 959.".

(5) Section 1248(d)(1) of such Code is amended to read as follows:

"(1) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 951 OR 985.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 951 or 985, with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount from gross income under section 959 or 988.".

(c) The table of subparts of part III of subchapter N of chapter I of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

"Subpart I. Controlled foreign corporations.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporation end.

SEC. 103. DENIAL OF DISC BENEFITS WITH RESPECT TO ENERGY RESOURCES AND OTHER PRODUCTS

(a) AMENDMENT OF SECTION 993(c)(2).—Section 993(c)(2) (relating to property excluded from export property) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) products of a character with respect to which a deduction for depletion is allowable (including oil, gas, coal, or uranium products) under section 611.

"(D) agricultural and horticultural commodities and products (including but not limited to livestock, poultry, fish, and furbearing animals), or

"(E) products the export of which is prohibited or curtailed under section 4(b) of the Export Administration Act of 1969 (50 U.S.C. App. 2403(b)) to effectuate the policy set forth in paragraph (2)(A) of section 3 of such Act (relating to the protection of the domestic economy).

Subparagraphs (C) and (D) shall not apply to any commodity or product at least 50 percent of the fair market value of which is attributable to manufacturing or processing, except that subparagraph (C) shall apply to any primary product from oil, gas, coal, or uranium. For purposes of the preceding sentence, the term 'processing' does not include extracting or harvesting, handling, packing, packaging, grading, storing, or transporting.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to sales, exchanges, and other dispositions made after March 18, 1975, in taxable years ending after such date.

SEC. 104. TREATMENT FOR PURPOSES OF THE INVESTMENT CREDIT OF CERTAIN PROPERTY USED IN INTERNATIONAL OR TERRITORIAL WATERS.

(a) AMENDMENTS TO 1954 CODE.—

(1) IN GENERAL.—Clause (x) of section 48(a)(2)(B) (relating to property used outside the United States) is amended by striking out "territorial waters" and inserting in lieu thereof "territorial waters within the northern portion of the Western Hemisphere".

(2) DEFINITION.—Subparagraph (B) of section 48(a)(2) is amended by adding at the end thereof the following new sentence: "For purposes of clause (x), the term 'northern portion of the Western Hemisphere' means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to property, the construction, reconstruction, or erection of which was completed after March 18, 1975, or the acquisition of which by the taxpayer occurred after such date.

(2) BINDING CONTRACT.—The amendments made by subsection (a) shall not apply to property constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 1, 1974, and at all times thereafter, binding on the taxpayer.

(3) CERTAIN LEASE-BACK TRANSACTIONS, ETC.—Where a person who is a party to a binding contract described in paragraph (2) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall for purposes of paragraph (2), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under section 48(d) of the Internal Revenue Code of 1954, only if a party to such contract retains a right to use the property under a long-term lease.

PART II—PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS

SEC. 411. LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL AND GAS.

(a) IN GENERAL.—Part I of subchapter I of chapter 1 (relating to natural resources) is amended by inserting after section 613 the following new section:

"SEC. 613A. LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS

"(a) GENERAL RULE.—Except as otherwise provided in this section, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without regard to section 613.

"(b) EXEMPTION FOR CERTAIN DOMESTIC GAS WELLS.—

"(1) IN GENERAL.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(A) wells producing regulated natural gas,

"(B) wells producing natural gas sold under a fixed contract, and

"(C) any geothermal deposits in the United States or in a possession of the United States coming within the meaning of the term 'geothermal steam and associated resources' as found in the Geothermal Steam Act of 1970, 84 Stat. 1566.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) NATURAL GAS SOLD UNDER A FIXED CONTRACT.—The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on February 1, 1975, and all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this chapter by reason of the repeal of percentage depletion. Price increases subsequent to February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence.

"(B) REGULATED NATURAL GAS.—The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, prior to July 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in liability of the seller for tax by reason of the repeal of percentage depletion. Price increases subsequent to February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(c) SMALL PRODUCER EXEMPTION.—

"(1) IN GENERAL.—Except as provided in subsection (d), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(A) so much of the taxpayer's average daily production of domestic crude oil as does not exceed 2,000 barrels, plus, in case such production is less than 2,000 barrels, and

"(B) so much of the taxpayer's average daily production of domestic natural gas as does not exceed 12,000,000 cubic feet reduced by that fraction of 12,000,000 which the average daily production of domestic crude oil is of 2,000 barrels.

If the taxpayer elects to have subparagraph (A) apply to any amount below 2,000 barrels, the amount of barrels specified by him, and such amount shall constitute the numerator of the fraction in applying subparagraph (B).

"(2) AVERAGE DAILY PRODUCTION.—For purposes of paragraph (1)—

"(A) the taxpayer's average daily production of domestic crude oil or natural gas shall be determined by dividing his aggregate production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and

"(B) in the case of a taxpayer holding a partial interest in the production from any property (including an interest held in a partnership) such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property.

In applying this subsection, there shall not be taken into account the production of natural gas with respect to which subsection (b) applies.

"(3) EXEMPTION TO BE DETERMINED ON A PROPORTIONATE BASIS.—

"(A) DOMESTIC CRUDE OIL.—If the producer's average daily production of domestic crude oil exceeds 2,000 barrels, the barrels to which paragraph (1) applies shall be determined by taking from the production of each property a number of barrels which bears the same proportion to the total production of the producer for such year from such property as 2,000 barrels bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the producer for such year.

"(B) DOMESTIC NATURAL GAS.—If the producer's average daily production of domestic natural gas exceed 12,000,000 cubic feet, the production to which paragraph (1) applies shall be determined by taking from the production of each property a number of cubic feet of natural gas which bears the same proportion to the total production of the taxpayer for such year from such property as 12,000,000 cubic feet bears to the aggregate number of cubic feet representing the average daily production of domestic natural gas of the producer for such year.

"(4) REDUCTION OF EXEMPTIONS.—If the exemptions of 2,000 barrels and 12,000,000 cubic feet are reduced upon the application of paragraph (5), the amount of the reduced exemption in barrels shall be substituted for the figure of 2,000 barrels in applying paragraphs (1) and (3), and the amount of the reduced exemption in cubic feet shall be substituted for the figure of 12,000,000 cubic feet in applying such paragraphs.

"(5) BUSINESS UNDER COMMON CONTROL; MEMBERS OF THE SAME FAMILY.—

"(A) COMPONENT MEMBERS OF CONTROLLED GROUP TREATED AS ONE TAXPAYER.—For purposes of this subsection, persons who are members of the same controlled group of corporations shall be treated as one taxpayer.

"(B) AGGREGATION OF BUSINESS ENTITIES UNDER COMMON CONTROL.—If 50 percent or more of the beneficial interest in two or more corporations trusts, or estates is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), the exemptions provided by this subsection shall be allocated among all such entities in proportion to the respective production of domestic crude oil or natural gas, as the case may be, during the period in question by such entities.

"(C) ALLOCATION AMONG MEMBERS OF THE SAME FAMILY.—In the case of individuals who are members of the same family, the exemptions provided by this subsection shall be allocated among such individuals in proportion to the respective production of domestic crude oil or natural gas, as the case may be, during the period in question by such individuals.

"(D) DEFINITION AND SPECIAL RULES.—For purposes of this paragraph—

"(i) the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a),

"(ii) a person is a related person to another person if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children, and

"(iii) the family of an individual includes only his spouse and minor children.

"(6) TRANSFER OF OIL OR GAS PROPERTY.—

"(A) In the case of a transfer after December 31, 1974, of any proven oil or gas property, paragraph (1) shall not apply to the transferee with respect to his production of crude oil or natural gas from such property, and such production shall not be taken into account for any computation under this subsection. A property shall be treated as a proven oil or gas property if at the time of the transfer the principal value of the property has been demonstrated by prospecting or exploration or discovery work.

"(B) Subparagraph (A) shall not apply in the case of—

"(i) a transfer of property at death, or

"(ii) the transfer in an exchange to which section 351 applies if following the exchange the exemptions provided by this subsection are allocated under paragraph (5) between the transferor and transferee.

"(d) LIMITATIONS OF APPLICATION OF SUBSECTION (c).—

"(1) LIMITATION BASED ON TAXABLE INCOME.—**The deduction for the taxable year attributable to the application of subsection (c) shall not exceed 50 percent of the taxpayer's taxable income computed without regard to—**

"(A) subsection (c),

"(B) any net operating loss carryback to the taxable year under section 172, and

"(C) any capital loss carryback to the taxable year under section 1212(a)(1).

If an amount is disqualified as a deduction for the taxable year by reason of the application of the preceding sentence, the disallowed amount shall be treated as an amount allowable as a deduction upon the application of subsection (c) for the following taxable year, subject to the application of the preceding sentence to such taxable year.

"(2) RETAILERS EXCLUDED.—Subsection (c) shall not apply in the case of any taxpayer who directly, or through a related person, sells oil or natural gas, or any product derived from oil or natural gas—

"(A) through any retail outlet operated by the taxpayer or a related person, or

"(B) to any person—

"(i) obligated under an agreement or contract with the taxpayer or a related person to use a trademark, trade name, or service mark or name owned by such taxpayer or a related person, in marketing or distributing oil or natural gas or any product derived from oil or natural gas, or

"(ii) given authority, pursuant to an agreement or contract with the taxpayer or a related person, to occupy premises owned, leased, or in any way controlled by the taxpayer or a related person.

"(3) RELATED PERSON.—For purposes of this subsection, a person is a related person with respect to the taxpayer if a significant ownership interest in either the taxpayer or such person is held by the other, or if a third person has a significant ownership interest in both the taxpayer and such person. For purposes of the preceding sentence, the term 'significant ownership interest' means—

"(A) with respect to any corporation, 5 percent or more in value of the outstanding stock of such corporation,

"(B) with respect to a partnership, 5 percent or more interest in the profits or capital of such partnership, and

"(C) with respect to an estate or trust, 5 percent or more of the beneficial interests in such estate or trust.

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or a related person engages in the refining of crude oil, subsection (c) shall not apply to such taxpayer if on any day during the taxable year more than 50,000 barrels of oil were refined by the taxpayer or such person.

"(e) PLOWBACK LIMITATION.—

"(1) GENERAL RULE.—The deduction allowed producers for depletion under this section shall not exceed for any taxable year an amount equal to the sum of the producer's qualified investment and qualified investment carryover for the taxable year.

"(2) QUALIFIED INVESTMENT.—For purposes of paragraph (1), any person's qualified investment for any taxable year is the amount paid or incurred by such person during such taxable year (with respect to areas within the United States or a possession of the United States) for—

"(A) intangible drilling and development costs;

"(B) the following items if paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas within the United States or a possession of the United States:

"(i) aerial photography;

"(ii) geological mapping;

"(iii) airborne magnetometer surveys;

"(iv) gravity meter surveys;

"(v) seismograph surveys; or

"(vi) similar geological and geophysical methods;

"(C) the construction, reconstruction,

erection, or acquisition of the following items, but only if the original use of such items begins with such person:

"(i) depreciable assets used for the exploration for or the development of production of oil or gas (including development or production from oil shale); converting oil shale, coal, or liquid hydrocarbons into oil or gas; or refining oil or gas (but not beyond the primary product stage);

"(ii) pipelines for gathering or transmitting oil or gas, and facilities (such as pumping stations) directly related to the use of such pipelines.

"(D) secondary or tertiary recovery of oil or gas, including remedial work necessary to maintain or restore primary production, or

"(E) the acquisition of oil and gas leases but the aggregate amount which may be taken into account under this subparagraph for any taxable period shall not exceed one-third of the aggregate of the amounts which may be taken into account by the taxpayer under subparagraphs (A), (B), (C), and (D) for such period.

"(3) QUALIFIED INVESTMENT CARRYOVER.—For purposes of paragraph (1), a producer's qualified investment carryover shall be the amount, if any, by which the amount of the producer's qualified investment for the preceding taxable year exceeds so much of the deduction allowed for depletion as is computed under section 613 by reason of subsection (c) (determined without regard to this subsection) for such preceding taxable year.".

(4) Paragraph (1) General Rule shall not apply in the case of deduction for depletion with respect to a producer's share of production from royalty interest.

"(5) DEFINITIONS.—For purposes of this section—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(3) DOMESTIC.—The term 'domestic' refers to production from an oil or gas well located in the United States or in a possession of the United States.

"(4) BARREL.—The term 'barrel' means 42 United States gallons.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 613(b)(1) (relating to 22-percent depletion rate for certain minerals) is amended to read as follows:

"(A) oil and gas wells, to the extent allowable under section 613A;".

(2) The last sentence of paragraph (7) of section 613(b) (relating to 14-percent depletion rate for certain other minerals) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or", and by adding at the end thereof the following new subparagraph:

"(C) oil or gas wells.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975.

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

Mr. CHILES. I yield.

Mr. DOLE. As I understand it, along the same line of questioning by the Senator from South Carolina, it would be in the form as finally adopted late yesterday, so that it would still be a depletion allowance for the small independents—2,000 barrels?

Mr. CHILES. That is right. I did not try to affect any of that. We just modified it to put in section 4 the way it was.

Mr. DOLE. Just the way it was, no changes?

Mr. CHILES. No changes.

Mr. DOLE. No other interpretation?

Mr. CHILES. No change whatsoever.

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

Mr. CHILES. I yield.

Mr. NUNN. Mr. President, I congratulate the Senator from Florida for sponsoring this amendment, and I am proud to be one of the original sponsors.

I started this week, which the Senate has devoted to debate on economic remedies, fully aware of the severe problems the people of our Nation are now experiencing with inflation, recession, and energy. I know that a tax-cut measure would be a stimulus to our economy, which we all know we need. However, the momentum here on the floor of the Senate is building toward providing a stimulus which will provide short-term relief followed by long-term problems. For this reason, I strongly support the move of the Senator from Florida to try to get the total package down to the amount in the measure passed by the House of Representatives.

Although I have been a Member of the U.S. Senate for only 2 years, I find myself becoming more and more skeptical of the so-called economic experts. The "economic experts" have testified that we need an economic stimulus in the amount of about $30 billion.

However, in reviewing the record, I note that these same experts recommended a reduction in taxes in 1971 and 1972 as a stimulus to the tune of about $21 billion to pull the country out of the so-called recession. At that time, the politicians applauded, Congress acted, and we had their "bold stimulus." Now we have reaped the bitter harvest of these seeds—unemployment is substantial and inflation has doubled. Of course there are other causes—energy, agriculture, and a continuing pattern of deficit financing. Yet the underlying factor beneath most all of our problems is the lack of consumer confidence which has spread rapidly throughout our Nation, affecting each citizen's own sense of security.

I agree with the Senator from Florida when he says that restoration of the confidence of the American people is the important focus now. We must recognize that the confidence of the American people has deteriorated because of inflation. We did not start off this recession because of a slack in our economy. It started because the economy was overheated and inflated which in turn caused the loss of confidence and the subsequent loss of consumer purchases.

Yet we now see the same experts offering the same advice applauded by the same politicians. The Senate's recipe will feed the American worker dessert for about 3 months in the form of the tax rebate. The main course to follow—increased inflation and interest rates—will place the American worker right back into the circle I mentioned above.

Mr. President, I fear the American working man and woman is being deceived. A tax rebate will provide an initial benefit of about $200 to the average family. This will help in the short term—4 to 6 months. The overheated Federal spending and deficit financing, accompanied by massive borrowing, will push inflation and interest rates way up. The workers' initial benefit will be erased and his income and purchasing power plunged even lower by the hidden tax of inflation.

I know that the Keynesian philosophy is widely accepted by Members of Congress. I know that many experts, whether they agree with the Keynesian philosophy or not, will agree that you cannot make it work when you apply only 50 percent of it. What we in Congress are good at doing is applying the pleasant 50 percent of Keynesian philosophy. That part is to cut taxes and to raise spending. History shows clearly, however, when the time comes for the other unpleasant 50 percent to be applied, there are very few people around who can be found to voice that view. That part of the so-called economic philosophy is to cool off our economy, either by lowering expenditures or by increasing taxes.

If some of my colleagues in the Senate had been at the Budget Committee meeting yesterday afternoon and had seen the charts and heard the presentation there, I believe there would be a dampening of enthusiasm for the tax package we have before us in the amount of about $32 billion.

A couple of months ago, the President of the United States proposed that we have a total deficit of about $52 billion. This proposal included a tax cut in the amount of $16 billion. Since that time, due to both Executive and congressional action—including anticipated action by Congress that has not yet occurred—that deficit is now projected by the Budget Committee to be closer to $80 billion. That means that even without this tax cut, what the President and all his advisers described as a horrible deficit in the amount of $50 billion would still be with us if we did not pass one penny of tax reduction. The $80 billion figure is now considered an optimistic deficit—not just a realistic deficit, but an optimistic deficit.

Of course, the Budget Committee is a new concept. The Budget Committee has just been formed, and I do not think it could have been formed at a more difficult period in our economic history. Yet, the members are going to be judged—and the new budgetary process is going to be judged—by the action Congress takes this year.

The discouraging part about yesterday's presentation, strange as it may seem, was not the projected deficit figure of $80 billion, but the more likely deficit that we are leading to, based on the reports of the various authorizing committees. When you consider the presentations to the Budget Committee by the authorizing committees as to what they anticipate, add it all up and include the tax package that came out of the Committee on Finance, the potential deficit that we may incur in fiscal year 1976 is not $80 billion, but $122 billion.

One event that is ocurring in America that so few people understand is that because of the accumulated deficits and expenditure patterns of the Federal Government—not just for 1 year—the

private capital market is dying. Last year, the Federal Government borrowed 62 percent of all available funds. Based on the trends that are taking place right now, that figure will go up dramatically.

Mr. President, I believe that very few good things come out of a recession. Very few good things will come out of the economic period with which we are now plagued. Unemployment is high. People are suffering. Our elderly people and people on fixed incomes are having an extremely difficult time. I believe we must take steps and we are taking steps to alleviate that pain. We must do that even as we know we are going to have to increase expenditures.

I am not one of those who believe that we can have a balanced budget, an absolutely balanced budget, every year; nor am I one of those who believe that we can balance this year's budget with the revenues going down at a very rapid rate. I do believe, however, that if we are going to restore any degree of confidence by the American people—regardless of what the theoretical economists may tell us—we are not going to restore confidence with a $90 billion to $100 billion deficit. That will never happen. What we must do with the Federal budget is to show a surplus in years when the economy is booming. Instead, we have had increasing budget deficits even in good years. Our goal in this Congress must be to have an overall balanced budget over a period of years.

Mr. President, I believe that we mark a responsible course in congressional spending, even though it may not be the best formula politically—even though we may lose votes by our action.

Since World War II, we have had many deficits, but we have never had a period in which accumulated deficits came anywhere near what the fiscal year 1975 deficit is going to be and what the 1976 projection will reach.

I fear that we are dealing in a self-defeating circular reaction. In our sincere efforts to deal with our economic problems, we are going to preclude any kind of future recovery. Just when the economy starts to recover, and I believe it will begin to recover by reason of this stimulus—just as that starts to happen—businesses will be borrowing more money, consumers will be spending more money and borrowing more money for automobiles and homes; however, at the same time, the Government is going to be dominating the capital borrowing market.

We are not taking this tax cut out of revenue. We are taking it out of borrowed funds. At this point in our Treasury, every dollar spent is a dollar borrowed. The Government will have to compete with every consumer, every businessman, and every private company in the fall of 1975 and in calendar year 1976 in order to borrow enough money to pay for this.

One of the most discouraging items that I heard yesterday afternoon from our economist on the Committee on the Budget is that, contrary to what some people have said, we are not going to reap the benefit of this depleted revenue as a reward for cutting taxes. In other words, the idea is to stimulate the economy, increase the revenue, and thereby reduce future deficits. The maximum that we can expect to recover by reason of this revenue loss during fiscal year 1976, according to testimony yesterday, is 25 percent of the total. So the chronic merry-go-round we are on is going to get worse and worse.

For example, at a 56-percent rate of inflation a family making $12,000 per year is losing $60 per month in spendable income. The tax legislation we are considering, coupled with other anticipated spending, will push the rate of inflation back to 12 percent, or even more. That inflation would cause the family to lose $120 per month in spendable income. So it is easy to see that a $200 to $300 tax rebate would be wiped out by inflation within several months.

What, then, can we do? I believe we can pass the amendment the Senator from Florida and I offered and do our utmost, in addition to cutting down this tax package and at the same time giving needed relief to both consumers and businessmen, to devise some kind of trigger mechanism to react to overheated Federal spending. If my fears are correct, as recovery starts and we get into an overheated situation with interest rates going right back up, we need to dampen Federal expenditures. I hope our Committee on the Budget will work toward that end. I strongly believe we need a mechanism that as the economy recovers, will begin to dampen the ill effects of the Federal deficits.

I congratulate the Senator from Florida for proposing this amendment. As unpopular as it may be to administer painful medicine, I think it is needed. My own hope in terms of support or opposition to this total tax package certainly will have to be determined based on the outcome of this particular amendment or the Bumpers amendment that would also reduce the total amount of the bill. I am under no illusion that we are likely to secure majority passage. Neither am I under any illusion that Congress can pass a bill that is going to increase our Federal deficit by this much without corresponding damage and hope, at the same time, to restore the confidence of the American people.

In every recession we have had in this country, the seeds have been sown for a higher rate of inflation. We went into this recession with about 12 percent inflation. I shudder to think what we may come out with in 1976 and 1977.

Mr. CHILES. I thank the distinguished Senator from Georgia for his remarks. I think he has added eloquently to the thrust of the amendment, which is what I feel and what I think the distinguished Senator from Georgia feels is the purpose of this bill when we started off talking about a tax cut. That was to try to give some stimulus to the economy. If we look at some of the items that we have added in the bill we were working on prior to this substitute, we are not talking about stimulus to the economy in some of those items we put in. It became something that was a little bit of tax reform, a little bit of something for everyone. And I hated to vote against some of those amendments.

Under other circumstances, on a tax reform bill——

Mr. NUNN. Mr. President, I ask for order. The Senator from Florida is trying to speak and because of the noise, it is difficult to hear, as close as I am.

The PRESIDING OFFICER. The Senate will be in order.

Mr. NELSON. Mr. President, the Senate is not in order. There are Senators not in their seats.

The PRESIDING OFFICER. The Senate will be in order.

The Senator may proceed.

Mr. CHILES. Under other circumstances, I would have liked to vote for a number of those amendments, but I tried to come in here to vote for those things which I thought would stimulate the economy. I thought that really was what we were talking about in this tax package. I think we now have gotten so far out of sight of this. As the Senator pointed out, listening to those figures that are coming up in the Committee on the Budget, we see, almost no matter what kind of course we take, unless we are willing to cut some spending, that we are talking about at least $80 billion as a deficit.

We know that there are other stimulant bills coming along. We see that the House has passed a bill, an additional bill on public service jobs. I think the price tag on that was about $6 billion. We are seeing additional moves to add to the unemployment compensation. We know that is going to be coming along.

Mr. NUNN. I might ask the Senator if, when some economist hollers "stimulate," that is not the equivalent—as far as Congress is concerned—of throwing Br'er Rabbit into the briar patch? Everybody up here knows how to stimulate the economy and everybody has a particular way of doing it. Is that not just about what we now see coming forth?

Mr. CHILES. That is absolutely correct. I thought what we were talking about in an economic game plan was that we were really going to get together the President with Congress and we were going to decide on a package that we could agree on—a total package that would be the tax cuts and the stimulants—and that that would be a manageable package that we could try to handle. Now, the way I see it going, the President goes in one direction, and certainly his tax cut was lower than Congress'. But we were talking, at one time, about a $52 billion deficit. Has the Senator heard anyone talking about a $52 billion deficit lately?

Mr. NUNN. That has disappeared from the face of the earth. We are not even in that universe.

Mr. CHILES. Most people conservatively estimate, and the Secretary of the Treasury, who, we know, is a fiscal conservative, now says it is $80 billion that he is talking about. That is the deficit that is facing us, so we know $52 billion went out the window. Fifty-five billion dollars went out the window. We are now talking about $80 billion and we know that is not going to be the figure in the direction in which we are going, because we are talking about trying to establish medical care now to the unemployed. The price tag on that is $2 billion to $3 billion. But that is good. Boy, we are all going to want to vote for that, as we want to vote for the additional unemployment compensation.

Somewhere along the line, and I think the distinguished Senator from Georgia recognizes this, it is kind of a cruel hoax to people to say, "We are going to give you $100, or, we are going to give you $200 this year, but we are really not doing anything about helping you save your job, or helping you so that that job will be there next year, or that we will crank this economy back up."

Where do we reach the point where we will quit and are able to say, no, to some group because of the overall good and because of what we know to be the responsibility for the overall good?

I have heard some people say—and I do not know how many they are. Maybe I am wrong in the numbers. I know I have heard some people say, "I am going to vote against this tax bill; it has gotten too big. But I know it is going to pass."

I have had that kind of feeling, that maybe I would just vote against the tax bill and let it pass. But somehow, I feel that we ought to try to have some kind of crack at seeing if we can get back to what would be a reasonable tax cut, and try to see whether there is a reasonable place that we can vote for that.

I know one man's idea of what is responsible is not another's, especially one Senator's. But it seems to me that, rather than just sit back the way I was going and say, "OK, we will let these amendments be adopted, I will put my statement in the record and just vote against the bill," that we should at some stage try to come back to where I think we started off in trying to set up a reasonable tax cut—and that is just a little part of the job. The other job is what we do about that deficit that has been growing every day and what we do about that package of stimulants. Because we know, as the Senator knows, the economists tell us now there are two ways of stimulating. One is the tax cut and the other way, what they call the stimulant, is the deficit spending for public service and release of funds, however it is done. What we are doing is both, as fast as we possibly can, without anyone having a sort of meter on what is going out.

The whole concept of the Budget Act and the Committee on the Budget, I thought, was that we were going to have a game plan to start with and we were going to know what the spending figure was. Even while we have been sitting in that Committee on the Budget, trying to come back with a spending figure for the floor to tell them what we thought we are going to spend—it is just like sitting in a gas station and watching those numbers go around on that pump, except that it is not pennies, it is billions.

The way it has been running up, I do not know how we will ever get a chance long enough to get a figure on the floor, unless we say the figure this morning was $85 billion, so we think the afternoon figure would probably be about $90 billion.

Mr. NUNN. I would like to ask the Senator from Florida if he will yield for a question. Does it not appear that the formula for political activity and maybe political success, though I question the latter, is what the Senate is implementing right now: decrease taxes, increase expenditures, and dominate the money market by causing the Federal Government to borrow something like 68 to 78 percent of all capital funds in this calendar year. Then Congress can shift the blame to the Federal Reserve System for all the resulting woes of our economy.

I do not blame the Federal Reserve System for everything the Government has done, and I believe high interest rates are one of the most injurious mechanisms we can have. Nevertheless, I believe we in Congress must begin to stand up and assume our share of responsibility for the woes the Nation is now undergoing. The Federal Reserve System, in the fall of 1975, is going to have a couple of bitter choices: They are either going to have to dramatically increase the money supply——

Mr. CHILES. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NUNN. The Federal Reserve System is going to have a couple of bitter choices come the fall of 1975, as the Senator from Georgia sees it. They are either going to have to dramatically increase the money supply, thereby diluting the value of every American dollar; or they are going to have to tighten up on the money supply and restrict the economy, which is what they have done since 1973. This will cause interest rates to go right back up, causing the person who is looking for an automobile or a home to go back and say, "I don't think I can afford it even if I have got another $200 from a tax cut," because that interest rate—the difference between 6.5 percent and 9 percent on a 25-year or 30-year mortgage—overwhelms the amount of the tax break that we are going to give the American people.

I ask the Senator from Florida if in his experience—at least in mine this is true—the average income working people in his State are not crying for relief from three things: burdensome taxes, high-interest rates, and excessive Government expenditures.

Mr. CHILES. Absolutely, plus the fact that their money will not buy anything because of the inflation rate.

I think the Senator from Georgia has put his finger right on it. There was a time when I thought all we had to do was hurry to Dr. Arthur Burns, shake him a little bit if we wanted to lower the rates from where they are today, and see that he manufactured money fast enough that no matter what our deficit, he supplied enough money into the money market not to cause the interest rates to tend to go up.

That sounded to me like the best solution we could possibly find, and for the life of me I could not understand why we would have any problem with Dr. Burns in doing that.

But finally it dawned on me, after listening to some of our experts, I got it through my head that yes, we are keeping interest rates down if we do that, but watch the spiral of inflation go up, because we went through that once with our last President, the President who just resigned. He wanted to heat up the economy a little bit just before the election, and he shook Arthur Burns a little bit at that time. He loosened up on the money supply, and things took off. But in addition to business taking off and the economy taking off, the inflation took off, and that is where we went from where we had been, where we thought we were so ahead of all the rest of the world, to where we spurted up into the present demand inflation. Yes, that changed after a while, when the energy and food shortages hit it, to a different kind of inflation, but that was the trigger that set it off.

The Senator from Florida understands that you just cannot manufacture that money and add it to the money supply as you keep the deficit spending going without watering everybody's dollar. We see right now our dollar is in more trouble on the world market. We have devalued it twice, and it probably should be devalued again, and there is no easy out.

We keep looking for easy answers. Now we have taken people through the wringer, where we have the kind of unemployment we now have in this country. Now we are talking about coming under control at 8 percent. We used to call that uncontrolled inflation, but now we are so happy we do not know what to do if it is no greater than that. Now that is dampening down, the interest rates are coming down, and the economy is at a place where the only thing that is holding back our economy right now is the confidence of the American people.

Mr. NUNN. I agree with the Senator.

Mr. CHILES. And if that confidence changed this afternoon, at 4 o'clock this afternoon we would be on the way to recovery. The confidence of the people—how do we trigger that? I do not think we trigger it by passing a 30-some-billion-dollar tax bill, and following that with the kind of deficit we know is now probably going to be over $80 billion, and all of these other stimuli. We may crank it up again. We may crank up the economy again, but you and I know we would also have to be cranking up inflation, and inflation is what put us here to start with.

Do we have to go back down the same row every time? You would think when we have plowed that row once, we would know where the curves are, and how to straighten out the furrow a little bit; I think that is what we are attempting to do with this amendment.

Mr. NUNN. Does the Senator from Florida agree with the analysis I made a while ago about past history—and that we do not have to look very far to see that we are doing right now exactly what was done in 1971 and 1972—that the same people who advised then are still here right now, still the experts, still advising, and we are repeating the past history we have had?

Mr. CHILES. Yes. As we know, some of these same people were there in the fall of last year, even before it turned, saying, "Inflation is the problem; deal with the inflation. Do not worry about the recession and unemployment." And then suddenly they said, "Well the recession went a lot faster than we thought it was

going to go; forget what we said." Now they are saying, "Just deal with the unemployment and recession; there is so much slack in the economy you do not have to worry about inflation."

But someday we have to pay the money back. The interest on the national debt, we know how that affects our economy now. It just has to be paid back, and that is the lesson we seem to go over and over without learning.

I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, for clarification, the Senator from Florida got unanimous consent to modify his amendment to include the action taken on oil depletion and related subjects on yesterday or today, and I think, in doing so, he sent to the desk a copy of the amendment taken from the CONGRESSIONAL RECORD, pages 7770 to 7773 or so, with the modifications, obviously, that I referred to, that wherever it said 1,000 barrels, it has been changed to 2,000 barrels, and wherever there appeared 6 million cubic feet, it is 12 million cubic feet, and that that one section as to the royalty owners, that the plowback does not apply to them, that section 4 that was not included, but later adopted, now, by the Senate.

That section 4 will appear at the bottom of that middle paragraph of the section on page 7773. That is the modified amendment that the Senator sent to the desk?

Mr. CHILES. I think the Senator is correct in everything but the last provision, and I would be delighted to modify it to include that plowback, which I think was agreed to by everyone here.

Mr. LONG. Mr. President, I must object to Senators by unanimous consent putting together substitutes for the whole bill. We have a host of amendments at the desk, and all those could be turned by Senators into complete substitutes for the entire bill, putting in pages and taking out pages, and that kind of thing could go on forever; so I must object to modifying the amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. CHILES. Mr. President, the yeas and nays have not been ordered on the amendment, have they?

The PRESIDING OFFICER. No, the yeas and nays have not been ordered.

Mr. CHILES. I think I am entitled to modify the amendment until such time as the yeas and nays have been ordered.

The PRESIDING OFFICER. The Chair is advised that cloture has been invoked, and, objection having been heard, the Senator cannot modify his amendment.

Mr. HOLLINGS. The Senator has already had unanimous consent. I think that the Chair would rule it would modify the amendment. I was just clarifying what he had sent to the desk.

Mr. CHILES. I had sent to the desk what we had unanimous consent on, and we will stand on what we had by unanimous consent.

Mr. HOLLINGS. That is right.

Mr. DOLE. Mr. President, will the Senator yield? Maybe the Senator from South Carolina can make a statement on it. It may make a difference in how many of us vote on the amendment.

As the Senator from Kansas understands it, we have the Hollings amendment as amended by the Bartlett amendment.

Mr. HOLLINGS. That is correct. I want the Senator from Oklahoma to look at it.

Mr. LONG. Mr. President, what we now have pending is a Chiles amendment in the nature of a substitute for the entire bill.

Mr. PERCY assumed the chair.

Mr. LONG. Now, I would like to ask the Chair if this is correct: If this is agreed to, does that cut off all other amendments?

The PRESIDING OFFICER (Mr. PERCY). The Senator is correct.

Mr. LONG. So no other Senator can offer his amendment.

The PRESIDING OFFICER. That is correct.

Mr. LONG. In addition to that, does it delete all of the amendments that the Senate has agreed to? That is, all the amendments we have agreed to today since we started voting today?

The PRESIDING OFFICER. If the substitute is adopted, no other amendments agreed to by the Senate previously would be a part of the bill.

Mr. LONG. All right.

If this substitute is agreed to, it strikes down all the other amendments that have been agreed to by the Senate, including the Dole amendment, and it means that Senators then would be precluded from offering their amendments which are at the desk; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Well, Mr. President, I hardly think the Senators want to proceed in that fashion. I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table Mr. CHILES' amendment.

Mr. CHILES. I ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. SYMINGTON) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—54

Abourezk	Hart, Gary W.	Montoya
Bayh	Hart, Philip A.	Moss
Bentsen	Hartke	Muskie
Brooke	Haskell	Nelson
Bumpers	Hathaway	Pastore
Byrd, Robert C.	Huddleston	Percy
Cannon	Humphrey	Proxmire
Case	Inouye	Randolph
Church	Jackson	Ribicoff
Clark	Javits	Schweiker
Cranston	Kennedy	Scott, Hugh
Culver	Leahy	Sparkman
Eastland	Long	Stevenson
Fong	Magnuson	Talmadge
Ford	Mathias	Thurmond
Glenn	McGee	Tunney
Gravel	McIntyre	Weicker
Griffin	Mondale	Williams

NAYS—41

Allen	Eagleton	Metcalf
Baker	Fannin	Morgan
Bartlett	Garn	Nunn
Beall	Goldwater	Pearson
Bellmon	Hansen	Pell
Biden	Hatfield	Roth
Brock	Helms	Scott, William L.
Buckley	Hollings	Stafford
Burdick	Hruska	Stennis
Byrd, Harry F., Jr.	Johnston	Stone
Chiles	Laxalt	Tower
Curtis	Mansfield	Young
Dole	McClellan	
Domenici	McClure	
	McGovern	

NOT VOTING—4

Packwood	Symington	Taft
Stevens		

So the motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Under the previous order, the Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that instead of my calling up my amendment at this time, that I be allowed to follow Mr. BUMPERS. I ask if we can call his amendment up now.

Mr. CURTIS. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. My amendment has no relation to his, but we are counting ballots on the New Hampshire election, and I would like to return there if I could at this point.

If it would be agreeable to everyone, Mr. BUMPERS could go ahead of me.

Mr. CURTIS. Does he have an amendment?

Mr. ROBERT C. BYRD. He has an amendment, yes.

Mr. CURTIS. Very well.

Mr. BROOKE. I did not understand the request.

Mr. ROBERT C. BYRD. Under the previous unanimous-consent order, I am recognized now to call up an amendment which I have at the desk, and there will be yea and nay vote on it. But Senator BUMPERS also has an amendment on which there will be a yea and nay vote.

I was merely asking consent that I be dropped back one, let Mr. BUMPERS proceed with his amendment, and I will follow him.

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

Mr. SPARKMAN. Mr. President, will the Senator yield for 30 seconds?

Mr. BUMPERS. I yield.

AMENDMENT OF THE NATIONAL INSURANCE DEVELOPMENT ACT OF 1975.

Mr. SPARKMAN. Mr. President, I ask that the Chair lay before the Senate a message received from the House of Representatives on H.R. 2783.

The PRESIDING OFFICER laid before the Senate H.R. 2783, an act to continue the national insurance development program by extending the present termination date of the program to April 30, 1979, and by extending the present date by which a plan for the liquidation and termination of the reinsurance and direct insurance programs is to be submitted to the Congress to April 30, 1982, which was read twice by its title.

The Senate proceeded to consider the bill.

Mr. SPARKMAN. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 4, strike out lines 4 through 14, and insert in lieu thereof the following:

SEC. 2. Section 1201(b)(1) of the National Housing Act is amended by striking out "April 30, 1975" and inserting in lieu thereof "April 30, 1977".

Amend the title so as to read: "An Act to continue the national insurance development program."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read a third time, the question it, Shall it pass?

So the bill (H.R. 2783) was passed.

The title was amended so as to read:

An Act to continue the national insurance development program.

TAX REDUCTION ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

Mr. PASTORE. Will the Senator yield for a unanimous consent request?

Mr. BUMPERS. I yield without losing my right to the floor.

Mr. PASTORE. Mr. President, I ask unanimous consent that during the remainder of the consideration of the pending business, Mr. Martin K. Donovan of my office, be allowed the privilege of the floor.

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

Mr. NELSON. Will the Senator yield for a unanimous consent request without losing his right to the floor?

Mr. BUMPERS. I yield.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Herbert L. Spira, of the professional staff of the Senate Select Committee on Small Business, be permitted the privilege of the floor during the course of debate on the pending legislation.

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

AMENDMENT NO. 165

Mr. BUMPERS. Mr. President, I call up my amendment No. 165 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Strike title I of the bill, entitled "Refund of 1975 Individual Income Taxes," and renumber succeeding titles accordingly.

Mr. BUMPERS. Mr. President, I have now been a member of this distinguished body for a little over 2 months.

This is the first substantive item that I have brought before you. I do so with some reservation and some trepidation. I detect a sentiment in this body about the size of this tax bill. What I am proposing to do is simply delete the $8.1 billion tax refund, or, under the substitute bill of the distinguished Senator from Montana, delete the $10 billion tax refund.

I believe it is widely misunderstood among my colleagues as to what effect it will have on the economy.

I do not enjoy taking a negative stance and being against things. Yet I feel that the deletion of this $10 billion refund which, by all reports, would have a very insignificant effect on the economy, ought to be deleted as an act of responsibility.

My sensitivities have not been dulled towards the poor people of this country, toward the people on fixed incomes, toward many others who would indeed enjoy a $100 or $200 rebate. But I would like to point out that there was testimony before the Budget Committee yesterday that the budget deficit this year could run anywhere from $90 billion to $120 billion.

That would not only be the biggest budget deficit in the history of this Nation; it would be a budget deficit that would literally boggle the mind as well as the economy.

Mr. LONG. Will the Senator yield for a unanimous-consent request?

Mr. BUMPERS. I yield.

Mr. LONG. May I ask the Senator how long he will require to explain his amendment?

Mr. BUMPERS. Not more than 15 minutes.

Mr. LONG. Then I ask that further debate on the Bumpers amendment be limited to one-half hour, half under the control of the Senator from Arkansas and half under the control of someone in opposition.

Mr. STENNIS. Reserving the right to object, and I will not object, I would like to have 5 minutes.

Mr. LONG. Forty minutes to be equally divided.

Mr. BUMPERS. Mr. President, I can finish in 10 or 15 minutes.

Mr. LONG. I have asked that it be limited to one-half hour, half under the control of the Senator from Arkansas.

Mr. McCLELLAN. Reserving the right to object——

Mr. LONG. The Senator can have my half.

Mr. McCLELLAN. I want to ask a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Mr. President, we are operating, are we not, under the cloture rule?

The PRESIDING OFFICER. Each Senator has 1 hour for debate.

Mr. McCLELLAN. Then each Senator, or any Senator, during the time of debate, if he gets the floor, could use part of his time for any purpose he wanted to, irrespective of this limitation?

Mr. LONG. Not without getting unanimous consent. This would be for 100 hours.

The PRESIDING OFFICER. He could not use above the limit on this amendment.

Mr. McCLELLAN. Mr. President, do you mean I could not use the time that I have under cloture to discuss this amendment?

The PRESIDING OFFICER. That is correct.

Mr. LONG. Mr. President, let me explain the parliamentary situation.

Under the cloture rule, every Senator has 1 hour. I am aware of what has happened in some situations, where even after cloture was invoked the debate went on for 2 weeks thereafter, or 10 days thereafter.

I am simply trying to move along as expeditiously as we can, and trying to gain consent on the individual amendments as well as the 1-hour limitation.

That is why I am trying to get Senators to agree on the amendments, to limit themselves. Otherwise, the debate might drag out 4 or 5 hours because it keeps inspiring more debate.

I would hope that we could have a 1-hour limitation, as has been done many times, with regard to this amendment.

May I say as manager, I will be glad to yield half of the time from opposition to those who favor the amendment.

Mr. McCLELLAN. Reserving the right to object, Mr. President, and I do not want to object, sometime before this bill comes up for a final vote I will have something to say. I thought the appropriate time for me to use some of my

time, since I am going to say something about this amendment, might be at this particular time, and not have to cut it in two. But if the time was limited maybe I could not use all my time.

Mr. GOLDWATER. Objection.

The PRESIDING OFFICER. Objection is heard to the unanimous-consent request of the Senator.

Who yields time?

Mr. BUMPERS. Mr. President, I will do my best to be as responsive and as expeditious as possible in presenting the purposes of the amendment; but with the objection, of course, I cannot control the time of my colleagues who may wish to speak for or against the amendment.

This is a concept which was in the President's original proposal. His proposal was to give up to $1,000 per person in tax refunds for 1974. The House Ways and Means Committee bought the concept and made it more acceptable, more equitable.

But my point is, what are we trying to do by giving $8 billion back to taxpayers who paid their taxes in 1974, with no expectation of any kind of refund? Are we trying to stimulate the economy, or are we trying to make a political decision which we think will be a palliative to the disenchanted people in this country?

All the information I have is that on the original $8 billion proposal, unemployment in this country would be reduced by less than .15 of 1 percent. That is based on a rule of thumb of 100 million people in the work force of this country. Every time you reduce the unemployment rate 1 percent, that means a million people have gone to work. Fifteen one-hundredths would be 150,000 people going to work if the people who get this $8 billion refund in chunks of $100 and $200 spend it.

The Siblinger report, which was issued last week, based on a poll of 1,653 households in this country, said that 43 percent of the people in this country intend to save it; 30 percent said they were going to apply it on their bills; only 18 percent said they would spend it.

While I recognize that saving money and placing money on bills has some economic stimulus, it has to vitiate .15 of 1 percent.

Compare the impact of $8 billion spent in such a manner with spending $8 billion on public service jobs. You could hire a million men and women in this country at $8,000 a year by putting $8 billion into a public service fund.

We are not trying to create a handout. We are trying to give a job to people who honestly want a job and cannot find one. We are trying to sustain them and give them a little dignity.

So it is not a question of whether or not we are going to spend the money. We are going to spend it. We are going to spend it in housing, in economic development, in public facilities, and for public service jobs.

The testimony that the Budget Committee heard was that unless this body acts more responsibly than it has in the past, the deficit may well reach $100 billion.

I do not want to give a lesson in 103–A economics, but everybody knows that if the budget reaches anything like that, the private money capital of this country cannot sustain it without reversing the trends of interest rates, which are now declining.

Mr. GOLDWATER. Mr. President, will the Senator yield, on my time?

Mr. BUMPERS. I yield.

Mr. GOLDWATER. I think the Senator is making an excellent point, one that has been completely overlooked on the floor of the Senate during this debate.

One only needs to read the daily newspapers in this country to find out what the situation is with respect to the interest and the expenditure and the money that would be saved by the rather small tax cuts that would be made.

Every newspaper carries copious ads on the overstock of televisions, of radios, of hi-fi equipment, of tools. Having been a merchant a good part of my life, I know that when you are overstocked, you want to get rid of the merchandise, and that is precisely what is going to happen.

These people will take their $100, $200, or $300 and will either pay their bills or will buy something from these overstocked merchants. This does not mean that the merchants are going to turn around and buy something. They will not, if they are smart, and I think they are fairly smart. They are going to stay as they are, with a reduced inventory. So nobody will be put back to work.

I think the Senator makes this point very well, and I compliment him on that, especially having had a pretty good part of my life's experience in what is going to happen to this money.

Mr. BUMPERS. I thank the distinguished Senator from Arizona for his observation.

Mr. President, there are very encouraging signs in the country. Inventories are down $17 billion since the first of the year. Savings in the savings and loan associations and other thrift institutions are accelerating at an unprecedented rate. Capital reserves in the Nation's banks are at the highest level in 7 years. Yesterday, Chase Manhattan Bank reduced its prime rate to 7.5 percent, and an article in the New York Times this morning predicted that the rate could very well reach 7.25 percent to 7 percent next week.

We are offering business people in this country great incentives with this 10-percent or 12-percent investment tax credit. Couple that with the depleting inventories of the country and a declining interest rate, and certainly the economy is going to do some things on its own, despite what we may do to it or for it.

I heard the distinguished chairman of the Senate Finance Committee the other evening, in all his eloquence, express what had to be one of the most frustrating statements I ever heard, when he was considering all the amendments that are being considered to this bill. He cried out, "What are we doing and why do we do these things?" I thought it was the most appropriate question that has been asked since I have been in the Senate.

It is time for us to be selective. Nobody has a monopoly, in this Chamber or in Congress, on his concern for the people of this country and for its economy. We do disagree, indeed, on what we should do to stimulate the economy. But I am saying that this is probably the poorest of all ways. I said this on national television 2 weeks ago, and my office was flooded with mail. Of all the mail I received, three people criticized my approach in saying that we should not hand out this $100 and $200 rebate.

America wants its confidence restored. It does not want a rebate. If you want to see the money in the savings and loan associations start being spent, if you want to see people—businessmen, in particular—start borrowing some of the reserves in the banks of this country, to start their plants up again, let Congress act responsibly and help restore their faith in the future of the economy.

In this body, we have come to rely on deficit spending as a drug. We are all interested in our respective States, and we know that there is no such thing as a free lunch. We all heard Alistair Cooke make his poignant argument on his series "America." There is no such thing as a free lunch; yet, we continue to act as though there is.

We are going to have a deficit this year. Nobody likes it. What we are talking about is, how big is it going to be? How is it going to affect the demand for private capital?

Mr. President, I have sat here all this week feeling the same frustration that the chairman of the Committee on Finance expressed more eloquently than I ever could.

I went back to a sort of patron saint of mine, Walter Lippmann, who wrote a book in 1952 entitled "The Public Philosophy." There is a chapter in that book entitled "The Malady of Democratic States." While I am reluctant to read to the Senate, I should like to read the last two paragraphs of that chapter. He said:

> With exceptions so rare that they are regarded as miracles and freaks of nature, successful democratic politicians are insecure and intimidated men. They advance politically only as they placate, appease, bribe, seduce, bamboozle, or otherwise manage to manipulate the demanding and threatening elements in their constituencies; the decisive consideration is not whether the proposition is good but whether it is popular—not whether it will work well and prove itself but whether the active talking constituents like it immediately. Politicians rationalize this servitude by saying that in a democracy public men are the servants of the people.

He concludes by saying:

> This devitalization of the governing power is the malady of democratic states . . . the malady can be fatal.

In my opinion, Walter Lippmann was a visionary. As we say in Arkansas, "You do not have to be broke out with brilliance" to see what the future of this country is going to be unless we bring the political actions we have been taking on this bill to a screeching halt.

I am saying that this decision on the rebate had to be political, not economic. There are no economic indices to justify it. People are not looking for a $100 re-

bate; they are looking for a responsible Congress.

For all of the reasons I have just stated, Mr. President, I strongly urge my colleagues to support the deletion of this item, which the American people are not looking for, and it will make this bill a lot more palatable to the American people.

Mr. GARY W. HART. Will the Senator yield for a question?

Mr. BUMPERS. I yield to the distinguished Senator from Colorado.

Mr. GARY W. HART. I wonder if the Senator would propose a substitute purpose for the expenditure of these funds, or is he merely moving to strike this item from the tax bill?

Mr. BUMPERS. Mr. President and my colleagues, I am moving to strike this provision from the bill in the belief—and this is based on my conversation with various chairmen of appropriate committees—that substantial appropriations will be brought to this body for consideration to stimulate the housing industry; a $5 billion economic development bill was introduced yesterday—or at least, hearings, perhaps, were held on it yesterday.

I first considered offering a substitute for the $8 billion, but I felt this ought to be taken out simply to get this bill within manageable limits, acceptable limits, in the sure knowledge that that much and more will be spent in all of those areas—public service, housing, and so on—which I think will have a much greater and more intensive effect.

Mr. GARY W. HART. Will the Senator yield for another question?

Mr. BUMPERS. Yes.

Mr. GARY W. HART. Does the Senator from Arkansas feel that those expenditures would be in enough time to do some good for the economy, or will the appropriation process and the expenditure process take so long that they will not have any impact at all by the time they are spent?

Mr. BUMPERS. To answer the question directly, on the front end, I think that action will be taken on those measures in sufficient time. I think, above all, that with those indications I mentioned a moment ago about the present state of the economy, some things are going to start turning up in the next 30 to 60 days simply because of the investment tax credit, which is a part of this bill, and the renewed confidence of people that we might stimulate if we make this a more reasonable bill.

Mr. BIDEN. Will the Senator yield to me, as a cosponsor, to respond to what I consider a non sequitur in the question the Senator from Colorado is asking?

Mr. BUMPERS. I am happy to yield to the distinguished Senator from Delaware.

Mr. BIDEN. Implicit in the question of the Senator from Colorado as to what we will substitute for this is the assumption that this might have some merit and that we are going to substitute something that has merit for something that also has merit. The analogy I would make to the Senator is that it makes no sense whatever, for example, with a dying patient, to go out and spend $50 on a supply of aspirin that will have absolutely no effect on his health whatsoever. When, in fact, I come to the Senator and say, "No, do not spend the $50 on the aspirin," and the Senator says, "Well, if you do not spend it on the aspirin, what are you going to spend it on?"—it has nothing to do with anything. The aspirin is not any good for the patient. This rebate is not any good for the patient.

On its face, instead of $8.1 billion, it is more like $10 billion that we are talking about under the Mansfield substitute. There is no relevance to spending that money in terms of helping the economy. The sole justification for the tax rebate in the first place was to take us out of the recession by encouraging consumers to go out and purchase, which in turn would put people back to work. The evidence is, in every poll that has been taken, from every economist who has testified before the Committee on the Budget and the Committee on Banking, that it will have little or no impact upon unemployment.

Therefore, it seems to me logical to ask the next question: If it will have no impact on unemployment and if the reason for it was to impact on unemployment, what is the merit of increasing the deficit of this Nation to the tune of $10 billion?

Mr. GARY W. HART. Will the Senator yield?

Mr. BIDEN. I shall yield in just a moment—as of yesterday, in the Committee on the Budget, as we looked at the alternative budgets—and, everybody in this room, make no mistake about it, it was estimated that we may have a budget deficit of as high as $120 billion, I repeat, $120 billion. If we are talking about this economy coming back, if we are talking about increasing investment and rebounding, I would like anyone to show me how, when Government is out in that capital market competing for $120 billion, or even $80 billion, of debt financing, we are not going to cause interest rates to skyrocket. There was a prediction, as late as yesterday, in the Wall Street Journal that the interest rate could go as high as 20 percent if, in fact, we have a $100-plus billion deficit.

What effect is that going to have upon unemployment? What effect is that going to have upon the recession?

It seems to me that every place we can eliminate a nonessential expenditure we should do so—and make no mistake about it, this is an expenditure. That is clearly what it is. It is just as if we went out and spent it on a Space Shuttle or spent it on a food program or anything else. Every place we can, we should be looking to knock out nonessential expenditures.

Mr. HUMPHREY. Will the Senator yield?

Mr. BIDEN. I do not know if I can. I will if I can.

The PRESIDING OFFICER (Mr. MATHIAS). The Senator may yield for a question.

Mr. BIDEN. I yield to the distinguished Senator from Minnesota.

Mr. HUMPHREY. Will the Senator break out this $120 billion deficit? What are the areas in which this amount is ascertained? The administration says its budget deficit is about $55 billion.

Mr. BIDEN. They have now revised it to say it is closer to $65 billion. Secretary Simon has pointed out it is going to be $80 billion, in his opinion, a minimum of $80 billion.

Mr. HUMPHREY. Secretary Simon likes to scare little children and old ladies and other people. I think it is possible that it may be that big. But I am asking the question, where does the Senator get the $120 billion? I am asking it as a point of information.

Mr. BIDEN. I get the $120 billion from three or four places: First, revenue estimates of this year. They vary in terms of from, I believe, $269 billion to a top of $294 or $295 billion. They come from several sources: First, the Committee on the Budget staff; second, the joint Economic Committee came out with a projection; and I believe, maybe, but I am not sure, the Committee on Appropriations. There are four sources within this Congress that have estimated revenues. None of those estimates ranges above $300 billion, and they go as low as $169 billion.

It was pointed out that in the last 3 years, the administration's own estimate of revenue has been off by close to 20 percent. In each instance when they have been off that far, we may be more realistically looking at a picture where we have revenues of closer to $159 billion. So part of the increased estimate is due to a relook at what revenues are going to be.

Mr. HUMPHREY. Will the Senator yield there?

Mr. BIDEN. I certainly will.

Mr. HUMPHREY. What does he think causes the drop in revenues?

Mr. BIDEN. Unemployment in large part.

Mr. HUMPHREY. How do we remedy unemployment?

Mr. BIDEN. We have to give it an injection. That is why the Senator is a cosponsor with me and I am a cosponsor with him in a number of pieces of legislation dealing directly with housing, dealing directly with unemployment compensation, dealing with railroads, dealing with a number of other areas which have a specific, direct effect on the economy.

We can tie it in and say, "OK, fellows, look at where our dollar went and what we have." That is why the Senator has been a leader in that area all these years. But now, we are sort of out-rebating each other.

Mr. HUMPHREY. I want to talk a little economics with the Senator. First of all, is it not purchasing power which determines what we call the velocity of money and turnover on which we gain revenues?

Mr. BIDEN. In part.

Mr. HUMPHREY. I am an advocate of the housing program and say there is no way out of this recession unless housing is brought out of its depression. I know it is going to take some time. I believe in public works, and I know that is going to take some time. But I know one thing that does not take time. If one has a weekly paycheck that is a little larger each week because we reduce taxes——

Mr. BIDEN. Let us not confuse rebates and reductions.

Mr. HUMPHREY. Let me add that a rebate, while I read that it is not the most desirable form, the rebate proposed here is a maximum of slightly over $200, which will go to the taxpayers of this country, compensate most of them in the lower income brackets for the cost of inflation. While it is true that the polls indicate that much of it will be saved, I still want to say that savings are part of the general money supply.

The money supply, what they call M–1 or M–2, is the basis on which the lower interest rates and on which we have available credit, and it is credit that is the name of the game.

Mr. BIDEN. That is correct, but at the same time, while we talk about the money supply, how can we have the Government out in that money market competing to borrow up to between $80 billion and $120 billion without having the very adverse effect the Senator is most concerned about, which is in fact the rise in interest rates, which has a direct effect upon unemployment?

Several Senators addressed the Chair.

Mr. NUNN. I would like to ask the Senator from Florida a question on that point.

Mr. BIDEN. Mr. President, I would prefer to hear the response of the Senator from Minnesota first.

Mr. HUMPHREY. We each have an hour. I will take it out of my time. I do not want to use the Senator's time here.

My point is that while we do have a deficit in figures that are appalling, that is due primarily, may I say, to the drop in income and revenues due to the recession, the unemployment, and the drop in production. The old saw that this is all due to Federal spending is not entirely the case, because we have had unbelievable amounts of impoundments, even lessening what we say is a rather high Federal budget.

It is a gamble. But I submit this: If we are unwilling to take the gamble of a substantial tax reduction with a compound of investment tax credit, individual income tax reduction, corporate tax reduction, and rebate, I will make the prediction that we will not be able to finance this deficit, that this country will grind to a halt, that we will be in a deep depression, and then we will really have trouble.

Of every witness we listened to in the Joint Economic Committee, and we listened to 32 of them from labor, business, finance, and every segment of this economy, the only ones who raised any fear about the ability of the Government to finance the deficit and to refinance the part of the deficit which is due this year were administration witnesses. Everyone else said it was possible to refinance it without increasing interest rates.

The interest rates are coming down. We know we have to have a balance; we cannot go hog wild and crazy. The only way I know to stop the horrendous deficit is to get the country to work, and the longer we delay—the country is in trouble, and we have been fussing around here for a month longer than we should have. We should have had the bill ready a month before. We had a President named Franklin Roosevelt who, in 100 days, did a thousand and one things.

Mr. BIDEN. Mr. President, if I may, I would like to suggest that the one thousand and one things Franklin Roosevelt dealt with do not exist today. This is 1975. The cause of the recession is drastically different than the depression. We are dealing with totally different things than in 1932, 1958, 1962, and 1967.

I agree with 90 percent of what the Senator has said. It has not been Federal spending; it has been because of our asinine policies and the turndown in revenue and loss of purchasing power and tax base because of increased unemployment.

I agree with all that. I would like to focus, though, on one thing: Will, in fact, the expenditure of $10 billion in regard to a tax rebate—which is very appealing to everyone in the gallery and throughout the country, but they confuse tax rebates with permanent tax reform—get us anywhere near 10 billion bucks worth of bang, by that expenditure? My only point to the Senator of Minnesota and my colleagues is that it will not do that. It will have precisely the opposite effect from that it is intended to have.

Mr. GARY W. HART. Mr. President, will the Senator yield for a question?

Mr. BIDEN. I yield.

Mr. GARY W. HART. Let me redirect a question to the principal sponsor here, the Senator from Arkansas. I am not trying to get the floor away from the Senator from Delaware. I believe the remarks of the Senator from Arkansas——

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Who has the floor?

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. BIDEN. Can I yield for a question from the Senator from Colorado to the Senator from Arkansas without losing my right to the floor?

Mr. HUMPHREY. Yes.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry. Had the junior Senator from Arkansas released the floor? Had the Senator from Arkansas yielded?

The PRESIDING OFFICER. The Senator from Arkansas will state his parliamentary inquiry.

Mr. BUMPERS. Mr. President, I believe I yielded to the distinguished Senator from Delaware. I will be happy to yield back to him immediately after the Senator from Colorado poses his question.

The PRESIDING OFFICER. The Senator from Arkansas is advised that under the rules he may only yield for the purpose of having a question asked, to which he must respond; and when he yields for any other purpose he loses the floor.

Mr. BUMPERS. I was under the impression that I had done that, but that may not be true. I thought I had yielded for a question, but it is immaterial.

Mr. BIDEN. Mr. President, I yield the floor to the Senator from Arkansas.

The PRESIDING OFFICER. The Chair would like to state that the Senator from Delaware entered into an extensive colloquy, and the time was at that point charged to him and not to the Senator from Arkansas, or to such other Senators as indicated that they were entering into colloquy.

Mr. GARY W. HART. Mr. President, I think the record will show that the Senator from Arkansas yielded to me for a question, which the Senator from Delaware then answered.

Nevertheless, the remarks of the Senator from Arkansas included the statement, I believe, that other means of stimulating the economy are far superior to a rebate of the 1974 tax. I think that is the crucial point here: What are the other means, and how fast can they be put on the line? Why would they be more effective?

Mr. BUMPERS. Mr. President, I appreciate the question. It is a very cogent one. I would say that at very best, on the assumption that everyone who receives a tax rebate will spend it, the highest possible estimate I have seen for reduction of unemployment based on the $8 billion would be fifteen hundredths of 1 percent, or 150,000 jobs.

That same amount of money dumped into the housing industry on a direct-line basis would generate almost 500,000 jobs. If you take the $8 billion and take the administrative cost out of it, you could conceivably hire as many as a million people.

The statement to which my distinguished friend from Colorado referred is that I think this is the very lowest priority as far as stimulating the economy is concerned, because there are so many other programs—housing, public service jobs, and I think even other public jobs, such as waste treatment facilities—any of those will create substantially more jobs for the money than will this rebate.

Mr. NUNN. Mr. President, will the Senator yield for a brief question?

Mr. BUMPERS. Yes.

Mr. NUNN. In reference to the colloquy awhile ago between the Senator from Delaware and the Senator from Minnesota, reference was made to the polls showing that people are not going to spend this rebate, but rather put it into savings.

The Senator from Minnesota said this added to M–1 and increased the savings accounts, thereby adding to the money supply.

What the Senator from Georgia does not understand about the statement of the Senator from Minnesota—perhaps the Senator from Arkansas can answer this—is how is the money supply increased when the Government goes out and borrows the funds to give the $8 billion tax rebate, and then the people who get the rebate put it back into savings accounts? The $8 billion is not coming from the Federal Treasury, it is coming from Federal borrowing. So if the people do not expend the money, where is the increase in the money supply?

Mr. BUMPERS. I think the distinguished Senator from Georgia makes a valid point. I think, as I understand the question, it is a cycle where it goes into

savings and loan associations and the Government, because of the deficit, has to turn around and borrow it from them, so there is no net gain; is that the point?

Mr. NUNN. That is exactly the point.

I would have to say I do not understand and, perhaps the Senator from Minnesota can explain, how you increase the money supply by $8 billion if the people who get it put it into savings while, at the same time, the Government has to borrow it in the first place from somebody out there in the United States of America.

Mr. BUMPERS. If I may comment further on the question of the Senator from Georgia, this past week ending March 12 the money supply in this country increased at a rate of about $2.9 billion as opposed to the same week last year of a $1.3 billion decrease.

Now, what I am trying to say is that with the banks having the largest reserves in 7 years that are lendable, with savings and loan association deposits accelerating at an unprecedented rate which, incidentally, is a manifestation of the apprehensions and the fear of people because they are afraid, they are saving more, but the money is available for lending right now, if the banks and savings and loan associations in this country were lending money at the traditional spread used in 1970 and 1971, between what the money was costing them and what they were getting for it, the prime rate would be 6.5 percent right now rather than 7.5 percent.

The bankers argue in response to that that they have more high-risk loans on their books right now, and they say they cannot afford to reduce their rates.

But the point is interest rates in this country have been declining. It is a very healthy thing. The investment tax credit ought to stimulate the demand for that money, and what I am trying to say is that there has to be a point—and I think the Senator from Minnesota will agree to this—at which the Federal deficit is most certainly going to start accelerating interest rates again.

I have heard many different arguments but, as I say, when I heard of a figure of $120 billion, I am glad the Senator from Minnesota did not ask me how we arrived at that. I heard that an economist appeared before the Budget Committee and he said that the deficit this year would most definitely be between $80 billion and $120 billion.

It is my belief that this Government cannot finance this kind of deficit without interest rates accelerating again, without the concomitant acceleration of inflation which most certainly is going to follow.

But I do not want this body to lose the principal point that has been so appropriately brought out by the Senator from Colorado that the spending of this money for this purpose and in this manner is a very, very foolish and insignificant way. It is a foolish expenditure, for one thing, because it does not have the impact and it does not have the stimulus we think it is going to have or some of us think it is going to have.

Mr. NUNN. Mr. President, will the Senator yield for just one brief comment in reply to the Senator from Minnesota's question to the Senator from Delaware about the $120 billion figure? That figure comes out of the Budget Committee analysis not only of the revenue picture in what is coming in, but also of the reports that come from the various authorizing committees of the Senate. So it is a compiled version of what the authorizing committees of the Senate have indicated to the Budget Committee they are going to authorize in expenditure. After you add all of that up it is a deduction from the anticipated revenue, and that does come to, I believe—and I do not want to make the horror story any worse than it is—but I believe it is $122 billion.

I would just like to say that I agree with the Senator from Arkansas in the argument he has made, and the Senator from Delaware. I think this would be a positive step and would leave a tax cut needed to stimulate the economy without posing the grave dangers which the Senator from Arkansas has already so well delineated.

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

Mr. NUNN. I yield back to the Senator from Arkansas. I do not have the floor.

Mr. BUMPERS. Mr. President, I yield to the Senator from Delaware. I would like to yield the floor to the Senator from Delaware with the understanding that our other sponsor, the Senator from Florida, have an opportunity to speak.

Mr. BIDEN. I think it is important we look at one, and only one, thing: not what effect it is going to have on the deficit, this $8 or $10 billion; not what the alternative is, not any one of those things, but we should examine it the way we examine any other expenditure here. Is the expenditure going to produce that for which it is spent? Is it going to have the effect for which it is designed?

The expressed purpose for this rebate in economic terms, not political terms, the expressed purpose of this rebate is to help us out of a recession by putting money into the hands of consumers who, ostensibly, are going to go out and buy durable goods which are going to be required to be produced by employees, which are going to put people to work, which are going to, in fact, lessen unemployment, which are going to increase revenues, and that is the cycle.

If, in fact, the rebate cannot stand on its own, regardless of deficits or surpluses or alternatives, if that cannot stand on its own, then it is not worth expending $8 to $10 billion. It is, quite frankly, as simple as that.

Every economist who has come before the Joint Economic Committee, I think, has appeared either before the Budget and/or the Banking Committees at one time or another, and I have heard much of that same testimony.

Every economist agrees at least on one thing. They agree that what the consumer spends that money on and what they do with it affects the relative worth of the expenditure.

I would like to read a response that I had when I said to, I believe it was, Mr. Greenspan—who is a favorite of the Senator from Minnesota, I know—I was saying that I thought that the consumer would do just what my mom would do. My mom is going to get that 100 bucks and she is going to go out and say, "I'm going to go down and buy a new television? I'm going to buy a new toaster?"

My mother is going to say, "Hey, look, the electric bill is up 40 percent; food bills keep rising. I do not have any confidence that inflation is under control. I had better take my 100 bucks and not put it in a savings account. I had better stick that 100 bucks in a cookie jar so that I can pay for the increased cost of energy and the increased cost of food."

I said, "Sir, if, in fact, the money is spent in that way which, I think, it will be, and I think others believe it will be," and it was admitted here on the floor that it probably will be, "then what effect would it have? Is it wise to spend the 8," and we were then talking $8.5 billion.

The response of Mr. Greenspan at that time was:

> Of course, it matters, because clearly if it is spent on food, while it will have some obvious effect, a very substantial amount of the production of the supply of food available is really predetermined in a much longer time frame and does not critically affect—

I emphasize that—

> Does not critically affect in the first stages at least the level of employment.

We are talking about employment. How we can stand here on the floor and just through a wave of a wand spend $10 billion for something that everyone or many people are coming to believe will not have the stated effect for which it is designed and, at the same time, say things like:

"Oh, we cannot subsidize interest rates for purchases of new homes at 6 percent because it will cost $600 million," or:

"We cannot spend money on the program designed by the young Congressman in the House who said, 'Why don't we put x number of dollars into refurbishing the rail beds of the Northeast,' which is a specific project which will put people to work, we cannot do that because we will spend too much money," and, at the same time, we say those kind of things, we turn around in this Chamber and say:

"But $8.5 billion will have some effect, $10 billion will have some effect, so we have got to take a chance; we have got to move forward rapidly and with new imaginative programs."

I submit to you there is nothing imaginative about this program. I submit to you that it is a scatter gun approach. It is like the old thing to throw the mud against the wall and some of it is bound to stick. Sure, some of it will go back into the economy.

What we all think we are going to be able to do is go back home and say, "Thank God I do not have to run again for 3 years," and, "thank God, Senator BUMPERS does not have to run for 6," if either of us do again, because if you go home there, you go out and say, "Hey, folks, I do not want to give you back 200 bucks," or, "I do not want to give you back a 100 bucks," that is a lot different from going up and saying, "You

know, I am concerned about you. We took some significant tax proposals. We did not just treat the big corporations, we gave you your piece, too. We gave you you 50 bucks or your 100 bucks."

That is what, it seems to me, much of this comes down to; that, coupled with a frustration, a frustration here on the floor. People I have spoken with privately have said, "Joe"—and maybe they are just trying to patronize me, but they say, "Joe, maybe you are right. But what else can we do, so let us take a chance and spend $10 billion."

Well, I will tell you what about taking a chance in spending $10 billion on this instead of on worthwhile programs like the Senator from New York (Mr. JAVITS) has proposed with regard to unemployment, and the Senator from Minnesota has proposed with regard to housing or like the Congressman from Pennsylvania has with regard to the rail system. Instead of targeting that money, if we are foolish enough to spend $10 billion on a rebate, do not think the folks out there are that dumb, because they are not. They understand what we are doing. Walk out and ask your secretaries what they are going to do with the 100 bucks or their 50 bucks. Do you think they are going to do what the administration suggested and some of the sponsors of the bill suggested? Well, they may get on a plane and fly to Bermuda. They may go and buy a new color television set.

They are not going to do those things. Besides, it is sort of a gratuitous slap to them at the same time we do not—well, I yield the floor. I have said more than enough.

Mr. NUNN. Will the Senator yield?

Mr. BIDEN. I yield the floor.

Mr. NUNN. I agree with what the Senator is saying. I agree with the thrust of his comments.

Some act as if this $8.2 billion, or the Senator from New York's program, or the Senator from Minnesota's program is the only spending we are considering. The mood of this Congress now is that we are going to spend that $8 billion by rebate, and the Senator from Minnesota's money, and then spend the Senator from New York's money, and then all the other money.

Mr. BIDEN. The Senator from Delaware was arguing in the alternative here.

It seems to me that we are going to spend additional moneys, but rather than to cloud the issue as to whether or not anything else is worthwhile, or the deficit can stand it—the Senator from Georgia and I serve in that same Budget Committee and we have seen the renaissance of a liberal into a fiscal conservative when I watched those figures come up on the board.

I am clearly of the opinion now that, brother, we better darn well be looking at where it is coming from before deciding where it is all going to go.

But so as not to confuse the issue, I think the only issue before this body is to judge on its own merits, separate and apart from everything else, whether or not this debate will, in fact, produce that which it was intended for.

Will it, in fact, have any impact upon the unemployment? Will it have any impact upon consumer confidence?

I submit that if the conclusion reached by my colleagues is, No. 1, it will not have a significant impact or much of an impact on unemployment, and two, it will not do much to rekindle the confidence of the consumer, then my colleagues have no choice, it seems to me, but to vote against it and go out and tell the American people that the rebate is something that, in fact, got a little out of hand.

It sort of reminds me of what they formerly talked about, they would go out and out-seg one another. Well, now they are out-rebating one another.

The President, $52 billion deficit. I thought we Democrats would come along and have some proposal. How about that? We came out and came up and decided we would out-rebate him because we thought he was getting some mileage and we would out-rebate his rebate.

What effect will it have?

I only ask my colleagues to look at what expenditure of $10 billion is going to affect, unemployment and/or consumer confidence?

If one is satisfied that it will, please by all means vote for it. If one is satisfied it will not, do not vote for it.

Apply it in some other area. Do not spend it, do whatever one wants with it, but do not spend it if it will not have the designed purpose.

I yield the floor.

Mr. BROCK. Mr. President——

Mr. STONE. Mr. President——

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BROCK. Mr. President, I have been fascinated and intrigued by the arguments. I am very supportive of the statement made by the Senator from Arkansas and the Senator from Delaware.

The thing that bothers me most about this debate is the point made by the Senator from Arkansas with regard to consumer confidence.

Maybe we ought to wonder why there is a lack of confidence now? Maybe we ought to start listening to the people and ask some questions about what is bothering them?

I do not think Tennessee is that different from Delaware, Arkansas, Ohio, Pennsylvania, or New York.

I think people are bothered because they sense the lack of leadership, or decision or coherence in our policy.

I think they sense an almost desperate searching for answers here without any coherence to the answers arrived at.

I think they see Congress grasping for every straw in the bucket without having the will or the time, perhaps, to analyze them to see if they have merit.

We can talk all we want about expenditures versus rebates, but I think the fundamental question we have to ask ourselves—is will the Federal Government do the job? At what price? We are talking about a rebate and that is all—will it be effective?

No single economist that has made predictions before a committee of this Congress has said that this rebate is going to create a surge of employment in the troubled industries where people are out of work. I do not believe anyone who receives a $100 rebate will make a purchase—as the Senator from Delaware said—of a color television set, or an automobile, or a home.

The Senator from Minnesota says that we have got to get this thing in balance. We do have to do that. We are all in agreement there. The question is, who knows when the string will snap?

I do not know, I really and truly do not, but I do know the string has a breaking point and I honestly and truly and deeply feel that at the moment we are rushing pell-mell for that breaking point.

We can now debate, the choice between the expenditures and rebates, but somewhere in this Congress we have got to decide where we draw the line, where do we stop, $10 billion here, $5 billion there, $6 billion for public service employment, another $8 billion or $10 billion for housing?

There is not a Member that does not want to help these people and restore vitality to these industries and the economy as a whole. But where do we get the money? Where does it come from? And we are going to have an $80 billion deficit. If we want to rebate $10 million more, where do we get the money?

There are two places to get it—through the Federal Reserve System and through Federal Government borrowing authority. I will say to the Senator from Georgia, that we have an alternative to the Federal Government borrowing money. We do not really have to borrow. There is a mechanism within this Government where we do not borrow in the true terms. We go to the Federal Reserve and sell them Federal debentures. If this is done it creates money. The creation of money increases inflation.

If we do not want to do that, or if the Federal Reserve does not want to buy the paper, we have to go to the marketplace. If we had gone to the market yesterday in New York City with 8.25 percent 15-year Federal bond, the result would have been disaster, catastrophe chaos. This has happened. When the Federal Reserve came in with a 15-year 8.25 percent issue, the whole market went to smithereens. The bond market went crazy.

Issues selling at a hundred ended up at the end of the day at 93. Why? Because nobody can compete with the Federal Government if it wants to borrow money.

When we want it, we go to the head of the line. There is no question about that. Nobody can compete with us.

What happens when we borrow $10 billion from the marketplace?

Mr. GARY W. HART. Will the Senator yield for a question?

Mr. BROCK. Surely.

Mr. GARY W. HART. Can the Senator tell us what the administration's proposed size of the proposed rebate was?

Mr. BROCK. The administration's rebate was about $12 million.

Mr. GARY W. HART. I thank the Senator.

Mr. BROCK. Senator, I am not defending the administration's position on this particular question.

I am not arguing their case. I am trying to present the case of my constituents as best I can.

Gentlemen, we have to look at this thing honestly. There is a limit to the productive capacity of the American people. The money has to come from somewhere, sometime.

Where? If the Federal Government borrows billions of dollars in order to give a rebate, people have to buy these issues. They take their money out of the banks and savings and loan associations. There is much less for the purchase of a home. There is much less for the purchase of a refrigerator for the family.

Where is the breaking point? I do not know. I really truly do not know.

It is somewhere less than the anticipated deficit that we are talking about. That is why the Senators from Florida and Delaware got my attenion on this point. I think they are making one fine, sincere effort which should be terrifying to a lot of people in this country. I just do not understand how we cannot ask ourselves the question: Where are our priorities? Where does the money come from? At what cost?

Do you know what inflation cost the American people last year, the average family $100 a month, every month all year long; $100 a month in purchasing power was lost by the average family in this country. Are you going to do them a favor by giving them a one-time $100 rebate that continues the same level of inflation? Who is kidding who? Who is being had?

The family is sweating like the dickens just to make it, just to stay even. Will you give a man who is unempolyed a rebate instead of a job? Come on, what have you done for him? Who is kidding who?

The Government did not create this economy. It does not make it go. It does not give us the fuel. The efforts of the American people are what sustain this free society—their work, their sweat, their labor, their concern, their car, and their intellect. The mental, physical, and spiritual muscles of human beings are out there trying to make it. What happens to them? What happens to the small business when we preempt by deficit debt and Federal borrowing all the funds in the marketplace? That is what deficit means. All the funds will be preempted by this Government. What happens to the small businessman who wants to buy a few more items to stock his shelves? If he cannot borrow the money to place those items on his shelves, what happens to him? How will the economy run? How will it respond? How will it come out of a recession when 20 out of 21 jobs are private enterprise jobs—most of those are in small business—and there is no ability for them to acquire the working capital; or the loans to produce more goods, to hire more people, to create more sales, and to get the country back on the track again.

Yes, we have to have a balance. This amendment is the first step in trying to achieve that balance. I could not agree with it more. I am grateful for the effort of the authors of this amendment and their initiative, and I am going to support them.

Mr. FANNIN. Will the Senator yield for a comment? I feel it is tremendously important.

Mr. BROCK. The Senator from Florida had yielded.

The PRESIDING OFFICER. The Senator may only yield for the purpose of an inquiry to which he expects to respond. If he yields for any other purpose, he loses his right to the floor.

Mr. FANNIN. I would like to ask a question. The Senator asked where was the breaking point. I would like to ask where is the breaking point as far as the dollar is concerned? I am sure that the Senator is very much aware of what is happening as far as the dollar is concerned internationally. We have countries like Saudi Arabia and Kuwait who have decided that the dollar is not of sufficient value in exchange for their oil. I think the Senator realizes they have asked that they be paid in SDR's, special drawing rights. I would ask the Senator how long does he think we can continue on in this position where the countries of the world supplying us with products no longer are willing to take the dollars as a valuable currency that they will be able to bank and depend upon in the future.

Mr. BROCK. In answer to the Senator's question, I feel that when you assess our energy crisis, inflation and recession, the result is the devaluation of the dollar. This means simply that we have to pay more dollars for the essential necessities of life in this country, including oil, bauxite, and other absolutely crucial materials. The people have to pay more. This devalues current dollars so you have to print more dollars; in turn that means you have to pay more dollars which again means more inflation. It is a self-feeding process. A "catch 22" situation. There is no stopping until we exercise the political courage and will to tell the American people, "We are not doing you any favors with a rebate that does not strengthen this economy."

Mr. FANNIN. The Senators from Tennessee, Arkansas, and others have brought out the importance of having capital available here in this country. The Senator from Tennessee has referred to that in his recent comments. I know he is aware of the great problem we have as far as retained earnings are concerned and the necessity for the business sector of our economy to borrow money for expansion purposes. I think the Senator will remember some of the figures cited by Secretary Simon. Retained earnings in 1965 amounted to $20 billion. Eight years later, in 1973, that figure was down to $6 billion. A short time ago, Mr. Simon has revealed that retained earnings for 1974 were minus $15.6 billion. I ask the distinguished Senator from Tennessee that if this downward trend continues, what can the business sector expect in the way of investment capital—especially in the energy area. What can these people do for capital?

Mr. BROCK. If the Congress of the United States does not accept its responsibility and does not understand the workings of the marketplace, if the Congress continues to borrow the people's money without their consent and take it from the marketplace—and I do not concern myself just with large businesses, a lot of small businesses and individuals are in great trouble now for the same reason—again if the Congress refuses to accept its responsibility, then we will soon see the end of our system.

Mr. FANNIN. The Senator and I will expand on these remarks later because I think it is important. I thank the Senator for his comments.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, when we were at an impasse yesterday, the distinguished majority leader, to break the impasse, offered a committee substitute which was forthwith reported to this Chamber. In doing it, he warned this Senate that the size of the bill was then so large that he planned to vote no. The majority leader planned to vote no. The size of the bill then was $29 billion. After backing and filling, the size of the bill now is over $30 billion.

A moment ago my distinguished senior colleague from Florida offered an attempt to take $10 billion off the size of this price tag. The junior Senator from Florida supported that. I believe that most of the Senators in this Chamber are beginning to concern themselves just a little bit about just the plain size of the addition to the deficit which we are going to contribute in the name of stimulus. This Chamber is the deliberative part of the Congress. But it was the House of Representatives that reported a bill out that was no larger than $20 billion, and we are $30 billion and climbing. To this beginning Senator, that does not seem like responsibility.

We have heard a lot of talk about the consumer, but it takes two to tango. What about the producer? Who produces jobs as well as products? It is the producer. What does the producer need in order to produce jobs and products? He needs investor confidence. If he does not have it, if he pulls in his horns, if he chooses not to invest, the jobs are not produced, the products are not produced, and with the absence of the products you do not lower the price. If you have a steady demand, if you do not increase the supply, you cannot lower the price.

We do not have investor confidence in this country today, for several major reasons. One major reason is that people who would invest, as opposed to simply squandering the money or putting it in the mattress, believe that this Government is not responsible in the trusteeship of its funds, and they believe that based on evidence.

What good does it do to put money into the stream of economic income by borrowing it out of thin air and depreciating the value of the dollars that we hand—supposedly—back to our taxpayers? It not only does no good; it does a great deal of harm. The optimism that

we felt in recent weeks by reason of the interest rate coming down will evaporate as quickly as the interest rate stops going down.

When the OPEC nations state that they no longer wish to measure their price by the dollar, even though they are locked into that dollar, that should tell us something. They have no choice; yet, they are seeking a way out of using the basic unit of currency in the world—the dollar.

What benefits do we really confer on someone of limited income if we hand him a hundred dollars in cheapened currency and then raise the price at the grocery store and at the market and at the hardware store more than the hundred dollars?

The price tag on this bill is too high. An act of responsibility which would go further than the dollars in restoring the confidence of this Nation would be to adopt this amendment. If we cannot take this money off this bill, whether by this amendment or an amendment similar to the one of my senior colleague from Florida which was just tabled, or some other similar approach to take the dollars out of this deficit that we are about to add to it, then this Senator will have to follow the sterling example of the majority leader and vote "No," much as this Senator wants to start the stimulus going as quickly as possible.

It would be an act of deception to take away more than we provide. I urge the Senate to adopt this amendment.

Mr. MORGAN and Mr. McCLELLAN addressed the Chair.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I will try to be rather brief.

It has been my expectation, my hope, that I could support a tax relief bill within reason and within the framework of trying to provide a proper and a limited stimulant to the economy.

A little earlier, I supported the Chiles amendment substitute, hoping that we could reduce this total amount to what that substitute provided, which would be some $10 billion less than the $30 billion in the present bill.

I would have trouble even voting for a bill with a price tag of $20 billion. It seems to me that even that is excessive. But, in my judgment, there is no question about a $30 billion bill being excessive and unwise at this time.

I compliment my colleague from Arkansas and commend him highly for having presented his amendment. I think it takes a great deal of courage, under the conditions that prevail today, not only for him but also for any of us, to stand on the floor of the Senate—especially those who hope to run for reelection some day—and say that we do not feel that under conditions that prevail today, a rebate of $10 billion, out of taxes already collected and already spent—that we will have to borrow the money to finance—is a proper remedy for the conditions that prevail today.

I associate myself with my colleague and the distinguished Senators from Delaware, Tennessee, and Georgia and others who have already spoken in support of this amendment.

Mr. President, what we are all trying to do is to give a stimulant to the economy. It is needed. A proper stimulant can be beneficial, can be helpful. But this bill, with a $30 billion loss in revenue, provides an overdose of stimulant which, when its temporary effects subside, will produce an adverse reaction. It is calculated to rekindle economic health, but I am confident that it will accelerate and fan—the flames of inflation again. Thus, in undertaking to give relief of $100 or $200 to the low-income people, if this stimulates inflation again, it will immediately wipe out any benefits they receive. An overdose of a stimulant can be helpful. An excessive dose can prove harmful to the patient, even fatal; whereas, a proper dosage or a proper limit can be beneficial.

Mr. President, when the force and effect of this temporary and excessive stimulant shall have receded, then the patient will be in a more serious condition, by reason of having become further addicted to heavy deficit spending. Deficit spending is now so greatly in excess of revenues that it is becoming intolerable and unsustainable.

Mr. President, this bill is not all we need to consider. I think we should take into account what else is happening on the expenditure front. Let me point out what we have already done, what is already in the bill, together with this bill, to try to deal with this recession.

We have already enacted Public Law 93-624, urgent supplemental, which provides for $2,750,000,000 for extending Federal employment benefits; $1 billion for public service jobs; $249 million for grants to States for unemployment insurance and employment services. That totals $4 billion.

We have already agreed to Senate Resolution 61, which mandates release of $264 million for the HUD home ownership assistance program.

These funds are intended to stimulate housing construction when released.

The House has passed, Mr. President, House Resolutions 241-246. These resolutions overturn deferrals of over $80 million for the Corps of Engineers-Bureau of Reclamation construction program. All of this money, Mr. President, is going to the economy and would not have gone into it except for action by Congress.

H.R. 4481, the Emergency Employment Appropriations Act, has been passed by the House. This bill provides for $5.9 billion of money to be expended to help alleviate the current recession conditions. This bill has not yet been marked up by the Senate. We have held hearings on it. But I have no doubt that this bill will be passed—maybe not for the full amount, but for a substantial part thereof.

Then, Mr. President, the House Democratic leadership announced this week that they propose to initiate a $5 billion bill known as the emergency local public works bill, to continue the fight against recession.

The House is also moving forward, Mr. President, on several new housing subsidy programs for the same reason.

The Senate is in the final stages now of consideration of the bill before us and it provides for up to $29 billion, at least, Mr. President, in loss of revenues. In addition to the broad tax relief offered by this bill, it also provides selected antirecession provisions, such as tax subsidies to homebuilders, special aid to several large corporations, and relief to social security recipients.

Senate Resolution 69 will be considered by the Senate Committee on Appropriations soon after the Easter recess. This resolution, which has already been reported favorably to the Committee on Appropriations by the Committees on the Budget and Public Works, would mandate release of over $9 billion of impounded highway funds. This is in addition to $2 billion that have already been released last month.

Mr. President, the combined impact of all of these millions totals, together with the bill pending before us, over $53 billion in revenue loss and increased budget authority. To identify these amounts more specifically, $4 billion in budget authority has already been enacted; $5.9 billion is now pending over here in the emergency employment bill; $5 billion is proposed over in the House for further local job programs. The $9 billion for highways to which I have just referred, Mr. President, together with this tax bill that is now before us, provides for about $53 billion in revenue loss and increased budget authority.

Mr. President, that is not all. Three years ago, when I became chairman of the Committee on Appropriations, in an effort to try to get some control over expenditures, in an effort to find a way to make reductions in the budget and hold down the cost of Government, we initiated a procedure of submitting to each subcommittee of the Committee on Appropriations that part of the budget over which those committees have jurisdiction and asking them to submit to us a ceiling of a target that they would undertake to meet in an effort to reduce expenditures. I may say, Mr. President, that that has worked somewhat favorably, but not with the full results that we had hoped for. But we have, during those 3 years, reduced expenditures under the President's budget by over $15 billion in regular appropriations acts. We have been able to do that partially because of this procedure that we have adopted.

I may say in passing, Mr. President, that out of the total amount exceeding $15 billion, over $13 billion of this amount came out of the Subcommittee on Defense, the subcomittee over which I preside. We have been able to make numerous cuts over 3 years with the purpose of trying to hold down expenditures.

Now, Mr. President, this year, recently, when we divided up the budget request and submitted each part of it to the relevant subcommittees, they have come in with their ceiling targets and, Mr. President, I am not criticizing them, but they propose, after these reports are evaluated and the totals added, ceilings that total $6.668 billion in outlays over

and above the President's budget. And that does not include the significant impacts of two bills that I have referred to, the Emergency Employment Appropriations Act and the local public works bill, that is now proposed over in the House. These bills are not fully accounted for in the $6.668 billion increase.

Mr. President, I say that this $6,668,000,000 is the amount that the subcommittee propose as a ceiling even after we take into account the outlay impact of the $5 billion in budget authority that we said we would try to cut again from the military. I simply am pointing out, Mr. President, what we are doing and what is happening, not only to our economy, but what we are trying to do to revive it. I am also pointing out what is happening to the fiscal stability of our Government.

Mr. President, the impact of this is going to be, we have heard some argue here just a minute ago, a deficit approaching $80 billion to $120 billion. I do not know whether it will ever reach $120 billion. But if we take $80 billion as a minimum, Mr. President, that is $80 billion more that the Treasury must go out and borrow in addition to what it has to borrow continuously to finance the present national debt that we have.

Another $80 billion will carry with it some $5 billion plus of additional interest each year for this Government. It is just pyramiding and pyramiding.

Mr. President, if we think that by giving a $10 billion tax rebate in the face of all of this and we add that to the deficit, if we think we are helping the people who are going to be the recipients of it or that we are revitalizing the economy of this country by doing it, I say to the Senators that in my judgment, we are sadly mistaken. We are simply adding more fuel to the flames and bringing about again a restoration or an acceleration of inflation that will consume—more than consume—every benefit that the recipients of these rebates will derive from them.

Mr. President, I hope that we can reduce this tax bill to some reasonable amount in tax reductions and give some incentive, put it on a sound basis, and try to keep in mind that, if we break the Treasury, any benefits we give the recipients will be of little value. The erosion of the dollar, Mr. President—by reason of this exorbitant deficit spending—the erosion of the dollar alone, will wipe out every dime that we give the recipients here as a rebate benefit.

I hope, Mr. President, that my distinguished colleague's amendment will be adopted. If it is adopted, then I think I can give further consideration as to whether I shall support this measure on final passage. But, Mr. President, if the existing title is retained in the bill, and we keep a bill before us with a loss to the Treasury of $30 billion, I cannot in good conscience, Mr. President, support it as being of benefit to the people it is supposed to help, or as in the best interests of my country, and I shall be compelled to vote against it.

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

Mr. McCLELLAN. I yield to the distinguished Senator from Georgia.

Mr. NUNN. I commend the Senator from Arkansas for what I think is an excellent statement, and for looking at the big picture and disregarding what all of us know is the popular course at this point in history.

I also commend the Senator for his continued diligence in trying to prevent the very erosion of the dollar that is now taking place. I know of his past actions, and I have watched him closely.

I would just like to ask the Senator if he agrees that those who are going to pat themselves on the back if we pass a $30 billion tax reduction bill, and go back home and tell the hard-working, ordinary income American what they have done for him, if in the judgment of the Senator from Arkansas they had better do it in the first 6 months after passage, because, in the judgment of the Senator from Georgia, after that first 6 months there will be more money coming out of the average American's pocket by reason of what we are doing than will be going into his pocket by reason of the tax rebate.

Mr. McCLELLAN. I agree with the Senator completely. Moreover, the dollars in his pocket will purchase a whole lot less.

I commend the Senator from Delaware on the excellent statement he has just made.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a compilation by members of the staff of the Appropriations Committee relative to the cost of each of the various proposals contained in this measure.

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

The following are the provisions of the House bill which have been modified by various amendments and the Mansfield substitute.

(1) Rebates of 12% with a maximum of $240 on individual income taxes—Cost to Treasury—Approximately $10 billion.

(2) An optional tax credit of $200 in lieu of the present $750 personal exemption—Cost to the Treasury—$6.1 billion, approximately.

(3) Reduction in Tax Rate for 1975 and 1976. This temporary reduction is in the amount of 1% for the first four tax brackets.—Cost to the Treasury—$2 billion.

(4) Earned Income Credit—For married workers with families with incomes of $4,000 or less, a credit against tax in the amount of no more than $400.—Cost to Treasury—$1.7 billion.

(5) Tax credit for home purchase—For individuals purchasing a new residence a credit against tax in the amount of 5% of the purchase of the house, not to exceed $2,000—Cost to Treasury—$1 billion.

(6) Increase in Investment Credit—The investment tax credit would be set at 10% for all business taxpayers (with a 7% rate for utilities). There would be an optional 12% for taxpayers so electing through December 31, 1975. Those so electing would be required to place a portion of the benefits obtained under the 12% plan in an employee stock ownership plan.—Cost to Treasury—$4.4 billion.

(7) Increase in Corporate Surtax Exemption and Change in Basic Tax Rate—The first $50,000 of taxable corporate income would be taxed at 18% (as opposed to current rate of 24% on the first $25,000). Other rates would remain the same.—Cost to the Treasury—$1.9 billion.

(8) Increase in Earnings Permitted to be accumulated by Corporation Without Penalty is increased to $150,000 from the present $100,000.—Cost to the Treasury—negligible.

(9) The Tax Credit Available to Employers who hire Federal Welfare recipients is extended to non-business employees.—Cost to the Treasury—negligible.

(10) Repeal of Excise Tax on Certain Motor Vehicles—this would eliminate the 10% excise tax on trucks, buses, and Trailers. It is currently scheduled to drop to 5% in 1977.—Cost to the Treasury—$700 million.

(11) Special Payments to Social Security recipients of $100, to be appropriated from general funds.—Cost to the Treasury— $3 billion.

AMENDMENTS THAT HAVE BEEN ADOPTED

(1) Hollings-Kennedy as Modified by Bartlett Elimination of oil depletion allowance for producers of over 2,000 b/d or 12,000 m/cf of natural gas; modification of foreign tax credit and tax deferral of foreign profits. Revenue gain by best estimates of approximatley 3.5 billion dollars.

(2) Humphrey Amendment—to extend the deferrment period for reinvestment in residences to 18 months from the current 12 months.

(3) Hart Amendment—limiting the effect of the Committee's loss carryback provision. Chrysler Corporation is the principal beneficiary of this provision. Cost $500 million.

(4) Tunney Amendment—treating child care expenses as a deduction on an optional $50 per month tax credit if the care is required for gainful employment. Cost: $110 million.

(5) Domenici-Humphrey Amendment creating tax incentives for installing home energy conservation materials. Cost: Approximately $750 million.

(6) Percy Amendment requiring the dyeing of certain fuel oils.

(7) Javits Amendment extending unemployment conservation for those eligible under the 1974 Emergency Unemployment Act for an additional 3 months. Cost: $200 million.

As the bill presently stands, there is approximately $32.36 billion in revenue loss. This is offset by $3.5 billion gained as a result of the various oil depletion amendments. Should Senator Bumpers amendment pass, this would eliminate $10 billion in revenue loss.

Mr. McCLELLAN. Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, I commend the junior Senator from Arkansas on this excellent amendment, and I ask the Chair to call me in 5 minutes.

Mr. President, I believe that the commonsense of the people of this country has fully realized that this is no time to be paying rebates, even though some of it would come to them, out of a Treasury that already has an estimated deficit for this year of more than $34 billion.

Mr. President, I do not believe it is necessary for so many people to be coming in and going across here. I just want to take a few minutes to make a point that I do not believe has been made.

I believe the commonsense of the people of this country has sensed the situation already, that even on its face it is almost ridiculous to be paying a rebate back out of a Treasury that is already broke to the extent of $34 billion, in a year that will end in 3 months. They sense the fact that with the prospect of a greater deficit for 1976, they will have

to pay this money back, or their children will, with compound interest.

That is exactly what I believe will happen. I do not believe we are going to get anything for this $8 billion. There is no evidence that says we are, except the very slightest kind of employment—far less than one-half of 1 percent help, as I have understood, on employment.

Mr. President, there are alternatives. We set priorities all the time for what we are going to do with Federal dollars. Then just the last 2 weeks, for example, we have been taking proof on the public works projects of the U.S. Engineers and the Bureau of Reclamation. We have found there are ongoing projects now, with contracts already let and the workmen on the job, that could be stepped up. Those that are already ongoing run anywhere from $400 million to $500 million. That could be done within 2 weeks to 3 weeks.

Then there are many other on-the-shelf projects that are ready to advertise and to get into motion and employ more and more people. We are compiling the statistics on this now, to show how many more years there will be for this new employment. So we set priorities. We make comparisons all the time; and we are getting down now, to some commonsense here.

The country is in bad shape. We have got to meet this matter of employing the unemployed, but there is only one way to do it, if we are going to be practical, which is to employ people.

I have sensed from the beginning that this matter of a rebate was just to even up the score and make everyone satisfied, like the appropriation bills that come in sometimes—there is something in it for everybody. I believe that is the nature of this bill, and I believe we would have a far more effective bill, a cleaner bill and a more honest bill, if I may use that word, if we took this part out of it with a clean cut, hold future hearings, and I further believe, Mr. President—may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. I believe if the full membership of this body had heard the splendid arguments made here on the merits by our new Members in this body, who have been long and patiently studying this matter and have reached this conclusion, they would agree that here is something that is not going to do the good intended, it will not work as a practical matters, and it ought to be taken out and something else done.

So again I commend these gentlemen for the work they have done. We will have these figures in here, the senior Senator from Arkansas says, in these appropriation bills, maybe the first of next week, if we stay over. Certainly the proof is already in—tangible, definite, and certain, and it means employment.

Mr. President, I yield the floor.

Mr. MORGAN. Mr. President, my distinguished colleagues who are sponsoring this bill and my distinguished colleagues who have already spoken in support of the amendment, have ably and well presented the arguments in support of the measure, and I will not undertake at this time to repeat them, except to say to my colleagues and for the record that I concur wholeheartedly in almost all that has been said in argument in support of this amendment.

I was particularly impressed, as the President was, when the distinguished majority leader said on the floor of the Senate a couple of days ago that he could not support this bill or the bill pending before the Senate that carried such a large tax reduction.

Neither can I, Mr. President. I do not understand all that the economists say. But I make no apology for it, because I find that they do not agree among themselves; and I do not know whether deficit spending has any direct relationship to the high cost of money in the private sector or economy or not, but I believe that it does, and I believe that the American people think that it does.

For that reason, if the Senate should pass a tax reduction bill carrying a reduction of more than $31 billion, I believe that it would so shake the confidence of the American people that the bank reserves, which my distinguished colleague from Arkansas says are higher than they have been in 7 years, will grow even higher, because the people will lack confidence in our system and they will not be willing to invest in the system.

During the last 12 months I traveled more than a quarter of a million miles back and forth across North Carolina talking with people from every walk of life, and I can say to my colleagues that they believe that deficit spending and borrowing, continually borrowing, by the Government of money to make ends meet has a substantial effect on the interest rate.

Maybe I do not understand the complexity of the system, and that may be a virtue, Mr. President, for I am a director or I was a director of a relatively small rural savings and loan that has only about $20 million savings. But up until the middle of last year we were continually making loans for new homes in my general area.

But, as the Government continued to borrow money, and the interest rates began to grow, our savers began to draw their money out of our savings and loan and to such an extent that we had no money to make loans for new housing starts in our general area. Even the stockbrokers were calling our savers and saying to them that they were putting together large blocks of money to invest at much, much higher rates of interest.

Whether or not a $50 billion deficit or a $80 billion deficit or a $120 billion deficit will cause interest rates to rise or not is immaterial. The fact is that the people think that such a deficit would cause them to rise, and if they think that, it is going to have that effect.

So I wholeheartedly support this amendment. I hope we can act, and we can pass it and assure the American people that this body is acting responsibly.

I have heard a number of my colleagues who have voted for various amendments which would cost the Treasury billions of dollars say:

Well, the conference committee will take this out.

This bill will be reconciled in the conference committee.

I have no doubt but what the conference committee will substantially reduce the amount involved in the Senate bill if it is now passed. But the fact is that the American people will feel that the Senate has not acted responsibly fiscally.

For that reason, Mr. President, I am going to vote for this amendment. I have said to my people on statewide television in North Carolina that I did not favor rebates and, in all likelihood, I would vote against the tax reduction because I feel that the economy can be best stimulated by stimulating housing or promoting new housing starts, and in many other ways.

To that end, I have introduced a bill that would provide $20 billion for new housing starts at 6 percent interest. I realize that the likelihood of that bill passing is not that great, but it is a seed, it is an idea, and I believe that if the Senate would move as hastily toward creating new housing starts as we are now moving in this bill, that we can best stimulate the economy.

Mr. HUMPHREY. Mr. President, I shall not take much time of the Senate. I want to commend those who have participated in this debate. It seems to me that this is perhaps one of the most thoughtful and provocative discussions we have had on economic policy.

The debate also reveals the understandable differences that responsible Members of the Senate have on economic policy.

There are no absolute remedies and cures for our national ills. I do not think anyone really can say positively that the program that he may embrace is the one that will produce the desired results. We are all groping for answers, and we are attempting to bear upon the problems of inflation and recession what knowledge we have and what understanding we have of the economic situation.

I would like to put the proper focus upon my concern in this debate. My concern is the deficit. But the deficit that I am most concerned about is the deficit that is taking place throughout the Nation in jobs, in income, in production; a deficit, if you please, that you see reflected in the unused plant capacity, and it is that deficit that has precipitated and produced this huge Federal budget deficit.

Mr. RIBICOFF. Mr. President, I wonder if the Senator will yield for a question.

Mr. HUMPHREY. Yes.

Mr. RIBICOFF. First, may I say that I have the greatest respect for my colleague from Minnesota, and I do not recall anyone who, in such a short time, in taking over the chairmanship of the Joint Economic Committee, has done so much constructive work.

There are many questions in the minds of the people of the country and, I think Members of the Senate, concerning the failure of economic predictions during the past few years which cause a great

deal of uncertainty, and there is great concern at the same time of how do we continue on this deficit and still have such a large tax cut.

I wonder if the distinguished chairman of the Joint Economic Committee would give us his point of view of why we need a substantial tax cut at this time.

Mr. HUMPHREY. I shall attempt to do that, if the Senator will bear with me. That is what I wish to address my remarks to.

I said that I was essentially concerned about the deficit that I see in the Nation. Let me just pinpoint the meaning of that.

First of all, the deficit in jobs, not only 7.5 million jobs——

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIBICOFF. Mr. President, may we have order because I think what the distinguished chairman of the Joint Economic Committee is going to tell us is of great importance. There is so much confusion as to the nature——

The PRESIDING OFFICER. I will ask the Senators to take their seats, please. If the Senators wish to converse, please retire to the cloakrooms.

The Senator from Minnesota may continue.

Mr. RIBICOFF. There is such confusion regarding the problem of deficits, lack of jobs, underproduction, their relationship with one another, that I do not believe we can address ourselves to these problems unless we understand the correlation of all of them.

It is my personal opinion that there is no one in this body who is more qualified to address himself to the interrelationship of these economic problems than the distinguished Senator from Minnesota, and that is why I believe what he has to say is of the utmost importance.

Mr. HUMPHREY. I am very grateful to the Senator from Connecticut.

Mr. President, let me say I can only do the best that my limited information permits me, provides me, but I would like to just discuss for a short period of time the situation as I see it, and what we might do about it, and what kind of treatment we might lend to our difficulties.

I said I was deeply concerned, in fact most concerned, about the deficit that I saw in our Nation. This is not to in any way downgrade or to have a lack of concern about the deficit that I see in the Federal budget. But the deficit that I see is 7.5 million people unemployed, totally unemployed, with no income, unable to pay their taxes, unable to meet their bills; on top of that, 3.8 million who want full-time work, who are working less than halftime or about halftime; and to add to that, if you will, another half-million who have dropped out of the employment market because they have become discouraged looking for work.

This adds up, according to the most reliable estimates, to about 10.9 percent, almost 11 percent unemployment.

Added to this is a drop in our gross national product of substantial proportions, a drop in productivity per worker, per man-hour, due to the fact that the plant capacity of this country is not being used.

We are now about 25 percent below our capacity in the utilization of plant and equipment, and everyone knows when those conditions prevail that the cost of articles produced in those plants goes up. In other words, recession has fed inflation.

There are other matters of deficit I am concerned about. For example, it is estimated by the President's Office of Management and Budget that for the years 1974, 1975, and 1976 the loss of income due to unemployment over and beyond 4 percent will be approximately $600 billion.

That is $600 billion of goods and services not produced that ought to be produced without straining our plant capacity, without having an inflationary impact due to excessive demand, or heavy or unusual pressures upon the employment market.

Mr. RIBICOFF. Will the Senator yield at that point?

Mr. HUMPHREY. Yes.

Mr. RIBICOFF. Is it not true, if we had the production which this Nation has a capacity to achieve, instead of running governmental Federal budget deficits, we would be running Federal budget surpluses?

Mr. HUMPHREY. The Senator is absolutely right. It is a fact if we were operating today at 4 percent unemployment, we would have a budget surplus of $12 billion to $15 billion. If we were operating at about 4.5 to 5 percent unemployment, we would have a balanced budget.

But we have 8.2 percent unemployment, plus a good deal of underemployment and part-time employment. It should be noted that for every single percentage point of unemployment, we lose about $12 billion in revenues. For every single point of unemployment, approximately $12 billion in Federal revenues.

Now, let me explain again what I consider the horrendous deficit in this country.

According to the budget estimates given us by the Office of Budget, between 1974 and 1980 our country will lose $1,500,000,000,000 in lost income. That is because, again, workers are not on the job, that is because the plant capacity is not being used, and that is, of course, because consumers are not able to purchase.

So I see that the great need is, how do we decrease, how do we absorb any workers into the work force? How do we get our plant capacity back into production, and how do we, in other words, get people to work and to produce?

This is the task that is before this Chamber and the Congress and the executive branch of the Government.

I do not mean to say that Government alone can do this. But it is my judgment that the lack of continuity of policy or, to put it another way, the mistake in judgments that have been made over the past years on economic policy have precipitated this tragic recession in which our country finds itself.

Likewise, those policies have aided and abetted the double-digit inflation which was the fact of our time this past year.

So we need take a look now at what Government policies can do to alleviate the pain and the suffering, to increase jobs and income, to put our workers back on the job and to utilize our plants and equipment.

Once that is done, whatever impact it might have, that immediately starts to reduce the Federal Government's deficit, it immediately starts to generate commerce and turn the wheels of industry, it immediately starts putting people back on the job so that they can pay their taxes, that they can meet their bills, and that they can buy the things that they use and that they need.

I am not unconcerned about the Government's deficit. I do not like either private deficits or public deficits, but I think we have to take the choice here between two rather difficult and unhappy alternatives.

The one alternative is to do too little and to do it too late as we approach the dimensions of a Federal budget deficit.

That is, to some people, frightening, and I can understand how people feel about that because these figures we are talking about today are enough to boggle the mind, so to speak.

But here we have this deficit. Whatever we wish to call it, it is large—whether it is $65 billion which the administration now admits it will be, or the $75 billion the Joint Economic Committee said our program would result in, or whether it is what we call the off-budget deficit, which includes the unified budget and those other items like Export-Import Bank, the Fannie Mae, the Ginnie Mae, and a number of these borrowing and lending programs which, if added into the budget, become very sizable items.

The off-budget direct loans, the Export Import Bank, Rural Electrification Administration, Rural Telephone Bank, the Housing for the Elderly, Federal Deposit Insurance Corporation, Federal Financing Bank, U.S. Railway Association, Environmental Financing Authority, these are the so-called off-budget items and they run into a very substantial amount.

In fact, for the year, estimated for fiscal 1975, they were $20 billion. For fiscal 1976, they run about $14 billion.

So when we add those into whatever budget deficit we normally look upon as budget deficit, the figures become really very, very big and to many people alarming.

But the answer is not to stand here and feel we have just got to do something about that deficit and to be literally transfixed by it and paralyzed by its meaning, but to do something to get at it.

Now, the simple fact is that if we cut that budget, as some people have recommended, we are going to precipitate even greater recession. No one denies that.

The administration does not; not an economist. No one comes in and says we have to slash the budget because to do so would throw the country into an economic tailspin, the consequences of which we could safely predict.

Therefore, we have to face that budget deficit. We know it has to be financed and we have to ask ourselves how we can bring it under control, how we can start to reduce it. Interestingly enough,

and almost paradoxically enough, the only way that we have been able to design thus far, insofar as governmental policy is concerned, is through what we call fiscal and monetary policy.

Mr. RIBICOFF. Will the Senator yield at this point?

Mr. HUMPHREY. Yes.

Mr. RIBICOFF. Now, during the course of the last few months, the Senator had before him economists and private individuals, every walk in life, Republican, Democrats, liberals, conservatives——

Mr. HUMPHREY. Bankers.

Mr. RIBICOFF. Middle-of-the-road, bankers, industrialists, labor leaders.

Could the distinguished chairman give us a résumé of the thinking of this large group of people from all walks of American economy, what their advice to the Joint Economic Committee was?

Mr. HUMPHREY. Yes, and might I add, today we issued our report of the Joint Economic Committee, and in that report there were a series of items that were supported by both majority and minority.

The basic items were supported by both sides of the aisle, in the House and Senate, and a large temporary tax cut, including a rebate, that was as the result of our hearings.

Second; a substantial increase—and we have the figures on it—in public service employment.

Three, an extension and an increase in unemployment compensation.

Four, a housing program with reduction in interest.

Five, an expansion of money supply.

Mr. RIBICOFF. Along that line.

Mr. HUMPHREY. Yes.

Mr. RIBICOFF. The question has been raised with great seriousness by a group of Senators that all of us should respect.

I am deeply impressed with the new Senators that have come to the Senate this year. I do not believe there has ever been an infusion of more quality in the U.S. Senate than represented this year by the men that have been added to this body.

I think that the questions they have should be taken very seriously. They are close to the people. They have just gone through an election. They know the thinking of the people back home. What has been the consensus concerning the value of this so-called rebate to get the economy going? Is it useless? Is it meaningful? What role will the rebate play in getting our economy going again?

Mr. HUMPHREY. I think I can say that, as a result of the witnesses we have listened to, the rebate is a useful part of a total tax reduction package. I personally do not think that the rebate does as much good as the kind of permanent tax adjustments you make, such as the tax credit that is in the Senate bill and other measures that we have in the Senate Finance Committee bill.

I just list some of the witnesses that we listened to: Mr. Paul McCracken, one of the members of the Federal Reserve Board years ago and Chairman of the Council of Economic Advisers under President Eisenhower; Dr. Heller, Dr. Okun, Dr. Houthaker, a very famous and what you might call conservative economist; Dr. Ackley, along with Merrill Lynch, along with Leonard Woodcock of the United Automobile Workers, and the representatives that came in from the AFL-CIO. Each and every one of them said the package that we were working on here in the Senate, the package that included the rebate—and they emphasized the rebate, itself—would have a stimulating effect.

I think there is substantial evidence here, as was said most responsibly by our able and good Senator from Arkansas, that there is a public opinion poll that shows that a number of people who would get the rebates say they would save them. That is what they say now.

But even if they did, it becomes a part of the total economic structure of the country.

Mr. PASTORE. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. PASTORE. We must admit that the rebate in and of itself will not be the answer to our problem. Anyone who pretends that is just living in a different world.

The fact is that we have had a gigantic gross national product of a trillion and a half. Surely $8 billion is not going to have that much of an effect. We all admit that. But it is part of a large package.

Mr. HUMPHREY. That is the point.

Mr. PASTORE. I think the most important thing today is to restore the people's confidence. They have lost confidence. People who are in need of certain articles and commodities, who have money, are not spending the money for the reason that they do not know what is going to happen.

I understand one of the recent polls indicated that most of our people think that we are drifting into a depression.

When people begin to lose confidence in their Government, when they begin to lose confidence in the free enterprise system, that, of course, will create chaos. What we need to do now is to affirmatively come forward and do everything that we possibly can. It will not necessarily mean that everything we do is right, and not everything that we hope will accomplish that result. But we have to do something. With most of the economists—they are not always right and not everything that they think or say is sacrosanct—the fact remains that it is almost unanimous that we have to have a large rebate in order to get things going.

Mr. HUMPHREY. The Senator has put his finger on it. What we have here is a package. What we need to do is to establish a policy. Once the people of America know what the policy is; once the investment community knows what the investment tax credit is going to be; once the utilities know that they will have 10 percent tax credit instead of 4; once the individual knows that his paycheck each week will be better because of the tax reduction; once an individual knows he will get a rebate on taxes for 1974; once the ground rules are established, Mr. President, I predict this economy will start to move ahead and move ahead much more rapidly than the prophets of doom and gloom have predicted. There is great ability in this economy, but the real problem has been no one knows what the ground rules are. No one knows how long we are going to be in any one position. We are now saying that we are going to give a tax rebate on 1974 income, a maximum of $240. Then we are saying in the Senate bill, and in other items, that there will be a tax credit; there will be an investment tax credit; there will be a housing credit. There are certain things that are being laid down so that the investment community and the consumer community will know what is going to take place.

Again, we cannot be positive. We cannot be sure. But I will say one thing we can be sure of: If we do too little and too late, we will be in the pit of economic despair and depression.

We have been proceeding rapidly to the bottom of that pit. The whole country is waiting to see what we are going to do. They are waiting to see what the Government of the United States is going to do about the economic plight that affects this Nation.

I would remind this distinguished body that we are capable of financing our deficit. I remind the Senators here that not a single witness who appeared before the Joint Economic Committee from any segment of our economy said that we were incapable or unable to finance a deficit much larger than had been predicted—deficits up to $75 and $80 billion, and billions and billions of dollars and more, and be able to finance it without impinging upon the needs of the private money market or without raising interest rates.

It will necessitate cooperation from the Federal Reserve Board. That cooperation is slow in coming, Mr. President. This morning's Washington Post carried the story that the supply of money has been increasing at about seven-tenths of 1 percent, the annual rate, over the past 3 months. It has to come better. That is why we have been encouraging the Federal Reserve System to take a look at the picture that is before us and to cooperate with the fiscal policy which we are attempting to establish here.

I am not unaware of the dangers involved here in deficit financing. That is why, in the resolution passed by the Federal Reserve Board, we did not set any percentage of money supply, even though men of the quality of Mr. McCracken said from 8 to 10 percent is what the money supply ought to be in terms of increased money supply. We have simply said we wanted the Federal Reserve Board to become a part of the team.

Mr. GARY W. HART. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator will suspend for 1 moment, please.

The Chair will ask the members of the staff who are here by unanimous consent to try to retain their seats. If they leave, leave by the side doors rather than the doors closer to the Chair so we can maintain order in this Chamber.

Mr. HUMPHREY. I yield to the Senator from Colorado.

Mr. GARY W. HART. I thank the Senator for yielding.

I think what is troubling many of us

is the problems this country faces are different from the problems, economically, that it faced in the past, and the possibility that solutions which may have worked 10, 20, or 30 years ago may not work against a new set of problems. Frankly, what I find most disturbing about the argument made in favor of the Senator's position is the names he refers to as authority. If there is any one characteristic which distinguishes those names, aside from their credentials and their background, it is that on many occasions, on both sides of the economic spectrum, they have been wrong. Many of them are responsible for the situation this country is in today.

My question to the Senator is: Did the Finance Committee or the Joint Economic Committee hear testimony from new economists, new theories, people who are not relying on past solutions, who may have some new ideas of how to stimulate this economy and accomplish the result that all of us want?

Mr. HUMPHREY. May I say that the chairman of the Joint Economic Committee has said repeatedly to the staff of that committee and others, "I want to hear the new voices in America. I want to hear new ideas. I think this committee needs new ideas."

But when a man comes down from Merrill Lynch, and they did not get where they are by being stuffy, stodgy and stoogy, when they come down and testify before us with a battery of young economists, younger than Senators in this body, and say the things that they did, I listen.

Might I say that I do not consider a man like Dr. Okun worn out.

I do not think there is a brighter mind in the American economy scene than Dr. Walter Heller.

Youth does not necessarily give you wisdom. It gives you enthusiasm and it gives you vitality. There is no substitute for experience.

I think that what we have been talking about here is the past, in many areas. We tried the public works route. We tried it in the depression. We still had 10 percent unemployment in 1940.

I am a New Dealer. I believe in what Roosevelt tried to do. But in those days they did not have the courage to use the fiscal stimulant. They used budget deficits but not the tax program.

What happened in 1964? That is not long ago. What happened with respect to the Kennedy tax cut, which was passed at the time of President Kennedy and came into being when Lyndon Johnson was President? We had a $12 billion tax cut, which in today's economy is about a $25 billion or $26 billion tax cut. It had the immediate effect, within a few months, of stimulating the economy, and the increase in revenues in 1 year was more than the tax cut.

The $30 billion tax cut we are discussing is about the same kind of tax cut that we had back in 1964. Related to the gross national product, it is 2 percent of the gross national product of this country.

The question about the $30 billion tax cut is not whether it is too big but whether it is too little. I think we need to have some daring. We need to do something else but figure out how we can simply build more water and sewer projects, even though I think they are important. I think there is the need of the mix.

We have had some of the brightest minds this country has available on economic and finance policy.

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

Mr. HUMPHREY. I yield.

Mr. KENNEDY. Mr. President, I agree with the remarks of the chairman of the Joint Economic Committee and the Senator from Rhode Island (Mr. PASTORE).

The Senator from Minnesota is entirely right in reviewing some of the economic history of the earlier period, particularly in the early 1960's.

In January of 1961, we had a 7-percent unemployment rate nationwide, coming out of the recession of 1958. As the Senator from Minnesota understands full well, under the leadership of Walter Heller at that time, that unemployment was brought down to 3.5 percent. This was by 1964, and this was prior to the buildup in Vietnam. We had the longest period of economic growth and price stability in the history of the Nation. We had a 3.6-percent increase in inflation in 3 years. We have that in 3 months at this time.

Not that we have to take everything that Walter Heller or Art Okun or Joe Peckman have to say, but I would challenge the economists, either the younger economists or the radical economists—and I have had an opportunity to exchange some ideas with them as well—I would challenge any of the track records of those individuals with the predictions or projections or performance in terms of this particular issue.

I am a member, a new member, of the Joint Economic Committee. I feel that the case that has been made about the rebate provisions in terms of early action by the House and the Senate in this area is of the greatest importance and consequence in terms of the total package.

Many of the individuals who have appeared before the Joint Economic Committee urged the House and the Senate last year to have a $6 billion tax cut, with a $6 billion closing of various tax loopholes. The Senator from Minnesota was a cosponsor of that proposal. We debated that issue here for 10 days, and it was filibustered. We listened to editorials from the Wall Street Journal that said this was too strong a medicine at that time. There were a number of people here who effectively filibustered that effort, which was cosponsored by the Senator from Minnesota, a bipartisan effort.

In any fair analysis of the hearings we have held in the Joint Economic Committee, in questioning any of these economists, they said that if Congress had taken the action last year, just $6 billion, the greatest percentage of the problems we are facing in our economy at the present time could have been avoided. They make the case, I think convincingly so, of the importance of this front-end effort which is included in the rebates.

I have a good deal of respect for those who have offered this amendment and for their thoughtful presentation of it to the Senate. But I do feel that this is an extremely important aspect of the package that has been developed, and I hope that the position taken by the Senator from Minnesota and others will be maintained. It is an important aspect for the reasons that have been talked about, and I need not develop it. I hope the amendment will be agreed to.

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

Mr. HUMPHREY. I yield.

Mr. BIDEN. Mr. President, I direct my remarks to the distinguished Senator from Massachusetts and some of the comments made by the distinguished Senator from Minnesota.

Will either Senator tell me whether or not the rebate is justified if, in fact, people do not spend the rebate on durable goods?

Mr. HUMPHREY. Yes, I would think so.

Mr. BIDEN. How?

Mr. HUMPHREY. I do not think durable goods are necessary at all. Consumer goods may be very vital, if they spend it on consumer goods, if they spend it on energy and food. That still will help. It is money in circulation, and that is what it is all about. It is the money getting into circulation.

Mr. BIDEN. I have heard the same economists the Senator has heard, and I have not heard one say that. I have not heard one say that if the money is spent on energy and food, it will have the stimulative effect for which it was designed.

Mr. HUMPHREY. It would be better served if it were spent on other things. But what is needed, strangely enough, is spending.

Mr. BIDEN. I agree wholeheartedly.

Mr. HUMPHREY. Do not misunderstand me. As I said to the Senator privately—and I say it to him on the floor of the Senate—I do not think the rebate is the alpha and omega of economic treatment here; but it is part of a total package, and it does give an economic shot.

Some of that rebate may be saved, as the Senator says. But much of the savings that are put aside like that are very temporary, and they are drawn out. Even if it is put aside, it still has some impact on the economy; and I think that if you tie it in, it makes a substantial impact.

The only question before this body—and I am going to raise it again and again—is, Is what we are doing big enough? Is what we do today enough to stem the tide of recession?

Remember, the President was saying, up to Christmas, that we should have a 5 percent tax increase. That would have been an economic disaster.

As the Senator from Massachusetts properly said, he sponsored a measure, in which I and several others joined, which offered to give a tax reduction; because we saw the recession not in January of this year but last year, as other Senators did.

Mr. BIDEN. I was also on the Budget Committee and the Banking Committee and made the same statement, that I did not think a balanced budget was in the best interest. But the Senator from

Massachusetts and the Senator from Minnesota talk about this being one part of a package, and that should be put in perspective. It is a third of the entire package.

Mr. HUMPHREY. No, it is not.

Mr. BIDEN. In terms of this bill, it is $10 billion.

Mr. HUMPHREY. The Senator is talking about a third of the tax package.

Mr. BIDEN. That is correct. That is what we are talking about right now.

Mr. HUMPHREY. The economic stimulus that the Senator from Minnesota is talking about is not just a tax package. It is other things, things we are trying to do in the housing market, on which we have basic agreement.

Let me be fair. I do not know whether all this is going to do as much good as we hope it will. But I have enough confidence in those who have been advisers to me to say that the package on the tax or the fiscal side should be accepted and we should give it a run, because to delay or to have it too little is to waste it all. If we think it so small, it will do nothing, and all it will do is to lose revenue. But if we can make it big enough to have an economic impact, it will generate jobs, it will start to cut down the Federal deficit, it will increase the gross national product, and I think it will be helpful.

I know the Senators want to vote on it. I am ready to yield the floor.

Mr. BIDEN. I appreciate the Senator's candor. My concern——

SEVERAL SENATORS. Vote.

Mr. STEVENSON. Mr. President, a one time tax rebate—as contrasted with permanent tax reduction—will cause a major increase in the Federal deficit while doing little to stimulate the economy.

A single $100 to $240 check from the Government will cause virtually no one to make major new expenditures in sectors of the economy hit hardest by recession. Consumer spending patterns are governed by long-term expectations of future earnings—not by month-to-month fluctuations in income. Consumers increase spending when they expect a permanent increase in income—and have confidence in the future. But with over 6 million people out of work, consumer prices rising at a rate of over 7 percent a year, industrial production declining at a record rate, and the prospect of a vastly increased rate of inflation under the President's energy program, few have much confidence in the future. Instead of committing themselves to major new expenditures, consumers will use their rebate to pay off old debts, add to their savings, and attempt to compensate for the crippling erosion in incomes which they have suffered as a result of more than a year of double digit inflation, rising energy costs, escalating utility bills, and massive unemployment.

As a result, the rebate will be wasted. Instead of being put to productive use on the Nation's burgeoning public problems, the Treasury will be drained of an additional $10 billion. The $10 billion which would be spent for rebates exceeds by $2 billion the entire sum spent on Federal programs for natural resources and the environment in fiscal 1975. It is more than six times as much as we are spending on energy. And it is more than three times as much as we are spending for the Nation's entire community development effort.

With the loss of $10 billion in Federal revenues, the Nation's collapsing railroads, inadequate health care system, and deteriorating cities will continue to be starved for funds. And the Nation's ability to reorder its spending priorities to deal with the fundamental causes of inflation and recession will be further impaired.

Moreover, with the rebate, the Federal debt, already at the astronomical level of over $600 billion, would grow by another $10 billion. When combined with the other parts of the tax package, it could add more than $20 billion to the current Federal deficit.

The result will be increased upward pressures on interest rates. The depression in housing and the capital goods industries will continue. And the seeds of accelerating inflation will be sown for the years ahead.

Mr. President, the Nation cannot afford a $10 billion increase in debt. It cannot afford to waste the public's precious resources. It cannot afford to throw away funds when its other pressing needs are so great.

This futile gesture at economic stimulation is misplaced and misconceived, and, I therefore urge my colleagues to vote against the motion to table the amendment offered by Senator BUMPERS.

Mr. HATHAWAY. Mr. President, I have listened to very learned argument on both sides of this question for the past almost 3 hours, and I do not think many more minds are going to be changed if we proceed any further. I should like to get the sentiment of the Senate on this issue. For that reason, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Missouri (Mr. SYMINGTON) and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 52, nays 40, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—52

Baker	Griffin	Montoya
Bayh	Hart, Philip A.	Moss
Beall	Hartke	Muskie
Bellmon	Haskell	Nelson
Brooke	Hathaway	Pastore
Cannon	Huddleston	Pearson
Case	Humphrey	Percy
Church	Inouye	Proxmire
Clark	Jackson	Randolph
Cranston	Javits	Ribicoff
Culver	Kennedy	Schweiker
Dole	Leahy	Scott, Hugh
Domenici	Magnuson	Stafford
Eagleton	Mathias	Tunney
Fong	McGee	Williams
Ford	McIntyre	Young
Glenn	Metcalf	
Gravel	Mondale	

NAYS—40

Abourezk	Fannin	McClure
Allen	Garn	Morgan
Bartlett	Goldwater	Nunn
Biden	Hansen	Pell
Brock	Hart, Gary W.	Roth
Buckley	Hatfield	Scott, William L.
Bumpers	Helms	Sparkman
Burdick	Hollings	Stennis
Byrd, Harry F., Jr.	Hruska	Stevenson
Byrd, Robert C.	Johnston	Stone
Chiles	Laxalt	Talmadge
Curtis	Long	Thurmond
Eastland	Mansfield	Weicker
	McClellan	

NOT VOTING—7

Bentsen	Stevens	Tower
McGovern	Symington	
Packwood	Taft	

So the motion to table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a technical amendment to an amendment adopted yesterday by the Senate, the so-called Cranston amendment, be in order, and that the necessary technical amendment be incorporated at the appropriate section of the bill. This has been cleared with the manager of the bill and the ranking minority member.

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

The amendment was agreed to, as follows:

On page 23, of the Hollings amendment in section 103 thereof, entitled "Denial of DISC Benefits With Respect to Energy Resources and Other Products," in subsection (a) thereof strike out the addition of a new subparagraph (D) to section 932(c)(2) of the Internal Revenue Code.

On page 24, line 9, strike "harvesting".

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, it is the intention of the joint leadership to stay in tonight to finish this bill if at all possible. I realize that we have had a pretty difficult week. We have spent a lot of time, contrary to the reports emanating from the White House, on measures which the President wants considered by Congress, and I am sure that the White House is aware of the fact that the Senate cannot consider a measure of the nature now pending before it has been passed by the House of Representatives and referred to the appropriate committee here.

For the information of the Senate, we

came in at 11 a.m. on Monday and quit at 5:10 p.m. On Tuesday, we came in at 10:30 a.m. and quit at 8:28 p.m. On Wednesday we came in at 9:15 a.m. and quit at 8:54 p.m. And on Thursday, yesterday, we came in at 9:40 a.m. and quit at 8:07 p.m.

Today we came in at 8 o'clock, almost 11 hours ago, and it will be beyond 12—12 hours, that is—before we complete the business tonight, if we are going to do it.

So I would hope the Senate would bear this in mind, and be prepared to stay as long as possible, so that we can face up to our responsibilities, and—contrary to the report from the area within the gates surrounding the White House—prove, as we have consistently during this session, that we are doing our job, doing it to the best of our ability, and on the whole doing it well.

In the morning we take up the agricultural bill under a unanimous-consent agreement, and that will be the pending business after the joint leadership has been recognized. How far we will get along with it I do not know, but at least we are going to start and do the best we can.

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

Mr. MANSFIELD. Yes.

Mr. PASTORE. In view of that brilliant record of endurance, I was wondering, inasmuch as we have been here since 8 o'clock this morning, if we stay here no matter what the time is and finish this bill tonight, would it not be more appropriate to bring up the agricultural bill on Monday, and we could stay here and finish this bill tonight even though it means 2 o'clock tomorrow morning?

Mr. MANSFIELD. I wish the Senator from Rhode Island, with his usual understanding, would give us the benefit of the doubt.

Mr. PASTORE. I will give the Senator the benefit of the doubt.

Mr. MANSFIELD. Mr. President, could I ask—then I will yield to the Senator from Florida—first, how many amendments are still to be offered? Five, maybe six.

I yield to the Senator from Florida.

Mr. CHILES. I just wanted to ask the distinguished leader, my understanding was, when we held a Democratic Caucus and said that we would stay on this bill until we finished it, and we would not adjourn for our recess prior to the time that we finished this bill, we were talking about the passage of it, and many of us, based on that, again did what we were going to do with our schedules or left things out, and thinking that once we voted on the bill we could go to our respective States if we had to, knowing we would come back for a conference report if we needed to have that adopted, but still we would be able to leave.

Now we find we are talking about taking up the farm bill. It certainly is an important bill, but it was not part of the things we considered that had to be done before, and so many of us again have set our schedules on that kind of basis—at least the Senator from Florida has—and now we find we are going to go over to the farm bill, and probably have votes on that. It seems to me as if that is contrary to what we decided in our caucus that we would do.

Mr. MANSFIELD. Well, it is a hard question to answer because, as a matter of fact, the farm legislation was not discussed at the Democratic conference. We did concentrate on the facts and we did agree, I believe, informally, that we would even stay through the conference, if need be, on a call-back basis or a come-back basis.

Mr. CHILES. Yes, on a call-back basis.

Mr. MANSFIELD. But that will depend on what happens to the conference, the length of time entailed, and I would hope that the distinguished Senator from Florida would allow the leadership to go ahead with its plans to take up the agricultural bill tomorrow, which is of vital significance to the farmers of the Nation.

I do not know how long we will be, to tell the Senator the truth, but there will be amendments offered, and there will be votes.

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

Mr. MANSFIELD. I yield to the Senator from Florida.

Mr. CHILES. The Senator from Florida is one Member here, and certainly if the leader wants to do that, I am sure that is what is going to happen. It seems to me as if that is again contrary to what we discussed in the caucus and what we agreed. It was important that we stay here, regardless of the fact that we had the recesses, and we were going to stay, and we were not going to leave prior to the time we voted on this bill.

Based on that again, on that kind of agreement, that is what we were going to do, and that is where I tried to set all of my kind of schedule based on that.

Mr. MANSFIELD. Mr. President, if the Senator will yield, it had been the leadership's intention to have the Senate in session Monday or Tuesday, depending on developments. That did not mean that Senators could not leave and come back if the situation warranted it, as might well be the case if this bill goes to conference and agreement is reached.

Mr. LONG. Mr. President, will the Senator yield to me at that point?

Mr. MANSFIELD. I yield.

Mr. LONG. Mr. President, let me assure the Senator I will be around, as far as this Senator is concerned, and so far as a few people are concerned. I will be glad to provide a pair with the other side.

Mr. MANSFIELD. Let me assure the Senator that no matter how he votes on the agriculture bill I will give him a live pair. I will make that deal with him.

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

Mr. MANSFIELD. I yield.

Mr. MOSS. If the majority leader will yield, the farm bill that is now reported, of which we cannot get a copy and have not seen as yet, has in it an amendment that was different from anything the House considered. I have heard about that, and understanding that this now is coming on, that we entered into a unanimous-consent agreement without ever knowing what was in the bill and, as a matter of fact, before the bill even went to the committee, and in order to bring it up I am going to be constrained to offer a great many amendments that will probably take the farm bill over more than 1 day, and there will be many votes and many live quorums.

So I think it would be the wise thing if we put that over until after the recess and then tackled it at that time.

Mr. MANSFIELD. Mr. President, the same situation would arise if we postponed it until after the so-called recess. I, like the Senator from Florida, do not like the use of the word "recess." I do not consider Saturdays and Sundays off as being a recess. I do not consider Holy Thursday, Good Friday, Holy Saturday or Easter Sunday as being a recess.

What the Senator would do 2 weeks from now he would do tomorrow, so if that is the case, let us face up to it.

Mr. MOSS. If the Senator will yield. That is not so. What I would do tomorrow I would not do after the nonlegislative days.

Mr. MANSFIELD. If the Senator can do it after the nonlegislative period, he can do it tomorrow in discussions with the chairman of the committee and others.

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

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I know the majority leader, after consulting with the minority leader and the ranking member and chairman of the Agriculture Committee, and so forth, did get a time limitation with respect to the farm bill. However, there has not been any agreement, as I understand it, that it will be brought up tomorrow; is that correct?

Mr. MANSFIELD. There has been an agreement it will be brought up and be made the pending business if this bill is disposed of, after the leaders have been recognized.

Mr. President, what is the order?

The PRESIDING OFFICER. It is the order of procedure that the agriculture bill, H.R. 4296, will be the pending business after the disposition of this pending legislation and after the leaders are recognized tomorrow morning.

Mr. GRIFFIN. It is also the fact that the agriculture bill was just reported today, and the report is not yet available; is that correct?

Mr. MANSFIELD. I believe the report is available at this time.

Mr. GOLDWATER. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. Yes.

Mr. GOLDWATER. With all due regard to the majority leader for whom I have great respect, would it be possible to get a copy of the Democratic Caucus rules? [Laughter.]

Mr. MANSFIELD. No. It would be just as possible as for a Democrat to get a copy of the Republican Caucus rules, if the Republicans have caucus. I understand they have lunches. [Laughter.]

Of course, the figures are on the menu.

Mr. GOLDWATER. We do not need rules. I said that because I have a little feeling that maybe the caucus rules have taken the place of the Senate rules and, if so, we would like to know.

Mr. MANSFIELD. No, no. This is not the House. [Laughter.]

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, what is the order of the Senate for recognition?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BROOKE. Mr. President, parliamentary inquiry?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BROOKE. Parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for the purpose of a parliamentary inquiry.

Mr. ROBERT C. BYRD. Yes, I am going to yield the floor shortly. I do not plan to call up my amendment that I intended to call up.

TAX REDUCTION ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

Mr. KENNEDY and Mr. BROOKE addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I would like to call up my amendment.

Mr. BROOKE. Mr. President, may I be heard?

The PRESIDING OFFICER. Does the Senator from Massachusetts have a parliamentary inquiry?

Mr. BROOKE. Yes, he does.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROOKE. Mr. President, many hours ago prior to the Bumpers amendment the Senator from West Virginia asked unanimous consent that the Bumpers amendment be substituted at that time out of order for that of the Senator from West Virginia.

This morning, when we began a list, I put my name on that list, and I have waited, not so patiently, for 6 or 7 hours to call up my amendment, and I think that the Chair has that list before it and that the list would reveal I am next to call up my amendment.

I am wondering at what time that list will be respected and I will have an opportunity to call up two amendments which I have been waiting all day to call up.

The PRESIDING OFFICER (Mr. STONE). The Senator from Massachusetts is advised that the list in front of the Chair does not even include the Senator from Massachusetts.

Mr. BROOKE. Now, I want to know about the rules the Democrats are keeping, Mr. President, because I cannot understand, if there is a list up there which had Senator CURTIS and then Senator BROOKE, and Senator CURTIS decided not to call up his amendment——

Mr. CURTIS. That is correct.

Mr. BROOKE (continuing). And I was next in line, the Senator from West Virginia——

The PRESIDING OFFICER. Now——

Mr. BROOKE. Mr. President, if I may proceed; the Senator from West Virginia asked unanimous consent. I did not object at the time because I was led to believe we would be following after Mr. BUMPERS.

Now, Mr. BUMPERS has concluded and 4 or 5 hours later the Chair tells me I am not even on the list.

The PRESIDING OFFICER. When this Senator took the chair and looked at the list, the list included Senator ROBERT C. BYRD by unanimous-consent agreement, and then by request Senator GRAVEL, Senator KENNEDY, Senator ROTH.

That is what this list showed. There may have been a previous list.

Mr. CURTIS. Will the Senator yield?

Mr. BROOKE and Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. At all events, such lists do not bind the Chair and the Chair has to recognize the Senator first on his feet seeking recognition, which the other Senator from Massachusetts was at the time.

Mr. BROOKE. Mr. President, I was on my feet at the time the Senator from West Virginia was recognized and the other Senators were——

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I would like to ask unanimous consent that my distinguished colleague from Massachusetts be recognized and I am delighted to take my chances after he is.

Mr. ROBERT C. BYRD. Mr. President, the Senator is recognized.

Mr. KENNEDY. No, he is not. This Senator from Massachusetts is recognized.

Mr. ROBERT C. BYRD. Oh, I see.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized at this time.

Mr. BROOKE. I am most grateful. I thank my distinguished senior colleague and I thank the Chair for recognizing me.

Mr. GOLDWATER. Will the Senator yield for a question on my time?

Mr. BROOKE. I am pleased to yield.

Mr. GOLDWATER. About how much time does the Senator think he might be——

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. Mr. President, may we have order in the Senate?

Might the Chair insist the Senators desiring to hold conferences should retire to the cloakroom or somewhere outside the Chamber so we can hear what debate is going on?

The PRESIDING OFFICER. The distinguished chairman of the Committee on Finance is correct and the Chair will ask all Senators in the aisles, even leadership Senators, to maintain order in the Senate.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, the distinguished Senator from Arizona has asked me to yield on his time and has asked a question as to how long I will take on these two amendments.

I expect that on each of the two amendments, I will take one-half hour apiece.

Mr. GOLDWATER. I thank the Senator.

Mr. BROOKE. I do not know how long——

The PRESIDING OFFICER. The Senator has 56 minutes remaining.

Mr. BROOKE. When did I use the 4 minutes?

On my parliamentary inquiry?

The PRESIDING OFFICER. According to the Parliamentarian——

Mr. BROOKE. I want to get on, Mr. President, before I lose some more time.

Mr. President, the primary purpose of the tax reduction bill is to return purchasing power to the American people so that, in turn, their purchases could stimulate a badly sagging economy. Since the introduction of this bill, its original thrust has been significantly changed in one respect: It now places greater emphasis on returning buying power to those in the lower income brackets—those who need it the most.

I commend the distinguished chairman of the Finance Committee for the so-called work bonus, which he developed and which is included in the committee amendment. This proposal will go a long way to providing relief for working Americans at the lower end of the income scale.

There is an anomaly, however, in title II of the present bill. Title II of H.R. 2166, as presently written, denies any real tax credit relief to those working families who are eligible for AFDC and SSI benefits, and may cause them to lose their eligibility for food stamps and medicaid as well. The tax credit which the Government gives them with one hand, it takes away with the other, as their Government assistance is reduced by the amount of the credit received.

I would emphasize that we are so punishing only those poor people on Government assistance who work, who attempt to better their own and their family's lives. I cannot imagine why we should so wish to destroy their incentive to work.

AFDC families alone demonstrate the unfortunate effects of section 203(c): 3.3 million families receive AFDC benefits. Of these 3.3 million, almost 1.3 million heads of families work for at least some part of the year and would be adversely affected by the present provisions of this tax bill.

Under section 402(a)(7) of the Social Security Act, in determining eligibility for aid to families with dependent chil-

dren, the State agency must take into consideration any other income which, unless specifically excluded, would include any tax credit received. Thus, the 40 percent of AFDC family heads who work would be discouraged from working.

In another program, supplemental security income, eligibility for supplemental security income payments—aid to aged, blind, and disabled—is determined by the State taking into consideration all earned and unearned income except that specifically excluded in section 1612(b) of the Social Security Act. That tax rebates or credits are to be considered as income unless specifically exempted can be concluded from section 1612(b)(5) which specifically does exempt refunds of taxes paid on real property or on food. I would hope that the Senate would not discourage those blind and disabled who choose to work.

Section 203(c) of the Senate version of H.R. 2166 specifically states that the tax credit must be counted as income for the purposes of determining eligibility for aid to families with dependent children. However, it is clear that, even without the specific language of section 203(c), the tax credit would be counted as income for both AFDC, and SSI recipients, and therefore result in a reduction of their grants.

Those who purchase food stamps and the millions on medicaid could also have their eligibility for these programs threatened or ended. Therefore, what we are talking about in this bill may be more than just a dollar-for-dollar reduction. For the credit, considered as income, may end eligibility for any cash assistance, which in turn would end eligibility for medicaid and, in some States, for food stamps.

Section 203(c) should be stricken from the Senate bill. In its place, the amendment which I am offering contains specific language making clear that any payments made by reason of section 43 shall not be taken into account as income, receipts, or resources for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

In conclusion I would emphasize that this amendment adds nothing to the cost of this bill. It might prevent some reductions in the costs of welfare—at most $100 million. That is a small price to pay in this bill for justice for those welfare recipients who are trying to work and achieve as much independence as they can.

AMENDMENT NO. 259

Mr. President, I call up my amendment No. 259 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes amendment No. 259.

Mr. LONG. I ask it be read, Mr. President.

If it is the amendment that has to do with section 203, that is all I need to know.

The PRESIDING OFFICER. Does the Senator from Massachusetts have an extra copy of the amendment which he can send to the desk?

Mr. BROOKE. I did, I just sent it up.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

In section 203 of the bill strike out subsection (c) and insert in lieu thereof the following subsection:

(c) Any payments made by reason of section 43 of the Internal Revenue Code of 1954 shall not be taken into account as income, receipts, or resources for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

Mr. MATHIAS. Mr. President, I am pleased to join with the distinguished Senator from Massachusetts (Mr. BROOKE) in introducing this amendment to the Tax Reduction Act of 1975, H.R. 2166.

Last night and this morning, the American people received the news that the Senate was moving forward on a measure to provide immediate tax relief for various segments of our badly shaken economy. I am sure that the millions of older Americans who receive benefits from social security, railroad retirement, and the supplemental security income program were pleased to learn that the Senate adopted a measure which would grant them a special payment of $100 this year. This $100 grant, I would add, will not in any way, adversely affect the level of benefits now being received by social security recipients, railroad retirees, or SSI beneficiaries. However, the millions of working aged, blind, and disabled Americans who receive benefits under the SSI program, and the 1.3 million working Americans who receive benefits from the AFDC program will be in for a rude awakening when they discover what else the Senate did on the way toward increasing the spending power of the American people.

In section 203(c) of the Tax Reduction Act of 1975, which allows for tax credits for the American people, any tax credits awarded to working citizens who now receive benefits under SSI or AFDC will be counted as income. The net effect of this provision is that those in our population who would benefit most from a tax credit may actually end up being most adversely affected because their benefits, either SSI, AFDC, food stamps, or medicaid are based on a means test. These benefits in some States could be reduced or eliminated since the tax credit counted as income might artificially elevate citizens beyond the current eligibility requirements for these programs.

Mr. President, I do not believe that the Senate desires this emergency tax relief measure to penalize our senior citizens, or the blind and disabled or the beneficiaries of AFDC. The amendment we are offering at this point will allow the Senate to make it clear that we intend for this bill to assist not only our depressed economy but also those most severely affected by this recession.

In brief, this amendment provides that tax credits made possible by section 43 of the Internal Revenue Code of 1954 shall not be taken into account as income, receipts, or resources for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

I urge the adoption of this amendment.

Mr. LONG. Mr. President, knowing that Senators are anxious to vote on these measures, I am going to use a procedure of trying to speak no more than the sponsor of an amendment speaks and move to table an amendment, and then if the motion to table fails to carry, I will be willing to consider any additional speeches Senators want to make. I do think that we ought to try to give the Senate a chance to express its views on these various amendments rather than permit the debate to go on and on when many times Senators know pretty much what they want to do about the matters. I do not know any other way, since I have been unable, so far, to obtain the unanimous consents to vote that I have been seeking.

Mr. President, this particular amendment reflects the very warm feeling that the Senator from Massachusetts has toward all those who are poor, who seem to get the worst of it in this society, and I commend him for that. He has always shown a great interest in the less fortunate. I believe that no one in this Chamber has had greater compassion for those who, at least from the income point of view, are the least benefited in our society.

I regret, Mr. President, that I am unable to support the amendment. It would provide that payments under the refundable earned income credit are not to be considered as income for welfare purposes.

One of the purposes of this provision for a refundable tax credit on earned income, which is directed to those in low-income brackets, is to help these people to have enough income so that they would not have to be on welfare.

The Senator's amendment would require that we disregard that income.

Mr. President, there is no more reason to disregard all the money paid out of the Federal Treasury to a citizen than there is to disregard all the money he earns. Under our welfare laws, depending upon the various regulations, the State is already required to disregard certain work expenses. In some States, that disregard is very liberal. In addition to that, the State must disregard the first $30. A State cannot even look at that in determining welfare eligibility. They are required, in addition to that, to disregard one-third of all additional earnings. Mr. President, that is a very liberal disregard requirement in present law.

We have at least three provisions in this bill right now seeking to help people move from a state of dependency into a state of independence. We seek to help give these people with children an advantage in getting a job. We provide a 20-percent tax credit to employers to

help make it advantageous to employ people in that situation. We provide this very provision, the earned income credit, for the low-income workers with families.

We provide a more liberal child-care arrangement under the Tunney amendment than has ever been voted in the Senate.

But we do believe, Mr. President, that the earned income credit is income and it should be regarded as income. One of its main purposes is to encourage people to find employment and to make their income adequate so that they will not need to seek Federal and State help and live at the expense of the taxpayer.

There are some other things involved. It would be possible, if the amendment were to be agreed to, that someone would actually seek to move on to the welfare rolls so they could get the benefit of this earned income credit and disregard it and receive welfare payments as well.

We hope to encourage them just to the contrary, to take a job when that job is available to them. Therefore, Mr. President, both the Senate committee, which has considered this on at least three different occasions and has felt that this should be regarded as income, as well as the House committee, feel that the credit should be considered as income. I believe, Mr. President, that it should be so considered.

Therefore, Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on the motion to lay on the table.

Mr. BROOKE. Yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I ask that the time on the rollcall be limited to 10 minutes.

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

Mr. BROOKE. Mr. President, I would like to ask unanimous consent to add Senator MONDALE and Senator BIDEN as cosponsors of amendment 259.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Oregon (Mr. PACKWOOD), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 50, nays 40, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—50

Allen	Garn	McClure
Baker	Glenn	McGee
Bartlett	Griffin	McIntyre
Bellmon	Hansen	Montoya
Bumpers	Hartke	Morgan
Byrd, Harry F., Jr.	Haskell	Moss
	Hathaway	Muskie
Byrd, Robert C.	Helms	Nelson
Cannon	Hollings	Nunn
Chiles	Hruska	Proxmire
Church	Huddleston	Roth
Curtis	Johnston	Stennis
Domenici	Leahy	Stone
Eastland	Long	Talmadge
Fannin	Magnuson	Thurmond
Fong	Mansfield	Tunney
Ford	McClellan	Young

NAYS—40

Abourezk	Gravel	Pearson
Bayh	Hart, Gary W.	Pell
Beall	Hart, Philip A.	Percy
Biden	Hatfield	Randolph
Brooke	Humphrey	Ribicoff
Buckley	Inouye	Schweiker
Burdick	Jackson	Scott, Hugh
Case	Javits	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stevenson
Culver	Mathias	Weicker
Dole	Metcalf	Williams
Eagleton	Mondale	
Goldwater	Pastore	

NOT VOTING—9

Bentsen	Scott, William L.	Taft
Brock		Tower
McGovern	Stevens	
Packwood	Symington	

So the motion to table was agreed to.

Mr. BROOKE. Mr. President, I send to the desk my modified amendment to H.R. 2166.

Mr. LONG. Mr. President, the Senator cannot modify an amendment.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

Mr. LONG. I object.

The PRESIDING OFFICER. The objection is heard.

The amendment is not in order unless it had been submitted prior to cloture.

AMENDMENT NO. 172

Mr. BROOKE. Mr. President, I call up my amendment No. 172.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an amendment numbered 172.

The amendment is as follows:

On page 57, line 3, strike out "Subpart" and insert in lieu thereof the following:

"(a) IN GENERAL.—Subpart".

On page 57, beginning with line 6, strike out through line 23 on page 61, and insert in lieu thereof the following:

"SEC. 44. PURCHASE OF PRINCIPLE RESIDENCE.

"(a) IN GENERAL.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to $2,000 if the taxpayer purchases or constructs a principal residence for use by the taxpayer.

"(b) PROPERTY TO WHICH THIS SECTION APPLIES.—The provisions of this section apply only to property—

"(1) the construction of which commences before September 13, 1975,

"(2) which has not been occupied before March 13, 1975, and

"(3) in the case of property the construction of which commences after March 12, 1975, acquired by the taxpayer as his principal residence within 180 days after the date on which such construction is completed, but in no event later than March 13, 1976.

"(c) LIMITATION.—

"(1) COST OF ACQUISITION.—Notwithstanding the provisions of subsection (a), the amount otherwise allowable as a credit under subsection (a) shall be reduced by 20 percent of the amount by which the cost of acquisition of the property (as determined under section 1034) exceeds $45,000.

"(2) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a joint return under section 6013, the amount specified under paragraph (1) applies to the joint return. In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$1,000' for '$2,000'.

"(3) CERTAIN OTHER TAXPAYERS.—In the case of individuals to whom paragraph (2) does not apply who purchase a single principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals as prescribed by the Secretary or his delegate, but the sum of the amounts to such individuals who shall not exceed $2,000 with respect to that residence.

"(4) MINIMUM SIZE.—No amount shall be allowed as a credit under subsection (a) for the purchase of any property which fails to meet such minimum standards as the Secretary of Housing and Urban Development prescribes with respect to minimum floor space per dwelling.

"(5) MAXIMUM CREDIT.—The credit allowed by subsection (a) to a taxpayer shall not exceed $2,000 for all taxable years.

"(d) DEFINITIONS.—For purposes of this section—

"(1) PRINCIPAL RESIDENCE.—The term 'principal residence' means a principal residence (within the meaning of section 1034), and includes, without being limited to, a single family structure or a residential unit in a condominium or cooperative housing project, but does not include a mobile home or a houseboat.

"(2) PURCHASE.—The term 'purchase' means any acquisition of property, but only if—

"(A) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), (but in applying section 267(b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only his spouse, ancestors, and lineal descendants), and

"(B) the basis of the property in the hands of the person acquiring it is not determined—

"(i) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(e) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—If the taxpayer disposes of property with respect to the purchase of which he claimed a credit under subsection (a) (referred to in this subsection as the 'old residence') at any time within 36 months after the date on which he commenced occupying it as his principal residence, then the tax imposed under this chapter for the taxable year following the taxable year during which such disposition occurs is increased by an amount equal to that percentage of the amount allowed as a credit for the purchase of the old residence determined by multiplying the amount of the credit allowed for the purchase of the old residence by a (fraction not greater than 1 cent and not less than zero) the numerator of which is an amount equal to the amount determined by subtracting the cost of acquisition of property which qualifies as a new residence under section 1034 from the

amount received from the disposition of the old residence and the denominator of which is the amount received for the old residence. For purposes of this paragraph, the cost of acquisition of any property acquired by the taxpayer more than 12 months after the month in which disposition of the old residence was made shall be treated as zero.

"(2) DEATH OF OWNER; CASUALTY LOSS.—The provisions of paragraph (1) do not apply—

"(A) to a disposition made on account of the death of any individual having a legal or equitable interest in the old residence occurring during the 36-month period to which reference is made under such paragraph, or

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily and involuntarily converted (within the meaning of section 1033(a)).

"(f) ELECTION TO APPLY CREDIT TO PRECEDING YEAR.—At the election of the taxpayer (made at such time and in such manner as the Secretary or his delegate prescribes by regulations), the credit allowed under subsection (a) for any taxable year shall be allowed as a credit against the tax imposed by this chapter for the preceding taxable year.".

"(b) SPECIAL RULES.—

(1) REFUND OF CREDIT IN EXCESS OF LIABILITY.—Section 6401(b) (relating to excessive credits) as amended by section 203(b)(1) of this Act, is amended—

(A) by inserting "44 (relating to purchase of principal residence)," before "and 667 (b)"; and

(B) by striking out "and 43" and inserting in lieu thereof "43, and 44".

(2) ASSESSMENT AUTHORITY FOR OVERSTATED CREDIT.—Section 6201(a)(4) (relating to assessment authority) as amended by section (b)(2) of this Act, is amended—

(A) by striking out "or 43" in the caption of such section and inserting in lieu thereof "43, or 44"; and

(B) striking out "or section 43 (relating to personal exemptions)" and inserting in lieu thereof the following: "section 43 (relating to personal exemptions), or section 44 (relating to purchase of principal residence)".

Mr. BROOKE. Mr. President, several weeks ago I introduced S. 948, the Home Purchase Incentive Act of 1975. That bill, which was referred to the Banking Committee, seeks to reduce the current, unprecedented rate of unemployment in the construction trades and to promote economic recovery by encouraging the construction and purchase of new homes of median price or less. Under S. 948, the buyers of newly built homes meeting size and price requirements established by the bill would receive a direct cash payment applicable against their downpayment at the time they purchase their homes. This home purchase incentive program will produce more jobs at less cost than any proposal I know of, including the public service jobs program, which I have supported. Because it would put the large, unused capacity in our housing industry back to work, the program would not have an inflationary effect. By increasing the supply of housing, the bill will in fact dampen inflationary pressures now developing in some tight housing markets.

Last week, I appeared before the Committee on Finance and discussed the concept of a direct cash payment program with committee members. That committee has included a tax credit for home buyers in the Tax Reduction Act, which we are considering tonight. This program is somewhat similar to my proposal in S. 948. However, the Committee's proposal has certain features which I believe must be changed if it is to be effective and to operate at an acceptable level of cost to the Federal Government. The changes, which I believe are necessary, are contained in the amendment which I have offered and which I shall describe in a minute.

I have heard some talk that a home purchase incentive program does not belong on the tax bill and goes beyond the jurisdiction of the Finance Committee. While there may be some merit to these arguments, I believe that the interests of the economy and the country are better served if we put aside jurisdictional niceties for the time being.

In the larger sense, we are not talking about a housing program but a jobs program, an economic recovery program. There has been testimony both in the Committee on Finance and in the Committee on Banking, Housing, and Urban Affairs, that the home purchase incentive program is among the most potent and least expensive ways to promote employment. Each dollar spent by the government under the home purchase incentive program will generate $12 in private expenditures, as opposed to the 1½ to 3 dollars of private spending generated by the ordinary tax rebate dollar.

The amendment which I propose today would change section 205 of H.R. 2166 as amended by the Committee on Finance in the following ways:

First, the amendment would retain the provision in the Mansfield substitute which would make a tax credit available only to the purchasers of newly constructed homes, condominiums, or cooperative units. However, my amendment would change the Mansfield substitute by providing that a buyer would qualify for a credit only if he purchased a unit from the inventory of newly constructed units or a unit presently under construction within 6 months of the effective date of the program, or if he bought a unit started during the next 6 months and sold within 12 months of the effective date of the program. The bill as reported by the Committee on Finance would provide that the buyer could receive a credit if he entered into a contract to buy a new unit before the end of this year even if he did not buy the unit until next year.

If the Finance Committee bill were not amended, buyers might well wait until the last possible opportunity to take advantage of the tax credit, thus diluting the impact of the program during the current building season, when it is most needed.

Perhaps the major change the amendment would make in section 205 of the Finance Committee bill would be to make the tax credit refundable, that is to make it available at the time the new home is purchased. In order to encourage new home purchases, it is necessary that the proceeds of the tax credit be available to the buyer to assist in meeting his downpayment at the time he purchases the home. The Finance Committee bill, on the other hand, would make the credit payable only when the individual files his next year's income tax return, thus preventing use of the credit to reduce the downpayment, which is the major incentive in the home purchase rebate program.

Third, the amendment would make a flat $2,000 rebate available to all purchasers of newly built units rather than a credit of 5 percent of the price of the home up to $2,000 as the Finance Committee bill does.

I wanted, if the unanimous consent agreement had been given, to reduce that figure to $1,500, or even to $1,000, which would have reduced the cost of the program to $850 million. As the present bill is written, it would cost about $2.5 billion. This program, without existing homes, would reduce that cost down to approximately $2 billion. I would have liked to have unanimous consent to reduce it even further.

Fourth, the amendment would gradually phase out the credit from $2,000 for a $45,000 house down to zero for a $55,000 house, thus putting a ceiling on the price of homes the purchase of which is encouraged under the program.

Under the present program, as I understand it, it could go considerably higher.

Economic analysis indicates that the total cost of the program as modified by this amendment would be approximately $2.5 billion and that the revised tax credit program would result in over 460,000 housing starts which would not otherwise have occurred this year, thus boosting new housing starts in 1975 from approximately 1.3 million to over 1.75 million. Perhaps most important, it is estimated that the revised program would generate over 560,000 new jobs in housing and supporting industries. The increased income taxes and decreased level of unemployment compensation which would result from institution of this program should more than cover the cost to the Federal Government. The program as amended would not serve wealthy families. About 65 percent of the families who are likely to take advantage of the program will have incomes of less than $20,000 and about 50 percent will have incomes of less than $15,000.

Mr. President, the changes I have suggested will not only make this program more effective and less costly, but it is hoped that they will also make it more acceptable to the House of Representatives and to the Administration.

Mr. President, I do not need to remind this body that we are way behind in our housing starts and that, although unemployment in the country is about 8.4 percent, and possibly increasing slightly, the unemployment figures for the housing industry are about 17 percent at the present time. The Committee on Banking, Housing and Urban Affairs has been conducting extensive hearings as to what can be done in order to spur the housing industry to get housing built in the country, and, hopefully, bring back into employment the large numbers, the hundreds of thousands of unemployed workers in the housing industry.

I know that my own committee, the Housing Subcommittee of the Committee on Banking, Housing and Urban Affairs, is concerned about the jurisdictional problem. Our distinguished chairman, the Senator from Wisconsin

(Mr. PROXMIRE) is concerned about it. I am concerned about it myself.

I would not even suggest that we go this route had it not been for the fact that the Finance Committee has this provision in its bill, and I think that what the Finance Committee has in its bill will not do the job. It will not build the housing. It will be extremely costly. It will not impose the ceiling that we need so that moderate and middle income people will be able to buy housing in the country, and I do not think that any kind of a tax credit to the wealthy people will encourage them to build or to buy homes, because they will buy homes anyway, without this credit.

In addition to that, I think the most important aspect of the Finance Committee bill that we need to change in the event that this housing section remains in the bill is that the credit should be made a refundable credit, which could be carried back, rather than a simple tax credit. If it is not a refundable credit, which ban be carried back, it will mean that the prospective home purchaser will have to wait until the end of the taxable year to get a tax credit.

The only way we are going to inspire and encourage people to buy homes is to have that money in their hands at the time that they must make a down payment—not at the end of the taxable year.

Therefore, I respectfully suggest to my own chairman of the Banking, Housing and Urban Affairs Committee, Senator PROXMIRE, and to my colleagues that they seriously consider the adoption of this amendment, which will improve the Finance Committee bill, which has the provision in it which, I repeat, will not be effective and will be extremely costly to the taxpapers, without, I think, the desired results for homebuilders, and even more importantly for home purchasers.

Mr. LONG. Mr. President, the Senator must not be aware of the fact that the credit for the purchase of homes has been modified to apply only to new homes, and therefore the cost of the provision in the Senate bill has been reduced by two-thirds. The cost would be about $1 billion.

Mr. BROOKE. Will the Senator yield at that point?

Mr. LONG. Yes.

Mr. BROOKE. I have heard those figures. If the Senator's figures are correct then the cost of my amendment would be more in the same range as the one now in the Finance Committee's bill. I do not know whether the Senator is quoting proper cost figures. I do not think we ought to mislead.

Mr. LONG. I am not trying to mislead anyone.

Mr. BROOKE. I know the Senator is not. I am not suggesting he is.

Mr. LONG. But I will explain why the Senator's proposal will cost a great deal more than what the committee has proposed.

Mr. President, under the committee proposal we would seek to move out and sell these 400,000 houses that are in inventory. At the rate new houses are moving, that is about all the public will buy all year long. We hope people will not buy new houses until these houses are moved out of inventory.

One of the principal purposes is to provide jobs for people building houses, and move out and sell houses in inventory right now. I am talking about the new houses; the committee bill is limited to that.

Under the committee proposal, a person would get a tax credit of 5 percent of the purchase price for the residence. Under the Brooke amendment, he would get a flat credit of $2,000, which would phase out between $45,000 and $55,000. Mr. President, if that person were buying a trailer—which would be eligible under either bill—and that trailer cost $2,000, then he would get a tax credit and an immediate payment out of the Treasury of $2,000 to pay the entire cost. As a matter of fact, if he could find a trailer that would cost $1,900——

Mr. BROOKE. Mr. President, that would not be true.

Mr. LONG. This is the analysis, as I say, that was given to me on the Senator's amendment. If he bought a house trailer that would cost $1,900, he would get the trailer free and make $100 profit simply by buying the trailer.

Mr. BROOKE. Will the Senator yield?

Mr. LONG. This is the kind of thing that runs up the cost of the bill. And I submit, Mr. President, that it is far better to provide a 5-percent measured against the purchase price than to provide a flat $2,000 credit.

The Senator then proposes to phase out the tax credit between $45,000 and $55,000. I would point out, Mr. President, that although in the committee bill the credit would not exceed 5 percent, or $2,000, the top limit would be the $2,000, but it does provide twice as much employment if a person buys a $80,000 house as it does if he buys merely a $40,000 house. Therefore, the Senator's amendment would have no stimulating effect at all to encourage people to buy houses that might cost as much as $80,000, $100,000, or $200,000.

While we are not seeking to benefit those who can buy an expensive home, we would like to see them spend that much money to put people to work, because a $200,000 home provides five times as much employment to bricklayers, carpenters, electricians, plumbers—people in all branches of the construction trades—as well as those who produce the materials. It provides five times as much employment as the purchase of a $40,000 house, and therefore we do not want to deny someone the incentive to buy that kind of house that we would provide for one to buy a smaller home.

As I say, the limit in the committee bill is a $2,000 tax credit, and we think it ought to be on that basis.

The Senator has some good suggestions. For example, he suggests that the tax credit should be paid immediately rather than have one wait until the end of the taxable year. I think that is a very good suggestion, Mr. President. If ferees to agree to the Senate provision, we are able to persuade the House con- I will certainly strive for that provision in conference, so that it should be amended more fairly to provide what the Senator has in mind, because that is a very good suggestion.

I do not think we are going to find it necessary to make this a refundable tax credit, as the Senator would do, for the reason that most people who buy homes have incomes. They have to have an income to pay an income tax, and therefore we do not need to give them a refundable tax credit against taxes they do not pay. And while we do provide a refundable credit for low income working people, those are generally not the kind of people who are going to buy homes. Therefore, we do not think it would be necessary to provide a refundable tax credit against taxes that have not been paid and are not in fact due. It might be desirable to provide a carryforward or carryback, if that could be made available to some, but that is something we could also do in conference.

I believe the amendment would have unintended consequences. I do not believe that anyone would contend that the Government, the taxpayers, should pay 100 percent of the cost of someone buying a new home, even though it be only a $2,000 home, nor do I think they would want to provide as much as 25 percent of the cost of buying a new home if they do not think it is necessary to provide that much stimulation. If we enact the committee provision, we will be able to tell from the experience we have with the taxpayers under the bill the extent to which the credit will stimulate the purchase of new houses, and see whether we should go further, beyond that.

Therefore, I believe, Mr. President, that all things considered we would best stay with the committee bill and accordingly, Mr. President, in order to test the sentiment of the Senate on this——

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

Mr. LONG. Mr. President, I ask unanimous consent that I might yield to the Senator for 3 minutes on the Senator's time, and then I may have the floor.

Mr. BROOKE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 40 minutes remaining.

Mr. LONG. I ask unanimous consent that I yield to the Senator time, at the conclusion of which I would regain the floor.

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

Mr. BROOKE. Mr. President, the Senator has said many things which are not quite in keeping with the facts. I refer the Senator to the amendment. I am sure the Senator has read the amendment.

Number 1, the Senator said you could buy a trailer at $1,900 and get $2,000, pay for it, and have $100 left over.

The amendment that I proposed does not include trailers, it specifically says, "but does not include a mobile home or a houseboat."

Number 2, I refer the Senator to the provision in my amendment which says:

"(4) MINIMUM SIZE.—No amount shall be allowed as a credit under subsection (a) for the purchase of any property which fails to meet such minimum standards as the Secretary of Housing and Urban Development prescribes with respect to minimum floor space per dwelling.

That is the language we used.

Number 3, the Senator said that he

does not see anything wrong with an $80,000 house. Now, are we going to give $2,000 to people to buy an $80,000 house?

Does the Senator really believe that that is going to be an incentive to building housing? I can see a man who is going to have a hard time raising the down payment, who will be helped by $2,000, and who will say:

All right, I cannot afford to buy the house because I cannot afford to get the down payment. But if I get $2,000 I can do it. I will go ahead and I will put that $2,000 down with money that I have saved in the bank, and I will buy the house.

But we are talking about a $30,000, $40,000, $45,000 house. I cannot see how the Senator could ask the Senate to vote for an amendment or a bill which provides for $2,000 for the building of an $80,000 house, or a $100,000 house for that matter.

Number 4, the Senator said he wants to get rid of the existing housing stock. I agree we want to get rid of it, and my amendment provides for that. But getting rid of existing housing starts is not going to put one bricklayer back to work, one painter back to work, one plumber back to work. That is the purpose of this bill. The purpose of this bill is to turn the economy around and get people back to work; and as I have showed under the amendment, which would improve the Senator's bill, we will get people back to work.

I am glad the Senator has read that part of the bill which says we ought to have a refundable tax credit which could be carried back because if we do not have a refundable tax credit which could be carried back you will give a tax credit which people will only get after a taxable year is over. Very few people will buy houses with this type of incentive, and then the Federal Government will have to pick up a tab of $2 billion and you still will not have more housing starts, and you still will not have anybody back to work.

If that is what the Senator, the distinguished chairman of the Finance Committee, wants, then go ahead with the present bill. But if he does want housing, if he does want the construction workers to go back to work, he had better seriously consider more than just one amendment that is included in this bill and get it through the conference.

I hope the Senate will have the wisdom to adopt this amendment.

Mr. LONG. Mr. President, the Senator is, of course, an expert on his own amendment. If he says it does not include mobile homes, I will take his word for it.

Mr. BROOKE. The Senator does not have to take my word; he can read it.

Mr. LONG. Well, Senator, we can agree that it would still include a small home, and it could be, for example, a $10,000 house. It could be a 20 percent credit or if the Secretary——

Mr. BROOKE. Mr. President, will the Senator yield at that point?

Mr. LONG. No, I do not yield.

Further, Mr. President, the Senator says there would be something immoral in providing a credit to a person buying an expensive home.

I would point out that people usually do not hire an architect any more to design a house. Most people buy homes that have been built by a builder seeking to find a market. The builders are not going to build new homes when they have got houses all over town that they cannot sell. When they can sell those that they have on hand then they will proceed to build more.

In that respect, I just do not agree with the Senator's view that there is anything wrong about providing a credit for somebody buying an expensive home. We want them to buy homes, and the more they spend buying homes the more people we are going to put to work.

As I say, Mr. President, the Senator does have a point that it would be good to modify the credit in a way to provide for an immediate payment. We can take care of that in conference, Mr. President, if the Senate sees fit to retain the provision that was recommended by the homebuilders themselves, that we should have a 5-percent tax credit for people to buy new homes to help move out of inventory those they have and to encourage that more could be built.

Mr. President, I move that the amendment be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table (putting the question).

Mr. BROOKE. Mr. President, I am sorry, I was not listening. I want the yeas and the nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, I am pleased to join with the distinguished Senator from Massachusetts, Mr. BROOKE, in proposing what I believe to be a very significant amendment to the housing tax credit provision of the tax reduction bill that is before the Senate today. This amendment will result in a significant increase in the effectiveness of the housing tax credit provision of this legislation in creating new homes and in producing jobs.

Today our Nation's housing industry is in disastrous shape. Housing starts for December 1974 were at a seasonally adjusted annual rate of only 868,000 units, the lowest level in 9 years and far below the level necessary to achieve the 2.6 million annual rate of housing starts called for in the 1968 Housing Act. At the same time, the unemployment rate in the housing and construction industry is at a depression level of 16 percent for the Nation as a whole and in excess of 30 percent in many specific areas in this country.

At the same time, an estimated 600,000 housing units have been constructed and are sitting idle because consumers simply cannot afford to purchase them. This is an incredible situation given the fact that 13 million American families are inadequately housed.

I am convinced that direct assistance must be initiated immediately to stimulate housing production and to make home ownership affordable for a larger percentage of our families. While I would prefer to see a housing program considered by the Congress on its own merits, the urgency of the crisis in this industry requires that we take action on the legislative vehicle that is before us.

Under the Brooke-Humphrey amendment which is before us today, buyers of newly built homes, meeting size and price requirements established by the bill, would receive a direct cash payment applicable against their downpayment at the time they purchase their homes. This home purchase incentive program will produce more jobs at less cost than virtually any proposal that I know of. For this reason, I give it my full support and urge my colleagues to do likewise.

This amendment would make three fundamental changes in the current housing tax credit provision of the tax reduction bill.

First, it would provide a flat $1,500 rebate to all purchases of newly built homes rather than provide the credit as a fixed percentage of the cost of the home. I believe that this feature is more equitable to those who buy lower priced homes.

Second, this amendment will make the housing tax credit refundable, that is, it will make the tax credit available at the time the new home is purchased. I believe it is essential that the tax credit be available to assist the purchaser in making the downpayment on the new home, since this is a crucial bottleneck in stimulating new housing purchases today.

Third, this amendment would gradually phase out the credit from $1,500 for a $45,000 house down to zero for a $55,000 house, thus putting a ceiling on the price of homes, the purchase of which is encouraged under the program.

The housing experts who have analyzed this proposal indicate that the net additional housing starts that we can expect this year, if this proposal is enacted, would be 437,000. Yes, nearly half a million new homes would be under construction this year, if we pass this amendment before us. Of course, equally as significant, we would create a substantial number of new jobs. In this regard, it is estimated that 568,000 man years of net additional jobs, at least, would result from enactment of the measure we are proposing today.

As the chairman of the Joint Economic Committee, I can assure you that after having spent several months in analyzing the impact of various Federal spending programs on jobs, that this is a very desirable and cost effective manner of expanding employment.

The cost of this program as modified by our amendment would be approximately $2 billion. I believe that the benefits described above certainly warrant an immediate tax expenditure of this size.

I would also like to assure my colleagues that this program would provide primarily for the needs of American families with incomes of $20,000 a year or less. In fact, 70 percent of the funds provided in this bill, $1.4 billion would go to families in the $20,000 or less income bracket. As significantly, the experts inform me that 50 percent of the funds in this bill, $1 billion, will go to families with incomes of $15,000 or less. I believe that this pattern of distribution is fair to our citizens.

Mr. President, we can act today to provide our people with the opportunity to acquire more decent housing, to provide our housing industry with a small increment of help that will keep many small contractors in business, and to provide hundreds of thousands of American workers with a chance to get back to work and support their families.

Mr. President, I urge all of my colleagues to join me in support of the Brooke-Humphrey amendment to the housing tax credit provision of the tax reduction bill.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

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 Texas (Mr. BENTSEN) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oregon (Mr. PACKWOOD), the Senator from Virginia (Mr. WILLIAM L. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 62, nays 29, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—62

Abourezk	Fannin	Long
Allen	Fong	Magnuson
Baker	Ford	Mansfield
Bartlett	Garn	McClellan
Bayh	Glenn	McClure
Biden	Goldwater	McGee
Brock	Gravel	Mondale
Buckley	Hansen	Montoya
Bumpers	Hart, Gary W.	Morgan
Burdick	Hart, Philip A.	Moss
Byrd, Harry F., Jr.	Haskell	Muskie
	Hathaway	Nelson
Byrd, Robert C.	Helms	Nunn
Cannon	Hollings	Ribicoff
Chiles	Hruska	Scott, Hugh
Church	Huddleston	Stafford
Cranston	Inouye	Stennis
Curtis	Jackson	Stone
Dole	Johnston	Talmadge
Domenici	Laxalt	Thurmond
Eastland	Leahy	Young

NAYS—29

Beall	Humphrey	Proxmire
Bellmon	Javits	Randolph
Brooke	Kennedy	Roth
Case	Mathias	Schweiker
Clark	McIntyre	Sparkman
Culver	Metcalf	Stevenson
Eagleton	Pastore	Tunney
Griffin	Pearson	Weicker
Hartke	Pell	Williams
Hatfield	Percy	

NOT VOTING—8

Bentsen	Scott, William L.	Symington
McGovern		Taft
Packwood	Stevens	Tower

So the motion to lay on the table was agreed to.

AMENDMENT NO. 129

Mr. GRAVEL. Mr. President, I call up my amendment 129.

The PRESIDING OFFICER. The clerk will state the amendment.

Mr. GRAVEL. And I send a modification to the desk.

The PRESIDING OFFICER. A modification is not in order except by unanimous consent.

Mr. NELSON. What is the ruling?

The PRESIDING OFFICER. The Senator was requesting unanimous consent to modify his amendment. A modification of an amendment is not in order in view of the cloture.

Is there objection?

Mr. HOLLINGS. I object.

Mr. GRAVEL. I call up my amendment No. 129.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. I ask unanimous consent to dispense with the further reading of the amendment.

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

The amendment is as follows:

Section 103 of the bill, relating to effective dates for sections 101 and 102 of title IV (relating to repeal of percentage depletion for oil and gas) is amended to read as follows:

"SEC. 103. EFFECTIVE DATES.

"The amendments made by sections 101 and 102 of this title apply to oil and gas produced more than 30 days after the date of enactment of this Act."

At the end of the bill add the following:

"TITLE V—NATURAL GAS DEREGULATION; TERMINATION OF PRICE CONTROLS

"NATURAL GAS DEREGULATION

"SEC. 501. (a) Section 1(b) of the Natural Gas Act is amended to read as follows:

"'(b) The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for domestic, commercial, industrial, or any other use, and to natural gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas or to the sale of natural gas dedicated for the first time to interstate commerce or rededicated upon expiration of an existing contract on or after the date of the enactment of the Energy Revenue and Development Act of 1975 or produced from wells commenced on or after such date, for domestic, commercial, industrial, or any other use, by any person, whose principal business is not the transportation of natural gas in interstate commerce'

"(b) Section 2(6) of the Natural Gas Act is amended by striking the last two words and by inserting before the period at the end thereof a comma and the following: 'subject to the exception in section 1(b) above'.

"(c) Section 2 of the Natural Gas Act is amended by adding at the end thereof the following new clause:

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

"(d) Section 3 of the Natural Gas Act is amended by striking from the first sentence 'or import any natural gas from a foreign country' and by striking from the second sentence 'or importation'.

"(e) Section 4(e) of the Natural Gas Act is amended by inserting before the period at the end thereof a colon and the following: *'Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from this Act pursuant to section 1(b) except to the extent that the rates or charges made, demanded, or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded, or received by persons not affiliated with the purchasing natural gas company: *Provided further,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates or charges made, demanded, or received by any natural gas company for natural gas produced from the properties of that company from wells commenced on or after the date of the enactment of the Energy Revenue and Development Act of 1975, except to the extent that the rates or charges made, demanded, or received exceed those made, demanded, or received for natural gas by persons not affiliated with the purchasing natural gas company.".

"(f) Section 5(a) of the Natural Gas Act is amended by inserting before the period at the end thereof a colon and the following: *'Provided, however,* That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural gas company for or in connection with the purchase of natural gas exempt from this Act pursuant to section 1(b), except to the extent that the rates or charges made, demanded, or received for natural gas by an affiliate of the purchasing natural gas company exceed those made, demanded, or received by persons not affiliated with the purchasing natural gas company: *And provided further,* That the Commission shall have power to deny, in whole or in part, that portion of the rates or charges made, demanded, or received by any natural gas company for natural gas produced from the properties of that company from wells commenced on or after the date of the enactment of the Energy Revenue and Development Act of 1975 except to the extent that the rate or charges made, demanded, or received exceed those made, demanded, or received from natural gas by persons not affiliated with the purchasing natural gas company: *And provided further,* That the Commission shall have no power to order a decrease in the rate or charge made, demanded, or received for the sale of natural gas by any person not engaged in the transportation of natural gas in interstate commerce or by any affiliate of such person, if such rate or charge shall have been previously determined to be just and reasonable, such determination being final and no longer subject to judicial review. The Commission shall have no power to require any averaging of the price of natural gas subject to control under this Act and natural gas not subject to such control.

"TERMINATION OF PRICE CONTROLS

"SEC. 502. Upon the expiration of sixty days following the date of enactment of this section, the authority conferred by section 4 of the Emergency Petroleum Allocation Act of 1973 to stabilize the prices of petroleum products, crude oil, natural gas, and coal shall terminate, but such termination of authority shall not affect any action or pending proceedings, civil or criminal, not finally determined on the date of such termination of authority, nor any action or proceeding based upon any act committed prior to such date. Immediately upon the enactment of this section, the President or his delegate shall begin to make such periodic adjustments in ceiling prices of commodities referred to in the preceding sentence as may be appropriate to insure that such termination of authority may be accomplished in a manner which does not cause undue disruption or dislocation in the economy of any industry.

"TITLE VI—REPEAL OF THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

"SEC. 601. Notwithstanding any other provisions of this Act, the Emergency Petroleum Allocation Act of 1973, as amended, is hereby repealed.

"TITLE VII—EXCESSIVE PROFITS TAX

SEC. 701. (a) Subtitle A of the Internal Revenue Code of 1954 (relating to income taxes) is amended by adding at the end thereof the following new chapter:

"'CHAPTER 7—TAX ON EXCESSIVE FOSSIL FUEL PROFITS

"'Sec. 1601. Imposition of tax.
"'Sec. 1602. Credit for reinvestment in domestic areas.
"'Sec. 1603. Excess fossil fuel profits income.
"'Sec. 1604. Related corporations.
"'Sec. 1605. Definitions; special rules; regulations.

"'SEC. 1601. IMPOSITION OF TAX.

"There is imposed on the excess fossil fuel profits income of every corporation for any taxable year ending after December 31, 1974, and before January 1, 1980, a tax of 80 percent.

"'1602. CREDIT.

"There is allowed to each corporation liable for the tax imposed by section 1601 for the taxable year, an amount equal to the amount of such corporation's qualified investment for the taxable year.

"'SEC. 1603. EXCESS FOSSIL FUEL PROFITS INCOME.

"For purposes of this chapter, the term 'excess fossil fuel profits income' means the amount by which the fossil fuel profits income of a corporation for the taxable year exceeds the larger of—

"'(1) the average annual fossil fuel profits income of that corporation for the base period; or

"'(2) an amount equal to an annual return for that taxable year of 15 percent on capital invested by that corporation in fossil fuel industry activities.

"'SEC. 1604. RELATED CORPORATIONS.

"'(a) RELATED CORPORATIONS.—In the application of the provisions of this chapter to any domestic corporation which owns stock issued by a foreign corporation which has fossil fuel profits income from any source—

"'(1) the domestic corporation is considered to have fossil fuel profits income from that source in an amount which bears the same ratio to the total amount of the fossil fuel profits income of that foreign corporation as the value of the foreign corporation's stock held by the domestic corporation bears to the total value of all stock issued by the foreign corporation, and

"'(2) a foreign corporation (referred to elsewhere in the paragraph as the acquiring corporation) which owns stock issued by another foreign corporation (referred to elsewhere in this paragraph as the issuing corporation) which has fossil fuel profits income from any source is considered to have fossil fuel profits income from that source in an amount which bears the same ratio to the total amount of the fossil fuel profits income of the issuing corporation as the value of the issuing corporation's stock held by the acquiring corporation bears to the issuing corporation.

"'(b) VALUATION RULE.—For purposes of this section, the value of a share of stock is its average fair market value for the taxable year. If the Secretary or his delegate determines that the fair market value of a particular class of stock cannot be ascertained with reasonable certainty, the value of that stock shall be determined in accordance with rules promulgated by the Secretary or his delegate which are designed to reflect fairly, for purposes of this chapter, the ownership interest of the corporation which owns the stock in the corporation which issued the stock.

"'SEC. 1605. DEFINITIONS; SPECIAL RULES; REGULATIONS.

"'(a) DEFINITIONS.—For purposes of this chapter—

"'(1) BASE PERIOD.—The term "base period" means, in the case of any corporation, the first four taxable years of that corporation beginning after December 31, 1969.

"'(2) FOSSIL FUEL INDUSTRY ACTIVITY.—The term "fossil fuel industry activity" means the business of extracting, refining, transporting, distributing, manufacturing, producing, or selling gas, coal, petroleum, petroleum products, or products used in connection with the extraction, refining, transportation, distribution, manufacture, production, or sale of gas, coal, petroleum, or petroleum products.

"'(3) FOSSIL FUEL PROFITS INCOME.—The term "fossil fuel profits income" means the taxable income of a corporation derived from fossil fuel industry activities.

"'(4) QUALIFIED INVESTMENT.—For purposes of this chapter, any person's qualified investment for any taxable period is the amount paid or incurred by such person during such taxable period (with respect to areas (within the United States or a possession of the United States) for—

"'(A) intangible drilling and development costs, or geological and geophysical costs, described in section 263(c),

"'(B) the construction, reconstruction, erection, or acquisition of the following items but only if the original use of such items begins with such person:

"'(i) depreciable assets used for—

"'(I) the exploration for or the development or production of coal, oil, or gas (including development or production from oil shale),

"'(II) converting oil shale, coal, or liquid hydrocarbons into oil or gas, or

"'(III) refining oil or gas (but not beyond the primary product stage),

"'(ii) pipelines for gathering or transmitting oil or gas, and facilities (such as pumping stations) directly related to the use of such pipelines.

"'(C) secondary or tertiary recovery of oil and gas,

"'(D) the acquisition of oil and gas leases (other than off-shore oil and gas leases), but the aggregate amount which may be taken into account under this subparagraph for any taxable period shall not exceed one-third of the aggregate of the amounts which may be taken into account by the taxpayer under subparagraphs (A), (B), and (C) for such period, and

"'(E) the discovery, development, or utilization of any other energy source (including amounts paid or incurred for the acquisition of depreciable assets and for the construction, reconstruction, or erection of facilities in connection therewith).

"'(b) SPECIAL RULES.—

"'(1) APPLICATION OF RELATED CORPORATION RULES.—The related corporation rules contained in section 1604 apply to the determination of fossil fuel profits income for the base period and for the taxable year, and to the determination of return on investment.

"'(2) RETURN ON INVESTMENT.—

"'(A) IN GENERAL.—For purposes of section 1602, return on investment shall be determined by computing the excess of the fossil fuel profits income for the taxable year over the capital investment in fossil fuel industry activities for the taxable year as a percentage of the amount of such capital investment.

"'(B) EXCLUSIONS.—In computing return on investment there shall be excluded from consideration—

"'(i) the excess of any amount allowed as a deduction under section 613 (relating to percentage depletion) over the amount allowable under section 611 for cost depletion;

"'(ii) any amounts allowed as a deduction in accordance with the provisions of section 263(c) (relating to intangible drilling and development costs in the case of oil and gas wells) in connection with any oil or gas well which is commercially productive, as determined by the Secretary or his delegate; and

"'(iii) with respect to each item of section 1250 property (as defined in section 1250(c)), the amount by which the deduction allowable for the taxable year for exhaustion, wear and tear, obsolescence, or amortization exceeds the depreciation deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life (determined without regard to section 167(k)) for which the taxpayer has held the property.

"'(3) CHANGES IN CORPORATION STRUCTURE VOLUME OF BUSINESS, ETC.—In the application of the provisions of this chapter—

"'(A) income, expenditures, gains, and losses not related to fossil fuel industry activities shall be disregarded; and

"'(B) if, for any taxable year, the fossil fuel profits income of a corporation is greater than the average annual fossil fuel profits income of that corporation for the base period as a result of expanded volume of products handled, a different type of fossil fuel industry activity than that engaged in by the corporation during the base period, or a different combination or proportion of fossil fuel industry activities than those engaged in by that corporation during the base period, the corporation may, with the approval of the Secretary or his delegate, adjust the annual average base period fossil fuel profits income, or compute the taxable year's fossil fuel profits income in such a manner as necessary, to reflect equitably that part of the fossil fuel profits income for the taxable year which is subject to treatment as excess profits from fossil fuel industry activities as compared to the profits from those activities during the base period. Any approval granted by the Secretary or his delegate under this subparagraph shall be granted after a public hearing conducted in accordance with the provisions of section 553 of title 5, United States Code, applicable to rulemaking.

"'(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.'.

"(b) Section 11 of the Internal Revenue Code of 1954 (relating to tax on corporations) is amended by adding at the end thereof the following new subsection:

"'(g) TAX NOT TO APPLY TO EXCESS FOSSIL FUEL PROFITS INCOME.—The provisions of this section apply only to so much of the taxable income of a corporation for the taxable year which is excess fossil fuel profits income (as defined in section 1603) of that corporation for that taxable year as equals the amount of the credit claimed under section 1602 by that corporation for the taxable year.'.

"(c) TECHNICAL AMENDMENT.—

"(1) Section 12 of such Code (relating to cross references relating to tax on corporations) is amended by adding at the end thereof the following new paragraph:

"'(9) For tax on excess fossil fuel profits income, see chapter 7.'.

"(2) Section 21 of such Code (relating to effect of changes) is amended by adding at the end thereof the following new subsection:

"'(f) CHANGES MADE BY THE ENERGY REVENUE AND DEVELOPMENT ACT OF 1975.—On applying subsection (a) to the taxable year of a corporation which is not a calendar year, the tax imposed under section 1601 shall be treated as a change in a rate of tax.'.

"(3) The table of chapters for subtitle A of such Code is amended by adding at the end thereof the following item:

"'CHAPTER 7. Tax on excessive fossil fuel profits.'

"(d) The Secretary of the Treasury or his delegate shall, as soon as practicable but in

any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1954 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

"(e) The amendments made by this Act apply with respect to taxable years ending after December 31, 1974.".

Mr. GRAVEL. I want to propound another unanimous-consent request, and I am sure all Senators will want to hear it.

The PRESIDING OFFICER. Senators will clear the aisles. Senators will take their seats. The Senate will be in order.

The Senator from Alaska.

Mr. GRAVEL. Mr. President, I have my amendment at the desk. I do not know why there was objection to the modification. It is a normal courtesy that is accorded.

Mr. NELSON. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator from Alaska wishes to make a unanimous-consent request.

Mr. GRAVEL. I would like to ask unanimous consent to modify my amendment at the desk.

Mr. HOLLINGS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that members of my staff, Dave Clanton and Bob Turner, have permission to be on the floor during the debate and vote on the bill.

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

Mr. GRAVEL. Without losing my right to the floor, may I ask the Senator from South Carolina what objection he has to my amendment? Is there any reason why I should experience this discourtesy?

Mr. HOLLINGS. Mr. President, answering my distinguished colleague's questions, I do not see anything discourteous. I do not agree with any of the amendment at all, not one part, not two parts, not three parts, or four parts, and no discourtesy is intended. The Senator has been voting against me for the past 3 days and I never had in the back of my mind that discourtesy was involved. It is just because I do not want it separated.

We have studied this amendment. We have heard it proposed. It would decontrol oil prices. It would deregulate gas. It would cost the consumer some $40 billion extra in America, wreck the economy, and put us into a depression. That is the reason I really oppose the amendment and any modification of the amendment. I oppose it as it now is submitted and has been printed. If that involves discourtesy, I apologize, but I object.

Mr. GRAVEL. I have the answer to my question, Mr. President. I do not need the Senator to use up my time in the process. I might say in the 3 days that he used in this body I did not object on any single occasion. On no occasion did I vote for his proposal, but I did not object to any of his unanimous consents.

I do want to thank my colleague from South Carolina for that courtesy. If I think I can improve legislation by sending a modification to the desk, I think I should be accorded that privilege. If someone wants to argue something that is not an improvement, then so be it. I do thank my colleague.

I do not wish to be interrupted so that if the Senator wants to say something, he can say it on his time. I will yield and ask unanimous consent that I not be charged with it.

If my colleague wants to take the floor and give us some more of his cracker barrel rhetoric, he can take the floor.

Of course, I never thought of tabling his motion or amendment. I gave it full consideration. It is interesting that now after he has eaten in the larder there is no time for anybody else to come in with thoughts, information, or knowledge.

Mr. HOLLINGS. I can respectfully listen to my colleague from Alaska, but the record will show that my amendment was moved for tabling when I was out of the body on the day before yesterday. I did not get a chance to discuss my amendment and he was part of the conspiracy.

Mr. GRAVEL. I hope the Senator speaks on his time and not mine.

The PRESIDING OFFICER. The Senator speaks on his time.

Mr. GRAVEL. As a matter of policy, I did importune upon the chairman at that time, saying that Senator HOLLINGS was not in the room and he should not do that. But since it was not in the RECORD, my colleague did not know that. These are some of the kinds of courtesies that some of my colleagues think are in order.

We can get lost in parliamentary chicanery, but we are trying to get the issue across.

I will make my presentation, and it really makes no difference whether I make it on my modified amendment or this amendment. The substance is the same, and that is really what I am after in this body—to get across the substance of the issue.

I would like to begin by saying that in the 3 days of debate that we have had on the energy aspect of this legislation, I think the most profound statement and the most accurate statement was made by the Senator from Connecticut. That is when he made the statement that the issue before us was the symbol of privilege.

I would like to raise a question. Do we legislate here on the basis of symbols and perceptions, or do we legislate on the basis of facts and knowledge.

I think in the short time that I have been here we have legislated both ways. I think on the debate on the depletion allowance we have heard a lot of rhetoric; it has been highly emotional rhetoric and not much based on fact. I will go into the arguments made by the Senator from South Carolina and the Senator from Massachusetts as to where fact departs from fiction.

Let me just say that the action we took with respect to repeal of the depletion allowance was an error whose time has come, and there is no way you can change that.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. Mr. President, I would like not to have any efforts made in acquiring order charged to my time. I think that would be only fair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. I think the liberals are recognized as being in control of the Congress, both the House and the Senate, and I think it is readily recognizable that as part of liberal ethics, you just have to be against the depletion allowance. That is just automatic.

In fact, I think it was best characterized by a statement made in committee by Senator Nelson. He made it with a certain degree of emotion. That was, very simply, that he was for repeal of the depletion allowance before he knew what it was. I think that, essentially, is a good deal of the view—that they are for depletion before they really know what it is about or what it its impact or what is its effect.

But, of course, we can real in emotion and we can deal in perceptions. But the facts are always going to be there.

Let me just give a few facts that cannot be altered and which do exist. You can look at these facts two ways. I will state these facts one way, and they are totally accurate stated that way. And I will then state them in the opposite, and they are also totally accurate that way.

The first fact is that the U.S. Government and we, as its policymakers, actually permit—and in fact force—the American consumer to subsidize Arab and all foreign oil production. That is a very simple fact, when you recognize that part of American oil is forced to be sold for $5.25 a barrel through Government edict, and foreign oil comes into the United States a little more than $12 a barrel. That means we are forcing the American consumer to buy foreign oil at those prices.

You can reverse that and say, "Aren't we great?" We permit the American consumer to buy oil cheaply, by edict," and that is exactly what we do. But the converse is also true.

The second fact is that the FPC, by edict, requires the American consumer to pay six times more for Arab and foreign oil than the energy equivalent of natural gas. It is very simple.

The average cost of natural gas, by FPC edict, is a little below 30 cents a thousand cubic feet. The oil coming in is $2 a barrel oil equivalent, on a Btu basis; and oil coming in is $12-plus from foreign sources. That means you are actually paying one-sixth, or, reversing that, you are causing the American consumer to buy foreign oil at six times what he gets domestic.

The third fact is that the FPC requires the American consumer to subsidize Algerian gas, or forces the consumer to buy Algerian gas, at three times more than American gas. That is just a fact.

Those three facts obtain. We can talk and pontificate about profits and taxes, but these are the facts.

One fact that is involved in the domestic situation is that the FPC has skewed the energy market, has distorted it, by forcing gas in the United States to sell for one-third of the oil equivalent. Why we should do that is beyond my comprehension.

Why, in the upper reaches of the State of Minnesota or Wisconsin or Maine,

where they do not have any natural gas, you permit the American consumer to pay three times more for a fuel, energy to heat his home, than you do for somebody a hundred miles away—why the Government does that capricious act is beyond my comprehension. But it does just that.

In Boston, where you have natural gas, you can heat your home, if you are fortunate enough to be on the pipe, for a third of what it would cost you to heat your home if you lived somewhere in New Hampshire, where you do not have natural gas.

In fact, when you have the shortfalls of natural gas, if you buy a new house, you suffer the misfortune of having the inability to get natural gas. That means that it is going to cost you more to heat your new house with fuel heating oil than it would if you owned an older house, because then you would have natural gas available to you. So you can be on the same street and be required, as a result of Government policy, to pay three times more to heat your house because of the house you buy. That kind of capriciousness is fact, not emotion. That is something we should begin to realize.

Our actions in the passage of the repeal of the oil depletion allowance are totally counterproductive to arriving at any self-sufficiency in energy. That the Senate should consider the minutiae of the depletion cutback, arguing 1,000 barrels or 2,000 barrels for 2 days—and will dispose of this action, out of hand, in a very short period of time—is quite interesting.

The impact of my amendment, as stated by opponents, is $40 billion. The impact is erroneously stated by them. As I view it, as its impact on the gross national product of this Nation, it will have more impact than the entire tax cut. But, be that as it may, I will take the attention I can get and obviously will take the votes we can get.

I did not really feel that we could win, but I do feel one thing: There is going to be many a surprised Member over the next 2 or 3 years, because our actions, as I stated, are counterproductive; and they are going to aggravate the energy crisis. And they are going to thwart any possible true impact of this tax cut.

The problem is going to come back. As Harry Truman often said, "Don't worry about problems. If they're big enough, they'll be back at your desk." So we may not be giving full consideration to this amendment, but do not worry—it will be back; and what will be back will be the political consequences and the retribution that will go with it, because, I predict most humbly and most respectfully, that this will be the point of measuring where a person is on the energy crisis. There is a clean-cut shot in this amendment. It is not encumbered with a great deal, and Mr. America will understand it.

Those who are cynical enough to believe that they will not understand it and that they have to vote what is politically convenient for them are going to be sorely surprised.

So I might characterize this amendment a little like the Gulf of Tonkin Resolution. Many people are going to regret voting against it, and most of them are going to be in the central part of the United States, the northeast part of the United States, and a good part of the eastern coast of the United States. Those are the areas that are going to be the most aggravated by an energy crisis.

The tax cut is fine, but keep in mind one thing: You can take all the money you want and throw it at this economy, but only one thing moves an industrial society, and this is energy. Energy is going to do it; it is not going to be money. You are going to take that money and buy energy.

So if we foul our nest so badly in our energy consideration that, regardless of the money we throw at it, it will not solve the problem, that is sad indeed. Throw money at it by the billions. It will not mean a hill of beans because of what will happen.

Let me pose this question: What have we done to add one drop of oil or gas to the marketplace in the United States of America in the last 2 years of the energy crisis? What have we done? Let us take a moment to analyze what we have done.

Let me, by definition, for consideration, define a time frame: the long term, the intermediate term, and the short term. I think that all our actions can be placed within those categories.

I would say that the long term is the year 2000 and beyond, and I define areas and solutions for that to be areas of fusion, possibly fission, certainly solar energy.

In the intermediate, from 1985 to the year 2000, I would suggest oil, gas, coal, and solar as devices to solve the energy crisis.

In the short run—that is, from 1973, not today; the fuse is already burning—from 1973 to 1985, and we have already used up 2 years of that period, the only answer, the only possible ability to do anything, is through coal or gas.

What has the President done to add one drop of oil or gas to our domestic market? I mean the President within the last 2 years. He has done one thing and only one thing. In August of 1973, he deregulated new oil. As a result of that deregulation, we can see the reactions that have taken place. There has been a 29 percent increase in the amount of rigs, and I will develop that with a chart in a moment.

What has Congress done? We like to pit ourselves in competition with the Executive. What has Congress done? Let me take just a moment to tell my colleagues. We passed quite a bit of legislation—some of it long term, some of it short term, and some of it counterproductive; and only one item that adds a drop of oil or gas.

In the counterproductive category, I classify Public Law 93–159. That was the Emergency Petroleum Allocation Act of 1973—totally counterproductive, and I will go into great detail as to why it was counterproductive.

The second was the Emergency Highway Energy Conservation Act. That falls in the area of conservation, and it was a good one.

I might add on the subject of conservation, those who use the figures of today on what they can achieve in conservation presuppose a depression economy the way we have it right now.

The next item that we passed was the Federal Energy Administration. I consider that bureaucratic, long term, and certainly necessary as a device to do something. The next one I could consider is Public Law 93–319, the Energy Supply and Environmental Coordination Act. That was another good one. Another was the Appropriations for Energy Research and Development Activities—again, that was another long-term consideration; a good one.

Public Law 93–405, Solar Heating and Cooling Demonstration Act, a very good one, intermediate and long term. Geothermal Research and Development—intermediate and long term.

Emergency Daylight Saving Time. That was a conservation measure, worth doing.

Energy Reorganization Act of 1974, bureaucratic in nature. It did not add a drop of oil or gas.

Solar Energy Research, intermediate and long term, another good piece of legislation.

Amending the tariff schedules—this has merit.

Extending the Emergency Petroleum Act of 1974, totally counterproductive. Federal Nonnuclear Energy Research and Development Act of 1974. That was energy research and development.

We passed one that was vetoed, thank God, by the President. That was the emergency act to roll back the price of oil.

The only other bill we passed that added one drop of oil to the supply of oil and gas was the Alaska pipeline bill. How many of us recall January 1973, how ridiculous it was to think that this body would have the perspicacity to pass the Alaska pipeline bill? That was not popular with the American people at all—not at all. The amendment came up. Senator JACKSON came out of the committee with a bill. It did not build the Alaska pipeline. It went back to the courts. So it was over the leadership of that committee that this body passed, by one vote, the Alaska pipeline, and then, on a procedural matter after that we had to turn around and have the Vice President break a tie.

How interesting. If we had to vote on the Alaska pipeline today, it would pass by 80 votes. How interesting it is that we get wisdom after the fact. How ironic that, during the Arab boycott, our shortfall was 2 million barrels a day, and how ironic that the capacity of the Alaska pipeline was 2 million barrels a day.

Now, I think the question really is: What have we done to add one drop of gas and oil to the marketplace for the American people? Not very much.

Mr. RANDOLPH. Mr. President.

Mr. GRAVEL. Quite sad.

I am happy to yield to my colleague, asking unanimous consent that I not lose my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. GRAVEL. I might, since time is of a precious nature, ask that my colleague speak on his time, because I do have a cloture on time.

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

Mr. RANDOLPH. Mr. President, this is

not the time for me to give a list of those energy related legislative measures, well over 41 in number, that have passed the Senate of the United States in the past 2 years. The Senator from Alaska (Mr. GRAVEL) has referred to only a few of them. When I offered the national 55-mile-an-hour speed limit measure I stressed that if it is enforced, we would save approximately 160,000 barrels of oil daily in the United States. There are important bills that can be added to his list. Conservation on many fronts can result in an energy savings greater than 1 million barrels of oil per day by the end of 1975. The American people have the responsibility to cut waste. In a sense we create energy if we save fuel.

President Gerald Ford has urged enforcement of the speed limit law. He commended the Senate, in a statement on Thursday, for its further action of a few weeks ago in the passage of a voluntary energy conservation program. He characterized our action as "constructive."

We recall what we did last June when we passed coal conversion legislation, which was signed into law. I am not a carping critic. I do not desire to polarize a point between the Congress and the administration but after 8.5 months we did not have the guidelines for the use of coal instead of oil and gas in electric power-generating plants of the country. This act, if fully implemented by the administration, would save tremendous amounts of oil—400,000 barrels per day.

I commend my colleague for bringing his proposal to our attention. I am gratified that we have it available for our consideration because this is a vital subject, as he knows, in which I am deeply interested and have been a close student through the years.

There are those in this body who have made determined efforts to secure self sufficiency in energy here at home without heavy foreign supplies. As he has indicated, it is difficult when we act after the fact rather than before the fact. We need to center our attention to such problems as he directs our thoughts to this evening.

Mr. GRAVEL. I had mentioned in my presentation of the summary, the 55-mile-an-hour limit which the Senator had such a hand in. I am aware of his distinguished work in this area of conservation and I do want to commend the Senator.

I wish to add that with respect to the 41 pieces of legislation he talks about leaving the Senate, that is just what happened in the Senate. The American people are not really interested in what leaves the Senate. What they are interested in is what becomes law. What I spoke to was what becomes law.

Mr. RANDOLPH. I was not arguing with the Senator about his premise. I was simply saying that within the Senate, we have directed our attention to these problems. We have had a task force, as the Senator well knows, of not one committee but, now, nine committees that have worked in concert to bring these acute areas into focus.

It is not really understood that during the 93d Congress a total of 421 energy-related bills were introduced in the Senate. Some 405 of these measures were referred to a single Senate committee, and 6 were jointly referred to more than one committee. Final congressional action, Mr. President, was completed on 48 measures, of which 43 were signed and 5 were vetoed at the White House.

I ask unanimous consent that this list be printed in the RECORD at this point in my remarks.

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

MAJOR ENERGY LEGISLATION—93D CONGRESS

I. ENACTED AND PUBLIC LAW

Public Law and bill number

1. Economic Stabilization Act Amendments: Public Law 93-28, S. 398.
2. Rural Electrification Act: Public Law 93-32, S. 394.
3. Water Resources Planning Act: Public Law 93-55, S. 1501.
4. Federal-Aid Highway Act: Public Law 93-87, S. 502.
5. To Amend the Euratom Corporation Act of 1958, as amended: Public Law 93-88, S. 1993.
6. Oil Pollution Act Amendments: Public Law 93-119, H.R. 5451.
7. Rail Passenger Corporation: Public Law 93-146, S. 2016.
8. Mineral Leasing Act of 1920, Amendments and Trans-Alaska Oil Pipeline Authorization: Public Law 93-153, S. 2081.
9. Emergency Petroleum Allocation Act of 1973: Public Law 93-159, S. 1570.
10. Emergency Daylight Saving Time Energy Conservation Act of 1973: Public Law 93-182, H.R. 11324.
11. Northeast Rail Service Act: Public Law 93-236, H.R. 9142.
12. Emergency Highway Energy Conservation Act: Public Law 93-239, H.R. 11372.
13. Supplemental Appropriation Act to Explore and Develop Naval Petroleum Reserves: Public Law 93-245, H.R. 11576.
14. Intervention on the High Seas Act: Public Law 93-248, S. 1070.
15. Fuel Cost Pass-Through for Truckers: Public Law 93-249, S.J. Res. 185.
16. Federal Energy Administration: Public Law 93-275, S. 2776.
17. AEC Authorization Act: Public Law 93-276, S. 3292.
18. NASA Authorization Act: Public Law 93-316, H.R. 13998.
19. Energy Supply and Environmental Coordination Act of 1974: Public Law 93-319, H.R. 14368.
20. Special Energy Research and Development Appropriations for 1975: Public Law 93-322, H.R. 14434.
21. AEC Omnibus Legislation of 1974: Public Law 93-377, S. 3669.
22. Housing and Commodity Development Act: Public Law 93-383, S. 3066.
23. Aid Energy Affected Small Business: Public Law 93-386, S. 3331.
24. Natural Gas Pipeline Safety Act, as amended, additional appropriations: Public Law 93-403, H.R. 15205.
25. The Solar Heating and Cooling Demonstration Act of 1974: Public Law 93-409, H.R. 11864.
26. Geothermal Energy Research, Development and Demonstration Act: Public Law 93-410, H.R. 14920.
27. Public Works and Economic Development Act: Public Law 93-423, H.R. 14883.
28. Defense Production Act of 1950, extended for 2 years: Public Law 93-426, S. 3270.
29. Emergency Daylight Saving Time Energy Conservation Act of 1973, amendments: Public Law 93-434, H.R. 16102.
30. Energy Reorganization Act of 1974: Public Law 93-438, H.R. 11510.
31. Federal Columbia River Transmission System: Public Law 93-454; S. 3362.
32. Solar Energy Research, Development and Demonstration Act of 1974: Public Law 93-473, S. 3234.
33. Foreign Investment Study Act: Public Law 93-479, S. 2840.
34. To amend the tariff schedule of the United States to provide for the duty free entry of methanol imported for use as fuel: Public Law 93-482, H.R. 11251.
35. International Nuclear Cooperation: Public Law 93-485, S. 3698.
36. National Railroad Passenger Corporation: Public Law 93-496, H.R. 15427.
37. Export Administration Amendments: Public Law 93-500, S. 3792.
38. Urban Mass Transportation Act: Public Law 93-503, S. 386.
39. Emergency Petroleum Allocation Extension Act of 1974: Public Law 93-511, H.R. 16757.
40. Federal Nonnuclear Energy Research and Development Act of 1974: Public Law 93-577, S. 1283.
41. Deep Water Port Act: Public Law 93-627, H.R. 10701.
42. Federal-Aid Highway Act Amendments of 1975: Public Law 93-643, S. 3934.
43. Export-Import Bank Act Amendments (requires semi-annual report on impact of domestic energy resources of each loan involving export of any energy-related product or service): Public Law 93-646, H.R. 15977.

II. VETOED

1. Energy Emergency Act (S. 2589, H.R. 11450), March 6, 1974.
2. Atomic Energy Act, Price-Anderson provisions (H.R. 15323), October 12, 1974.
3. TVA Pollution Control Cost Credit (H.R. 11929, S. 3057), December 21, 1974.
4. Energy Transportation Security Act (H.R. 8193), December 30, 1974.
5. Surface Mining Control and Reclamation Act (S. 425, H.R. 11500), December 30, 1974.

Mr. RANDOLPH. Mr. President, in 1961, when appearing before the Senate Committee on Interior and Insular Affairs, "that each year we delay in establishing a fuels and energy policy for the United States, perhaps we have come 1 year nearer to disaster." But that is past; it is gone. Tonight, as the Senator says, he focuses attention on it again.

The submarines prowling along the east coast and the New England waters as well, during World War II, caused us to bring into being the Synthetic Liquid Fuels Act which I coauthored with Senator O'Mahoney. Then what happened? After the projects were in being and were moving into coal gasification and coal processed into auto and aviation fuel and shale processing for oil, the submarines had gone home and the American people took it easy again. The Congressional appropriations and programs and pilot projects were stopped. So we had to make a new start. It has been too, too long delayed. I hope, I trust, we still have time to do the job.

Mr. GRAVEL. I thank my colleague.

I should like, in the spirit of efficiency, to ask that on any question that I receive, the time be charged to the questioner. I ask unanimous consent in that regard. That will save my adding dilatory words to my deliberation.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. What is the question?

Mr. GRAVEL. Just as a matter of procedure, I am asking unanimous consent that any question posed to me be not charged to my time.

Mr. NELSON. Without asking unanimous consent, the Senator may just ask the person.

Mr. GRAVEL. I did ask unanimous consent.

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

Mr. GRAVEL. I thank my colleagues.

Mr. President, I think when we talk in terms of the depletion allowance as a symbol of privilege, as so well charged by the Senator from Connecticut, it was just that. The symbol of privilege was addressed by the Members of the House and I think properly so. I think there is a new breath of air in the House and what we saw was a decision of the House, acting as a Committee of the Whole. Of course, we acted similarly as a Committee of the Whole because the Committee on Finance chose not to bring out anything relative to depletion. This was not my preference. I hoped we would deal with it within the Committee on Finance, just to put an energy package in this piece of legislation. This was not the committee decision. Now we are at Senate action.

With respect to Senate action, we did hold a 1-day hearing. At those hearings, or a week prior to the hearings, I propounded a question to the Senator from Massachusetts and to the Senator from South Carolina.

The Senator from South Carolina loves to deal in rhetoric on the floor, but at the time, I asked him if he would come to a hearing if we called for him, and if we called for the Senator from Massachusetts, he would come. Neither one was able to be at the hearing. This was a courtesy the committee wanted to offer them.

Mr. KENNEDY. Will the Senator yield on that?

Mr. GRAVEL. I will be happy to yield on his time.

Mr. KENNEDY. The Senator from South Carolina and the Senator from Massachusetts appeared at the Committee on Finance on Monday, March 10. We stayed there for a period of 2 hours. Later I had a direct conversation with the chairman of the Committee on Finance. The chairman indicated the committee was going to markup the tax bill and expected to finish it on Friday. In my conversations with the chairman of the Committee on Finance, I thought that there was no need for me or the Senator from South Carolina to make an additional appearance, which would be an appearance before the Senator's subcommittee when we had already just appeared before the chairman's full committee.

I do not want the record to be left to suggest that we were either unwilling or unprepared or not desirous to spend whatever time was necessary to deal fully and completely with the issue.

Mr. GRAVEL. The record will be very clear. The subcommittee hearing was called by the chairman of the full Finance Committee and myself, and I instructed the staff to contact Senator KENNEDY's office and Senator HOLLINGS' office.

Mr. KENNEDY. On what measure?

Mr. GRAVEL. On the depletion allowance measure.

Mr. KENNEDY. The committee had already finished action on the tax bill. We had appeared before the Finance Committee and answered all questions for 2 hours.

Mr. GRAVEL. What the Senator from Alaska is driving at is a test of the Senator from Massachusetts' memory. This time the request, my request, is more specific.

Mr. KENNEDY. About what?

Mr. GRAVEL. About oil profits. About oil taxes.

Mr. KENNEDY. Would the Senator from Alaska please explain his request?

Mr. GRAVEL. Wait a minute. You do not have the facts. You do not have the economists to back up your position.

Mr. KENNEDY. That material was supplied.

Mr. GRAVEL. It was not supplied to the committee.

Mr. KENNEDY. As the Senator from Alaska will see, Senator HOLLINGS and I responded fully and completely to every request by the Senator from Alaska at the full committee hearing to provide additional material. Our submissions are printed in the committee hearing volume, which has been on every Senator's desk all this week for all to see.

In addition, the Senator from Alaska prepared a staff reply to our testimony. We, in turn, submitted a reply to his reply. All that was printed in the RECORD during the floor debate this week.

Mr. GRAVEL. The Senator from Alaska is building a case that this body has acted irrationally.

Mr. KENNEDY. I believe that the Senate has acted responsibly. The Senator from South Carolina made an excelent case.

Mr. GRAVEL. We will see how well he did.

Mr. KENNEDY. He made an excellent case.

Mr. GRAVEL. We will see how well he did. The record will stand. The requests were made.

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

The PRESIDING OFFICER. The Senator from Alaska has the floor. Does the Senator yield?

Mr. STEVENSON. Will the Senator yield for a question, on my time?

Mr. GRAVEL. I yield.

Mr. STEVENSON. The Committee on Commerce has held hearings for 2 years, 25 days of hearings, on the subject of natural gas regulation. It is attempting to act rationally, and it has afforded every single Member of the Senate the opportunity to appear before that committee.

I ask the Senator, how many times has he appeared in the course of those lengthy hearings on the subject of nautral gas regulation, before the Commerce Committee?

Our point is not to act irrationally; it is to act rationally. What the Senator is proposing now is an irrational act, an irrational amendment that is not supported by 1 day of hearings in the last 2 years. I speak after 25 days in 2 years of hearings, and now in markup sessions on the Senate Commerce Committee bill, which will be reported within a matter of weeks.

Mr. MAGNUSON. And we will agree to report a bill out as soon as they will.

Mr. STEVENSON. If there had not been an objection to the Commerce Committee meeting during sessions of the Senate, we would have a bill out on the Senate floor today, and there is a bill out on the Senate floor on the subject of oil, after many more days of hearings, in the Committee on Interior and Insular Affairs.

Both of those subjects, natural gas and oil, will be before the Senate, and with the benefit of lengthy hearings and committee recommendations, within a matter of weeks.

Mr. GRAVEL. Let me say that what I am doing here is no different than what my colleagues did in bringing depletion to the floor. The Senator talks about hearings; we have had hearings in the Finance Committee. Here they are. They go all the way back to November 1973 and January of 1974. At the same time that the Senator from Washington was excoriating the oil companies we were having hearings. They were not nearly so spectacular; we dealt with natural gas regulation and with the whole spectrum of the energy crisis right here. I introduced a piece of legislation, a whole energy plan, back in November of 1973, introduced it again on a firm basis in August of 1974, and put another one in just a little while ago.

Now we have this amendment which strips it back down to the proper size; so if it is proper to consider it as a committee of the whole, it is certainly proper to consider my amendment on the deregulation of natural gas, and not necessarily after it has been passed on by the Commerce Committee.

I would like to submit that we do have an analysis of the documents submitted by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from South Carolina (Mr. HOLLINGS). It was passed out to Senators, and I commend it to the body for good reading. In fact, if I had this kind of analysis done on some of my work, I would be embarrassed. It is embarrassing, because some of the facts in here are wrong.

Talking about taxes, the chart on taxes refers to 1974, but in point of fact the record it was taken from was dated 1972, and the document was put out in June of 1974, so there is no way that they could have had the facts in question.

The source for this is, it says, the Oil League. If I could have the attention of my colleagues—may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. I think my colleagues would like to have the record straightened out. With respect to the statement by the Senator from South Carolina and the Senator from Massachusetts, the source table, on page 5, talked about 1974 income taxes owed by the largest oil companies. But the chart in question, which they are speaking from, has only the 1972 figures, and the last publication that dealt with that was in the middle of June, 1974; so how could they have 1974 figures, when it was in the middle of the year?

Obviously it will not be read now, but I ask my colleagues to go over the analysis prepared by the Finance Committee and make their own judgment as to the accuracy of the data in question. And

that is, of course, what we have challenged.

The document that was presented by our colleague, the Senator from South Carolina, that was passed out in the course of the debate, on the major oil companies' net income after taxes, does not show any amount of profit. The chart deals only with percentage increases.

Percentage increases are, of course, really meaningless because if you go from a growth of zero to 1 you have a 100-percent increase. But you still have only 1 percent profit.

Let us move to the profit argument. I have here, that I will read from, a document that was sent to me. I tried for a month, over a month, to get it. It was an in-house paper prepared for the Treasury. The title is "Treasury Survey of 19 Petroleum Companies, October 4, 1974" prepared by Alan Arsht.

I will be referring first to page 6 which gives an example of what we mean by profits:

This illustrates how misleading an overemphasis on increases of absolute profits can be. When Occidental Petroleum Company reported its 1973 earnings, it was stated that profits rose 666 percent above 1972 levels. The magnitude of Occidental's total investment and the percentage return realized on its investment received little attention.

A review of that information places the profitability of Occidental in clearer perspective. In 1972 Occidental's return on investment was .68 percent. A 666 percent increase in 1973 profits lifted the return on investment to 4.95 percent. Occidental's performance compares to a petroleum industry median return on investment of .90 in 1972 and 1.5 in 1973. Other companies, such as Getty, Ameranda Hess and Gulf showed dramatic increases in 1970 over 1973 profits, in large part due to the comparison with the extraordinarily depressed earnings and returns on investment in 1972.

Again from the same study I would like to develop an analysis of where the profits of these companies came from and what is behind the profits. There are five reasons for the profits. One is price increases. All prices in the United States were regulated at the time, so any increase that was given was given by the Government. Two, the devaluation of the dollar abroad; three, inventory profits; four, tanker operations; and, five, increase in chemicals from subsidiary operations.

The first one, and I will read from it in a second—

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

The PRESIDING OFFICER. The Senator has 31 minutes.

Mr. GRAVEL (reading):

Three other actions of the United States Government—

And I am reading from the study—

contributed directly to the increase in revenues and profits of the oil industry in 1973 and 1974. In September of 1973, the Cost of Living Council deregulated the price of new and released oil which accounted for 16 percent of total production. Shortly afterwards, the Congress exempted stripper production, which accounted for 13 percent of production, from price controls. Finally, in December 1973 the Cost of Living Council permitted the price of old oil and controlled oil to rise from $4.25 to $5.25. When the world price of oil rose, a two-tier price for domestic oil developed because the prices of uncontrolled oil moved in sympathy with the world price. By the end of 1973 the free market price of uncontrolled oil had increased from $3.25 per barrel at the beginning of 1973 to $6.63 at the end of the year.

Because old oil is declining as a percentage of the total, the weighted average price of domestic oil continued to rise and now approximates $7.15 a barrel. Within one year the weighted average price of domestic oil has risen 120 percent, a factor which has contributed directly and substantially to the increased profitability of domestic petroleum operations.

The U.S. Government took those actions in the correct belief that higher domestic prices would draw forth additional domestic supplies and reduce our dependency on foreign oil.

Mr. President, with respect to inventory profits, I shall only say that when the price of oil rose, the companies that had oil in the ground saw the value of that oil rise, and when these companies sold this oil they sold this oil at what was obviously an inflated price.

If the oil companies were going out of business then they would walk away with a profit. But if the oil company was in business the next year it had to go out in the marketplace and buy oil at the new higher cost to replenish the old oil. So, in point of fact, by staying in business it did not get a windfall profit. It got a paper profit on its inventory.

Let me repeat for the record so it is understood. These are paper profits. They are not real profits and so, as a result of these paper profits, they could even incur a larger tax liability. But still they need the money to go and buy the oil to fill up the tanks where they supposedly "ripped it off at."

So, quite obviously, there are no excess profits. They are paper profits. So all of the fear that the American public has that they have "ripped it off" is a tragic misunderstanding. They have got to replace that oil if they are going to stay in business, and it is that simple.

With respect to tanker profits, last year, in 1973, they went from a low to a high of $2.50, and now back down to $1.50. They ballooned their profits through their tanker operations in 1973, but throughout 1974 and up to today, it has been a losing operation.

Of course, the final reason for the profits—and it will be interesting to look at other profits from other areas—is the simple rise in chemical activities, which accounts for the rest of their increase in profits.

It astounds me that Members of this body, the U.S. Senate, and the general public-at-large hold such a misconception of the profit picture, especially when there are adequate documents that talk of it.

We published in the Finance Committee "Oil Profitability" study in February of 1974 which deals with the profits. I do not know how many have read it.

We published another one in December of 1974 which was referred to by the Senator from Louisiana (Mr. LONG). That contained information from the oil companies from a questionnaire, and I was in the room when the Senator from Louisiana asked the Secretary of the Treasury to check it out against the oil companies' tax records. The information is accurate. This is what they paid. We may think they are deceiving us about what they are paying, but I think what we need to do is exactly what was done in the House. Let us get a group of Senators to go down to the Treasury and look at the canceled checks, because, quite obviously, there are people in this body who do not even believe the Treasury when they say they have got the money, and they did collect the money. So when they are talking about profits of 3 or 4 percent, it just is not true.

I do not know how you can overcome that except to go down there en masse and look at the canceled checks to see what the oil companies have paid. That is the only way to really find out, and I hope that the Senator from Washington (Mr. JACKSON) would be interested enough to organize a group to go down to the Treasury and verify this.

Let me just quote one paragraph from the summary of this Finance Committee study, a public document: "Oil Company Profitability."

We analyzed the 10 "Big Sisters" which hold 75 percent of the assets of integrated oil companies in the United States—Exxon, Texaco, Mobil, Gulf, Standard of California, Standard of Indiana, Shell, Phillips, and Standard of Ohio. The analysis being released today covers rates of return on shareholders' investment, net income and overall effective tax of these companies for the years 1964 to 1973 and, for the first time, set forth each company's profit on U.S. operations. For example, the study shows that on U.S. operations in 1973, the weighted average rate of return was 11.3 percent while on foreign operations it was 20.4 percent.

This compares with a weighted average of approximately 12.8 percent realized on all U.S. manufacturing companies for 1973.

This, of course, obviously was not read by those who keep insisting that there were tremendous profits. But that is just the public record; that is our reports in Government contrary to reports of others.

Let us look at the private sector now. Let us go to the marketplace and the fact—if you will look at chart No. 5, which you have in your packets, those of you who have it—unfortunately, the charts are very small, and we did not have one as well colored as this one, but I will have one posted later.

(See exhibit 1.)

Mr. GRAVEL. Mr. President, I ask unanimous consent to have the charts printed in the RECORD as exhibit 1.

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

TABLE 7.—SELECTED FINANCIAL DATA FOR 30 OIL COMPANIES

[Dollars in millions]

Year	Revenues	Net income after tax	Percent profit margin	Percent return on net worh
1952	$19,458	$2,020	10.4	13.4
1957	31,162	3,100	10.0	12.4
1962	37,473	3,344	8.9	10.0
1967	55,921	5,402	9.7	11.9
1972	106,278	6,860	6.5	9.6
1973	133,909	11,678	8.7	15.5

Source: Chase Manhattan Bank. Financial analysis of a group of petroleum companies 1953, 1958, 1963, 1968, 1972, 1973.

SELECTED FINANCIAL DATA FOR 8 MAJOR OIL COMPANIES

[In millions of dollars]

Company	Revenues	Net income after tax	Percent profit margin	Percent return on net worth
Exxon:				
1952	4,050.8	520.0	12.8	16.6
1957	7,830.3	805.2	10.3	14.0
1962	9,536.9	840.9	8.8	11.1
1967	13,266.0	1,232.3	9.3	13.0
1972	20,309.8	1,531.8	7.5	12.5
1973	25,724.4	2,443.3	9.5	17.8
Mobil:				
1952	1,560.6	171.1	11.0	11.3
1957	2,976.1	220.4	7.4	9.3
1962	3,933.3	242.3	6.2	8.2
1967	5,771.8	385.4	6.7	10.0
1972	9,166.3	574.2	6.3	11.2
1973	11,390.1	849.3	7.5	14.9
Texaco:				
1952	1,510.1	181.2	12.0	13.7
1957	2,344.2	332.3	14.2	16.2
1962	3,272.1	481.7	14.7	14.8
1967	5,121.4	754.4	14.7	15.3
1972	8,692.9	889.0	10.2	12.4
1973	11,406.9	1,292.4	11.3	16.2
Gulf:				
1952	1,528.8	141.8	9.3	13.0
1957	2,730.1	354.3	13.0	16.2
1962	2,836.3	340.1	12.0	10.6
1967	4,202.1	578.3	13.8	13.1
1972	6,243.0	197.0	3.2	3.6
1973	8,417.0	800.0	9.5	14.4
Shell:				
1952	1,142.6	90.9	8.0	15.2
1957	1,764.6	135.1	7.7	13.8
1962	1,960.7	157.7	8.0	11.2
1967	3,073.2	284.8	9.3	13.8
1972	4,075.9	260.5	6.4	8.9
1973	5,701.1	332.7	5.8	10.75
Standard of Indiana:				
1952	1,592.1	119.9	7.5	8.8
1957	2,010.1	151.5	7.5	7.9
1962	2,147.8	162.4	7.6	6.6
1967	2,918.1	282.3	9.7	9.6
1972	4,503.4	374.7	8.3	9.9
1973	6,379.4	511.2	8.0	12.4
Arco:				
1952	602.8	40.5	6.7	10.7
1957	565.9	25.3	4.5	7.4
1962	580.7	46.3	8.0	7.7
1967	1,270.8	130.0	10.2	10.2
1972	3,320.7	195.6	5.9	6.6
1973	4,481.1	270.2	6.0	8.7
Socal:				
1952	1,015.3	174.9	17.1	15.0
1957	1,650.8	288.2	17.5	15.5
1962	2,150.9	313.8	14.6	11.6
1967	3,297.8	421.7	12.8	10.8
1972	5,829.5	547.1	9.4	10.5
1973	7,761.8	843.6	10.9	14.5

Source: Moody's industrial manuals and annual Fortune 500 listings.

NET INCOME AS A PERCENT OF NET WORTH: PETROLEUM OTHER SELECTED INDUSTRY GROUPS, TOTAL MANUFACTURING AND TOTAL MINING 1964 THROUGH 1973

[In percent]

Industrial groups	1964	1965	1966	1967	1968	1969	1970	1971	1972	[1] 1973	10-yr. average 1964–73
Drugs and medicines	19.8	21.2	22.5	20.3	19.8	17.7	18.8	19.0	19.8	20.6	19.8
Soap and cosmetics	17.6	17.0	17.9	19.4	18.9	18.6	18.7	19.3	20.2	20.2	19.0
Instruments, photo goods, etc	16.6	19.2	21.2	20.3	19.2	18.7	15.8	15.4	17.0	17.3	17.7
Office equipment and computers	17.9	18.7	18.1	17.8	19.0	17.4	13.9	12.5	13.8	16.7	15.9
Autos and trucks	19.9	23.4	17.8	12.0	16.6	13.8	5.8	15.0	17.2	17.7	15.6
Tobacco products	13.4	13.3	13.9	14.8	14.6	14.6	16.4	16.6	16.0	16.4	15.2
Printing and publishing	14.6	16.9	17.9	15.4	14.9	14.8	12.5	12.6	13.8	15.2	14.6
Household appliances	14.1	15.0	15.0	14.7	14.0	13.5	11.9	12.1	15.4	15.6	14.1
Electrical and electronic equipment	11.1	14.8	16.7	15.4	14.1	13.0	10.1	10.7	13.6	15.1	13.2
Lumber and wood products	11.5	11.5	11.0	9.4	14.1	15.2	10.2	11.2	12.6	20.6	13.2
Dairy products	12.2	12.5	12.6	11.8	11.7	11.8	12.0	12.6	12.8	13.1	12.4
Chemical products	14.2	15.4	14.6	11.5	11.7	11.4	9.5	9.7	11.3	15.0	12.4
Petroleum production and refining	11.5	11.9	12.6	12.8	13.1	11.9	11.0	11.2	10.8	15.6	12.3
Automotive parts	12.2	13.4	14.0	11.4	12.6	13.0	8.9	10.4	13.5	14.4	12.3
Clothing and apparel	13.6	16.3	16.2	13.6	15.7	13.3	10.7	10.8	9.8	9.1	12.1
Glass products	12.1	13.5	12.7	11.1	11.9	12.2	9.0	11.1	12.5	13.0	11.9
Farm, construction equipment	13.7	14.4	14.7	10.9	8.4	10.4	9.3	8.8	12.4	14.8	11.7
Aerospace	13.1	15.4	15.7	13.4	13.9	11.4	6.7	6.3	8.9	11.7	11.4
Rubber and allied products	11.4	11.8	12.8	10.8	12.7	11.1	7.6	9.8	11.6	11.7	11.1
Distilling	8.5	9.6	10.4	10.5	10.2	10.4	10.1	10.3	11.1	11.8	10.4
Building, heating and plumbing equipment	8.9	10.6	12.0	11.3	11.3	8.5	7.0	8.4	12.1	13.3	10.3
Nonferrous metals	9.2	11.8	15.7	11.4	11.1	12.5	10.6	5.0	7.1	11.6	10.3
Paper and allied products	10.5	10.5	11.8	9.5	10.7	10.3	7.4	5.6	8.8	14.2	9.6
Textile products	8.9	11.6	12.3	8.8	9.8	8.8	6.4	6.6	7.4	8.9	8.8
Iron and steel	9.0	9.6	9.4	7.4	8.5	7.4	4.6	4.6	6.1	9.4	7.8
Total mining	10.4	12.2	13.9	16.2	15.0	12.6	11.7	8.5	10.7	15.1	12.5
Total manufacturing	12.6	13.9	14.2	12.6	13.3	12.4	10.1	10.8	12.1	14.8	12.6

[1] Preliminary.

Source: First National City Bank, monthly letter, April of each year. April 1974.

U.S. CONSUMPTION AND RESOURCES OF ENERGY FUELS

Energy fuels	Potential resources	1973 consumption
Oil [1]	346 billion bbls.	6.3 billion bbls.
Natural gas [1]	1,178 trillion cu. ft.	23.0 trillion cu. ft.
Coal [2]	394 billion tons	588.0 million tons.
Uranium [3]	1.6 million tons	12.9 thousand tons.
Oil shale [4]	189 billion bbls.	None.

[1] U.S. Geological Survey.
[2] U.S. Bureau of Mines.
[3] U.S. Atomic Energy Commission.
[4] National Petroleum Council, U.S. Energy Outlook, a Mutual Appraisal.

COMPARISON OF CAPITAL, EXPENSES AND REQUIREMENTS ESTIMATES:[1] TOTAL DOLLARS CUMULATIVE 1975–85

[Billions of 1973 dollars]

	NPC [2]	NAE [3]	ADL [4]	FEA accelerated supply (without work in progress) [5]	FEA accelerated supply
Oil and gas (including refining)	133	149	122	187.7	205.4
Coal	8	18	6	10.6	11.9
Synthetic fuels	10	19	6	.6	.6
Nuclear	7	93	84	105.3	138.5
Electric powerplants (excluding nuclear)	137	53	43	50.5	60.3
Electric transmission	42	125	90	92.1	116.2
Transportation	43	----------	53	[6] 25.5	[6] 25.5
Other [7]	----------	----------	8	2.2	2.2
Total	380	457	396	474.0	561.0

[1] Assumes replacement costs are proportional to net new investment for each energy activity and oil and gas figures are adjusted for expensed capital items.
[2] U.S. Energy Outlook, a summary report of the National Petroleum Council, Washington, D.C., December 1972 (average of 4 supply cases).
[3] U.S. Energy Prospects, an engineering viewpoint, National Academy of Engineering, Washington, D.C., 1974.
[4] Arthur D. Little estimates based upon an energy conservation scenario.
[5] Assumes that imported oil prices is $11/B. Work in progress consists of investment spending made prior to 1985 for new plant and equipment which will not come on line until after 1985.
[6] Does not investments required for tanker fleets, but does include $5,500,000,000 targeted for trans-Alaska oil pipeline.
[7] Solar, geothermal, municipal waste treatment plants, and shale oil.

Source: Federal Energy Administration: Project Independence, November 1974.

TABLE 3.—THE EFFECTS OF PHASED DEREGULATION

Year	Field price on new contracts (cents per Mcf)	Additions to reserves (trillion cubic ft.)	Production supply (trillion cubic ft.)	Production demand (trillion cubic ft.)	Excess demand over production continental United States (trillion cubic ft.)
1972	26.3	9.8	19.3	23.3	4.1
1973	29.6	12.7	22.1	24.4	2.3
1974	44.1	13.8	25.0	25.4	.3
1975	47.7	15.4	26.0	26.4	.3
1976	51.3	18.3	27.1	27.4	.3
1977	54.9	22.2	28.2	28.5	.3
1978	58.4	25.9	29.5	29.7	.2
1979	62.0	29.9	31.0	31.0	.0
1980	65.6	34.6	32.8	32.4	.2

TABLE 4.—THE EFFECTS OF STRICT CONTROL

Year	Field price on new contracts (cents per Mcf)	Additions to reserves (trillion cubic ft.)	Production supply (trillion cubic ft.)	Production demand (trillion cubic ft.)	Excess demand over production continental United States (trillion cubic ft.)
1972	26.3	9.8	19.3	23.3	4.0
1973	29.6	12.7	22.0	24.3	2.3
1974	30.5	13.8	22.8	25.6	2.8
1975	31.3	15.2	23.4	26.9	3.6
1976	32.1	16.8	24.0	28.5	4.5
1977	33.0	18.7	24.7	30.3	5.6
1978	33.8	20.8	25.7	32.2	6.5
1979	34.6	23.2	26.7	34.4	7.7
1980	35.5	26.3	28.0	36.9	8.9

Source: Paul W. MacAvoy and Robert S. Pindyck "Alternative Regulatory Policies for Dealing with the Natural Gas Shortage" Bell Journal of Economics and Management Service. Vol. 4, No. 2, Autumn 1973, pp. 489 and 491.

MIT MODEL FORECASTS OF THE 1980 RESULTS OF LEGISLATION TO DEAL WITH THE GAS SHORTAGE

[In trillions of cubic feet]

	Continued FPC [1] national price ceiling		Phased deregulation [2]		Complete deregulation [3]	
	Demand	Supply	Demand	Supply	Demand	Supply
1976	30.8	25.9	30.5	27.1	24.1	31.9
1978	35.6	27.0	33.2	29.4	31.0	32.5
1980	39.6	28.1	35.1	30.5	33.5	33.5

[1] National price ceiling at 50 cents per mcf in 1979, 1 cent increase thereafter.
[2] Immediate 1975 increase on new contracts to 65 cents, 5 cents thereafter.
[3] Prices on new contracts go to $1.50 per mcf immediately and then decrease to $1.25 by 1980.

Source: Paul W. MacAvoy, Henry R. Luce, Public Policy Department, Massachusetts Institute of Technology.

Mr. GRAVEL. Mr. President, if you will look at the chart CRS–17 in the packet distributed, the Chase Manhattan figures for the 30 oil companies show returns from 13.4 percent to 15.5 percent, and 9.6 percent. That is Chase Manhattan.

We can insist those are not real figures. We can then look to the next chart and this is "Selected Financial Data for Eight Major Oil Companies," which is from Moody's Industrial Manuals and Annual Fortune 500 listings.

The Senators have it in their packets, they can look at it up close. This chart deals with profit rate on net worth, profit margins, 10 percent, 8 percent, 9 percent, 12 percent.

One can tell me they are ripping it off, but look at the facts.

That is Chase. That is Moody's.

We have the public documents.

The next chart is the one by First National City Bank. My opponents would say this must be another corporation that is full of misinformation, and they come in right in the middle of the chart.

We can see—if the Senators would pick up their packets—young man, give Senator JACKSON a packet.

We can look right in the middle of the First National City Bank chart at "petroleum products." I am sure they have an ax to grind like everybody else

Right in the middle of the chart, we have a 10-year average, not just 1974, but a 10-year average, 12.3. On this chart, we have drugs and medicine, 19.8, soaps and cosmetics, 19-percent profit.

But the oil companies are right in the middle of the chart at 12.3.

I do not know, maybe somebody wants to dispute this chart. It is prepared by First National City. My opponents may say "obviously the figures are part of the misconception that exists."

Earlier I talked of what the response would be on the price increases. This chart is the public record.

Let us go to another area. My opponents will say "obviously the banks are publicly in cahoots with the oil companies to not tell the truth to the American people."

Let us look at a public journal—Forbes magazine. The January 1 issue has a list of 850 annual corporations which are rated. Let me read how Forbes magazine rates them.

Everyone can make his own judgment, I will just read this section:

In a way, the profitability rankings below are the most telltale FORBES Yardsticks of all. Growth is important, mind you. But if it doesn't result in a consistently healthy return on the stockholders' investment or the company's total capital, growth can be dangerous. How profitably management uses its money is what the capitalistic game is all about.

That word "consistently" is important. FORBES' rankings are based on profitability over a five-year period, to eliminate the one-shot wonders. Even so, companies occasionally soar into the top ranks.

The description continues, but just let me talk about the big gainers at the end of the 5-year period:

What about those shortage-plagued basic industries like oil, steel, chemicals and paper where reported profits soared last year?

For most, that is enough to improve 5-year standings significantly. Exxon moved from 269 to 155. Texaco from 235 to 142. Inland Steel from 643 to 551, and so forth.

Let us analyze a summary of this table, because I did not have the capability to reproduce the entire Forbes charts, so I just covered examples from the whole spectrum. This chart which ranks the 850 largest companies in terms of return on equity and return on capital shows Skyline, which is the No. 1 in rank, all the way down to Penn Central—which we are very familiar with in this body—which is 850—that sounds logical.

And then in between the major oil companies and their ratings, the chart shows the breaking point is here, this little line.

More than half the oil companies are below the middle line, the other half are above the line.

Ford made more money than Shell on this 5-year average.

Here is Phillips, that is "an oil giant, obviously ripping it off." Thrifty Drug Stores is ahead of it.

Look at Atlantic Richfield, that is the big company in Alaska, obviously "ripping it off," 9.1 percent return on equity, their average for 5 years, ranking 621.

Standard Oil of Ohio ranks 714.

Exxon did the best of all, not as good as Texaco, which ranks 155. Texaco's 5-year average return on equity is 16.3 and 22 during the last 12 months.

Up here is Skyline—where is that located? Elkhart, Ind., they make trailer homes.

Mr. PASTORE. Will the Senator yield so that I might ask a question on my time?

Mr. GRAVEL. I am pleased to yield to the Senator.

Mr. PASTORE. If the Senator's amendment goes through, where would he place them?

Mr. GRAVEL. The oil companies?

Mr. PASTORE. Yes.

Mr. GRAVEL. Probably just where they are.

Mr. PASTORE. Does the Senator mean to tell me if he added $190 a year to every individual per capita in this country as an added cost, that is to remain static?

Mr. GRAVEL. That $190.

Mr. PASTORE. Talking about rationality——

Mr. GRAVEL. These are not my figures. The returns on equity and capital will not change because my amendment includes an excess profits tax, which applies to profits of those companies which exceed 15 percent. That means we have to get down into this area of the chart not up here. All the oil companies would be able to make under my amendment is 15 percent; above that they have to plow their profits back in.

Now, I would like to dispute the Senator from Washington's (Mr. JACKSON), figures, but I will not have time because of the time limitation. I will not have time to dispute the figures Senator JACKSON sets forth in the letter he distributed. But he has a double entry, which he then adds up and divides by the number of people. He also lays on me Gerald Ford's $3 tax, which he puts in his paper

which he distributed to the Senator. He claims that is what my amendment is going to cost.

I do not have a $3 tax in my amendment on oil. I think it is ridiculous to tax oil or gas like that. But Senator JACKSON says that is what is in my amendment.

I ask Senators to read my amendment, because we are going to have to live with it.

Mr. PASTORE. The fact still remains—if the Senator will permit another question—it has been admitted that if the old domestic oil is decontrolled, that the price of old oil would rise to the price of imported oil, therefore, if that sells for $11.50 and the price goes through with his plan, $13 tariff, which means $14.50, and the old oil is at $5.25, does that not mean they are going to treble the price of the oil to the consumer?

Mr. GRAVEL. No.

Mr. PASTORE. Why not?

Mr. GRAVEL. And why should——

Mr. PASTORE. What is the difference between $5.25 and $15?

Mr. GRAVEL. If I may answer, Senator JACKSON in his amendment, in the amendment sheet right here said——

Mr. PASTORE. I do not care about Senator JACKSON's amendment, I am talking about the amendment of the Senator from Alaska, I am asking the Senator from Alaska.

Mr. GRAVEL. The Senator from Rhode Island said the price would rise to foreign levels. It will not. Why should it? We have new oil now, why would old oil rise to the price of any——

Mr. PASTORE. Because I asked Dr. Greenspan that question and he said it would.

Mr. GRAVEL. Then he is wrong. Does that surprise the Senator?

Mr. PASTORE. I think everybody is wrong but the Senator from Alaska.

Mr. GRAVEL. No, I can be very wrong, I can make mistakes like everybody else. But we have decontrolled oil in the United States and that price is $11, so why should anyone expect that if we decontrol more oil it will go higher than what the free market price already is in the United States?

Mr. HANSEN. Will the Senator yield on my time?

Mr. GRAVEL. I am happy to yield to the Senator.

Mr. HANSEN. I understood the Senator from Rhode Island, my very good friend—I am not asking the Senator——

Mr. PASTORE. I know that, but I am ready for the Senator.

Mr. HANSEN. That is fine, on the Senator's time.

Mr. PASTORE. On my time, always on my time.

Mr. HANSEN. Would the Senator like me to speak on his time?

Mr. PASTORE. No, no, the Senator should speak on his own time. If he needs any, I will give him some.

Mr. HANSEN. I ask my colleague from Alaska, is it not a fact when the Senator from Rhode Island says if the President's plan for $3 import fee goes through, as a matter of fact, from what I read and from what I am told, the President has abandoned that proposal to put $3 import fee. He has been working out, as most people know, an arrangement with the Congress of the United States and has said that $1 is all of the tax that he proposes to add on. Am I right about that, I ask the Senator from Alaska?

Mr. GRAVEL. That is correct.

Mr. PASTORE. Wait a minute, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. PASTORE. All right, on my time.

Mr. GRAVEL. On the Senator's time.

Mr. PASTORE. As a matter of fact, the President imposed $1 on February 1. When we went down to visit the President, because he wanted to see us to see if we could not reach an arrangement, I am the one who suggested to the President that he forestall the second and third dollar, and he has agreed to do it only for 60 days.

Now, even if we do not take the $3 into account, if we only take the $1 into account, the price of imported oil per barrel of crude today is $12.50.

The price of the old domestic oil is $5.25.

It has been admitted that if you paid $12.50 for the imported oil and you decontrolled the old domestic oil, that the price of the old domestic oil will rise to the price of the imported oil. That is the argument that has been made by the Senator from Alaska. He is opposing the two-tier pricing system. That is what it amounts to. The price of the imported oil will not come down to the price of the domestic oil, but the price of the domestic oil will go up to the price of the imported oil. We will be governed in our prices by the OPEC nations.

Mr. HANSEN. On my time I would ask the Senator from Alaska further if he is familiar with the article appearing in the Wall Street Journal for March 20, 1973, headed "Impending Breakdown of OPEC Cartel."

The article is written by Robert Z. Aliber, who is the professor of finance at the Graduate School of Business at the University of Chicago.

I will not take the Senator's time, though I am speaking on my time, to read the entire article, but the fact is, I say to my good friend from Alaska and my good friend from Rhode Island, that there are very clear evidences that the Arab cartel is breaking down. That is because presently there is a substantial cutback in the productive capability of a number of OPEC countries.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senators will take their seats and the Senate will be in order.

The Senator from Wyoming.

Mr. HANSEN. The fact is, I say to my good friend from Alaska, that there is a substantial overproductive capability in the OPEC countries right now, and they have cut back.

I quote from part of that article:

> As demand declines in the next six months, maintenance of the $10 price could require reduction of six million to eight million barrels a day in OPEC production. These cutbacks must somehow be distributed among OPEC members. A few countries already have reduced production substantially. Libya now produces less than 900,000 barrels a day, whereas its peak output exceeded two million. Similarly, Kuwait, which has a daily capacity of nearly four million barrels, has been producing two million barrels. Both countries appear reluctant to reduce their output further. The poor, heavily-populated countries like Indonesia and Nigeria are unlikely to make substantial cutbacks. Iraq has been loud in its support of OPEC, but its output in January exceeded the pre-embargo level.
>
> Increasingly, maintenance of the current price will require larger cutbacks by Iran, Saudi Arabia and Venezuela. In January, the daily output of these three countries totaled 16 million barrels a day. Reduction in demand has already forced Iran to reduce its output by 10%, Venezuela by 20% and Saudi Arabia by 30%. These three countries might be required to cut back twice as much in the next few months to match even further reduction in demand.

My question to the Senator from Alaska is: Based upon what the facts are today, not what the President may have recommended in the middle of January, is there not good reason to believe that the price will further decline and that it will not be too long until, as this article predicts, the OPEC nations cartel could come apart when the need for money to satisfy financial commitments that have already been made overcomes the willingness of the nations to participate on a uniform cutback basis and result in the price cutting that is predicted in this article?

Mr. GRAVEL. There is no question about it. In fact, right now—and I will place an article in the RECORD later—there is a 20-percent glut on the world market of oil. That is only because of the cutbacks.

In this country, incidentally, we also have glut of oil right now. Our refineries are operating at between 80 and 85 percent capacity, and we have 38 days' supplies in the tank and also in the pipelines. Why we think the price is going to rise, I do not know.

I want to stipulate with my colleague from Rhode Island that the price increase that will occur, according to my best estimate—is the top line of the letter submitted by the Senator from Washington. That is, the price will rise to about $11.40 a barrel, and it will mean a little less than 5 cents per gallon to the consumer.

Mr. LONG. Will the Senator yield?

Mr. GRAVEL. I will be happy to yield.

Mr. LONG. Let me see if I understand the Senator's proposal. What he is saying is that a 15-percent return on equity is an adequate return to encourage investments and expenditures for a corporation based on the fact that tobacco products, automobiles, office equipment, photo goods, soap and cosmetics and drugs have been making more than that, and he feels that at that level of profitability capital can be attracted into an industry. Is that correct?

Mr. GRAVEL. There is no question about it.

Mr. LONG. The Senator is saying that, if you simply permit the industry to compete with everybody else at the world market price and require that any profit above that must be plowed back in or else it would all be taxed away, in short order this Nation would be self-sufficient in energy. You would not have to have

an allocation system; you would not have to have the Federal Government going into the business. Just the free market, under that type of arrangement, would, in short order, make the United States totally and completely independent of all foreign nations for energy. Is that correct?

Mr. GRAVEL. I want to thank my colleague for saying it so succinctly.

Mr. LONG. Do we understand further that the Senator is saying that the Arab countries are telling us that they are not going to sell us energy any cheaper than it would cost us to produce it for ourselves, but the longer it takes us to let the industry achieve enough capacity to provide our requirements, the longer we will have to pay hijack prices for energy from abroad and also have those people trying to dictate our foreign policy to us through boycotts and blackmail?

Mr. GRAVEL. In fact, I had stated it before by saying we actually subsidize the Arabs by our edict. What we are saying to Americans is, "You cannot charge the market price for oil. You have to sell it cheap.

"But, foreigners, you come in and gouge the heck out of the Americans, because we are going to make the consumers buy our product."

They have no choice. That is why today imports are rising. That is what is happening, imports are rising.

IBM makes more money than Exxon; CBS makes more money than Texaco. We have the Washington Post which is only bypassed, in terms of return on equity and capital by 2 of the 11 oil companies.

Could anybody in his right mind who examined this chart say the oil companies are making ripoff profits? That is the argument made for the repeal of the depletion allowance. The figures on the Forbes chart are the test. These figures are not from the Government. These figures are not from the Finance Committee or the Interior and Insular Affairs Committee. This Forbes chart is a public record.

Look at this article in Business Week magazine. It says the same thing. Why must we sit here and continue to perpetrate lies about oil company profits?

Look at Skyline. That is a company in Indiana which makes mobile homes. Do you know where they sell them? They sell them in Alaska. They sell them in the rural parts of the United States. If we are getting "ripped off" by the oil companies, then we are also getting ripped off by this mobile home company. I was a major mobile home developer in Alaska, and the mobile homes we got mostly were from Indiana.

The Senators want to regulate oil companies like Texaco, and you do not want to regulate a company which is making almost twice as much as Texaco. This is convoluted reasoning.

Mr. LONG. Will the Senator yield further?

Mr. GRAVEL. I will be happy to yield.

Mr. LONG. I ask that this be on my time.

At one of the recent meetings, an economist pointed out that while $11 a barrel price for oil is pretty high, you must keep in mind that over a 20-year period Arab oil will all be gone, and that when they go to buy energy from the rest of us in the world, to buy America's coal or Canada's coal, it will be costing them on a Btu basis a great deal more after the year 2000, let us say, than it costs now even in terms of constant dollars. It will cost them more to buy energy from the rest of the world, such as us, than they are charging for the oil that they are selling even at these high prices.

If that be true, and I believe it is, then does not that indicate that you will never be able to replace the gas that is being required to be sold at 50 cents or 25 cents, and you will never be able to replace the oil you are selling at $5? It will cost more than that in terms of energy, anyway. But by failure to permit the industry to charge in line with what it is going to cost to replace these energy sources, the industry will never be able to make America self-sufficient; and by denying it that capacity, it sets the stage for those who would nationalize this industry and raise the money to put it out of business.

It is like the French revolutionaries used to do for those they did not like. They made them carry a basket to the guillotine with them so it would be available to carry off their heads.

[Laughter.]

Mr. GRAVEL. My colleague says it very well.

Let me point this out to the Senator from the State of Illinois: the Forbes chart shows Northeast Industry, 5-year average, 25-percent profit; last year, 37-percent profit. Does the Senator know what they do? They make chemicals, metals—right in the State of Illinois. If anyone wants to regulate something, there is a company to regulate.

Here is a company in Connecticut: Heublein which shows 19 percent; they made 20 percent last year. I could go down the list.

Here is an interesting company in Washington, D.C. I get my insurance from them: Government Employees Insurance; a good company, right here in town. Their 5-year average, 23.4-percent profit; last year, 20 percent. A good business to be in. Somebody ought to regulate it.

I pointed out J. C. Penney, right under Exxon in rank. Anheuser-Busch, right above Texaco. If you want to start regulating somebody, this chart deserves a lot of interest.

Here is a company, Seattle First, a bank holding company in Seattle in the State of Washington that made 13.8 percent for the 5-year average. That is ahead of six of the major oil companies.

If you are going to regulate, there is a lot of room for regulation in this country. If you are going to do it on the basis of profits—and they said wipe out the depletion allowance because of the "exorbitant ripoff profits"—look at the companies as they are ranked on this chart.

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

Mr. GRAVEL. I yield.

Mr. MAGNUSON. Is that net profit?

Mr. GRAVEL. If my colleague would like——

Mr. MAGNUSON. Is this net?

Mr. GRAVEL. Return on equity. That is a net profit. The Forbes chart sets forth two figures.

Mr. MAGNUSON. Is it net?

Mr. GRAVEL. Return on equity is what it is.

Mr. MAGNUSON. It is not net profit.

American Express is sniffing around the Commerce Committee to get a handout. They are going bankrupt.

Mr. GRAVEL. Does the Senator see them there?

Mr. MAGNUSON. Yes.

Mr. GRAVEL. Where are they?

Mr. HANSEN. Mr. President—on my time—maybe that is a good place to sniff around.

Mr. GRAVEL. If they are sniffing around for something, the Senator ought to look at the oil companies, but then examine those higher on the list of profitability.

Mr. MAGNUSON. I ask the Senator this question: One can make a profit, and a profit can be shown in Forbes, but can one still have a net loss, which American Express has?

Mr. CURTIS. Is the Senator referring to Haller Parcels, or which company?

Mr. MAGNUSON. I am referring to American Express.

Mr. CURTIS. The credit card company?

Mr. MAGNUSON. No.

Mr. CURTIS. That is what this is.

Mr. HANSEN. The Senator is thinking of the Railway Express, is he? This is the American Express. The American Express is a credit card company. If the Senator will recall, just a year or 2 ago, Senator JAVITS introduced a bill that came to the Committee on Finance, and we acted upon it, to see that the money that was never paid out by that company to satisfy travelers' checks that had been issued by that company would be returned to the States where the travelers' checks were sold. That company, so far as I know, is not going broke.

Mr. MAGNUSON. They have not had a net profit. The Railway Express Agency is broke.

Mr. BROCK. But they are not on the list.

Mr. HANSEN. American Express is a different company.

Mr. MAGNUSON. I know they are two different companies. Railway Express is in receivership.

Mr. HANSEN. It is going the way of all railroads—too much regulation.

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

Mr. GRAVEL. I yield.

Mr. BROCK. I find the Senator's chart rather remarkable. I have been hearing about all these obscene profits, and it does not look like the oil companies are that obscene, when you see some of the alternatives. Everybody is screaming about obscenity, and I have not been a particular proponent of their actions or their profitability. I am simply pointing out that the chart shows a very differ-

ent picture from what we have had presented in the debate in the last 3 days.

Mr. GRAVEL. We have been trying to get to the bottom of it.

Mr. JACKSON. Mr. President, will the Senator yield, on my time?

Mr. GRAVEL. I yield.

Mr. JACKSON. Inasmuch as obscene profits are being discussed, and I think I am charged with having used that descriptive term, and in view of the fact we have had quotations from great financial institutions and houses, I thought it might be in order, Mr. President, to read something from the great radical organization known as Morgan Stanley & Co., Inc., International Research, which is a part of J. P. Morgan:

ENERGY NOTES, FEBRUARY 24, 1975

1974—THE YEAR OF "OBSCENITY"

Summary

With the exception of Royal Dutch/Shell and British Petroleum, both of which are expected to report on March 13, all of the major integrated oil companies have issued preliminary 1974 earnings statements. Aggregate results for nineteen of the twenty-one companies we normally monitor were:

And they are stated. I read from the Morgan Stanley report:

The year will pass into the record books as one of "obscene" profits.

That is Morgan Stanley.

I just thought, Mr. President, that inasmuch as the word "obscene" came up, I should at least refer to an authoritative document to corroborate a statement I had made earlier.

Mr. HANSEN. Mr. President, will the Senator yield, on my time?

Mr. JACKSON. I yield.

Mr. HANSEN. I know about Morgan Guaranty. I assume——

Mr. JACKSON. I did not say Morgan Guaranty.

Mr. HANSEN. I think the Senator did say that that was the parent company.

Mr. JACKSON. Morgan Stanley & Co., which is a part of J. P. Morgan.

Mr. HANSEN. I am going to pay tribute to the Senator. These big companies have chosen their favorites, and I thought they used the word "obscene" to let Americans know that they found the Senator from Washington not without merit. That is a word he has oftentimes used. I thought they wanted to be on the Senator's side.

Mr. JACKSON. And they did not say anything about the independents having obscene profits.

Mr. HANSEN. It shows how clever those big companies are. [Laughter.]

They know how to do it. They have the light touch.

Mr. JACKSON. I was delighted to wait, and I was going to bring this up; but I knew that somebody was going to bring up the element of obscenity. I just wanted to refer to that old financial house, Morgan Stanley & Co., for a response.

Mr. GRAVEL. Is the Senator prepared to place that whole statement in the RECORD?

Mr. JACKSON. Yes, I am going to do so.

Mr. GRAVEL. I think it also says that profits are going down.

Mr. JACKSON. That is right.

Mr. GRAVEL. Will the Senator read that part, please?

Mr. JACKSON. I will, but the point I am making is this: I charged, and I stand by it, that the year 1974 was the year of obscene profits. The Senator has been saying that is not so. The records he is referring to certainly are not for 1975.

Mr. GRAVEL. That is 1974. That is January 1, 1974.

Mr. JACKSON. That is right. And Morgan Stanley is referring to 1974. The Senator from Alaska is trying to make the case that it was a year of sort of normal profits. What I am doing is quoting from Morgan Stanley & Co., and I repeat it:

The year will pass into the record books as one of "obscene" profits. But as the fourth quarter gave evidence, earnings are in the process of declining.

With worldwide surpluses exerting tremendous pressure on downstream realizations, the likely elimination of an equity position in many of the oil-producing countries, and probable congressional legislation—

I guess that is relevant tonight——

aimed at eliminating percentage depletion and taxing "windfall" producing profits, 1974 is likely to remain a high watermark for earnings for some years to come.

I ask unanimous consent to have the entire memorandum printed in the RECORD at this point.

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

1974—THE YEAR OF "OBSCENITY"

SUMMARY

With the exception of Royal Dutch/Shell and British Petroleum, both of which are expected to report on March 13, all of the major integrated oil companies have issued preliminary 1974 earnings statements. Aggregate results for nineteen of the twenty-one companies we normally monitor were:

[Dollars in millions]

	Full year			4th quarter		
	1973	1974	Percent change	1973	1974	Percent change
Gross revenues	$106,404	$181,653	70.7	$31,552	$49,354	56.4
Net income	8,058	12,273	52.3	2,848	2,480	(12.9)

The year will pass into the record books as one of "obscene" profits. But as the fourth quarter gave evidence, earnings are in the process of declining. With world-wide surpluses exerting tremendous pressure on downstream realizations, the likely elimination of an equity position in many of the oil-production countries, and probable congressional legislation aimed at eliminating percentage depletion and taxing "windfall" producing profits, 1974 is likely to remain a high watermark for earnings for some years to come.

Individual profits of some of the majors for both the year and the fourth quarter are discussed briefly and shown in the following tables.

INTERNATIONALS

Exxon

Exxon evidently did not have to compare its fourth-quarter 1974 results against levels which were inflated by inventory gains as for other companies at the end of 1973. Additionally, unusual year-end adjustments resulted in a net gain of $0.32 per share. Earnings in the first and second quarters of 1974 were $0.36 and $0.31 per share higher, respectively, than would have been achieved without inventory profits. First-half 1974 earnings were also increased $0.05 per share by changes in currency exchange rates.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Oil and Gas:														
United States	$830	$3.70	33.9	$1,027	$4.59	32.7	24.1	$224	$1.00	28.5	$246	$1.00	28.6	10.0
Other Western Hemisphere	482	2.15	19.7	435	1.94	13.8	(9.8)	159	.71	20.2	141	.63	16.4	(11.3)
Eastern Hemisphere	988	4.41	40.5	1,178	5.26	37.6	19.3	342	1.53	43.6	317	1.42	37.0	(5.9)
Chemical:														
United States	66	.29	2.7	146	.65	4.6	124.1	23	.10	2.8	34	.15	3.9	50.0
Foreign	136	.61	5.6	314	1.40	10.0	129.5	50	.22	6.3	75	.33	8.6	50.0
Other	(59)	(.26)	(2.4)	40	.18	1.3	----------	(11)	(.05)	(1.0)	47	.21	5.5	----------
Total	2,443	10.90	100.0	3,140	140.3	100.0	28.7	787	3.51	100.0	860	3.84	100.0	9.4

Gulf Oil

Bob R. Dorsey, Gulf's Chairman, stated: "It is safe to say that we have crossed the profit peak and will be living with lower earnings, perhaps substantially lower earnings, for the next few years." Gulf estimated the Federal crude allocation program cost it $110-million ($0.56 per share), while repeal of percentage depletion could cost it $125-million ($0.64 per share) in 1975.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Oil and gas:														
United States	$364	$1.85	45.6	$420	$2.16	39.4	16.7	$29	$0.15	12.7	$92	$0.47	50.0	213.3
Foreign	560	2.84	70.0	594	3.05	55.7	7.4	267	1.36	115.3	83	.42	44.6	(69.1)
Chemical:														
United States	10	.05	1.2	96	.49	9.0	880.0	6	.03	2.5	31	.16	17.0	433.3
Foreign	17	.08	2.0	80	.41	7.5	412.5	3	.02	1.7	9	.05	5.3	150.0
Nuclear	(133)	(.68)	(16.6)	(97)	(.50)	(9.1)	(26.5)	(55)	(.28)	(23.7)	(5)	(.03)	(3.2)	(89.3)
Minerals	(8)	(.04)	(1.0)	(22)	(.11)	(2.0)	175.0	(8)	(.04)	(3.4)	(18)	(.09)	(9.5)	125.0
Other	(10)	(.05)	(1.2)	(6)	(.03)	(.5)	(40.0)	(12)	(.06)	(5.1)	(7)	(.04)	(4.2)	(33.3)
Total	800	4.06	100.0	1,065	5.47	100.0	34.7	230	1.18	100.0	185	.94	100.0	(20.3)

Mobil

Mobil's fourth-quarter earnings were reduced $58-million ($0.57 per share) by dollar conversions and $23-million ($0.23 per share) by the cancellation of the Paulsboro refinery expansion. Foreign inventory profits added $325-million ($3.19 per share) to full-year earnings. The negative effect of dollar conversions is estimated at $80-million ($0.79 per share). Translation of the dollar had the effect of increasing 1973 earnings by $150-million, or $1.47 per share. Netting out the extraordinary gains and losses in 1974 would have produced earnings of $8.04 per share.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Oil and gas:														
United States	$258	$2.54	30.5	$287	$2.83	27.6	11.0	$71	$0.70	25.6	$57	$0.57	42.5	(18.6)
Foreign	558	5.38	65.7	654	6.42	62.9	17.2	189	1.86	68.2	40	.39	29.1	(79.0)
Chemical	36	.35	4.2	111	1.09	10.7	211.4	14	.14	5.1	138	.37	27.6	164.2
Other	(3)	(.03)	(.4)	(12)	(.12)	(1.2)	(300.0)	4	.03	1.1	1	.01	.8	
Total	849	8.34	100.0	1,040	10.21	100.0	22.4	278	2.73	100.0	136	1.34	100.0	(50.9)

Texaco

The company estimated its foreign inventory profit at $259 million ($0.95 per share). On the other hand, operating earnings decreased $29 million ($0.11 per share) because of losses in foreign currencies. Earnings in the fourth quarter and the year were also charged with a reserve of $28.2 million ($0.10 per share) relating to possible nationalization by Libya and nonrecovery of a currently nonprofitable investment in Colombia. Earnings would have been $5.10 per share in the absence of these items.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Oil and gas:														
United States	$426.9	$1.61	33.9	$390.2	$1.44	24.7	(10.6)	$86.8	$0.32	19.3	$86.5	$0.32	27.2	
Foreign	832.0	3.06	64.4	1,090.8	4.01	68.7	31.0	359.9	1.32	79.5	216.2	.80	67.8	(39.4)
Chemical:														
United States	17.0	.06	1.3	63.2	.23	3.9	283.3	5.3	.02	1.2	14.3	.05	4.2	150.0
Foreign	6.5	.02	.4	42.2	.16	2.7	300.0	1.5			2.7	.01	.8	
Total	1,297.4	4.75	100.0	1,586.4	5.84	100.0	22.9	453.5	1.66	100.0	319.7	1.18	100.0	(28.9)

Texaco adopted LIFO accounting for its U.S. inventories in 1974. This had the effect of reducing per share earnings previously reported approximately as follows:

	Reported	Restated
1st quarter	$2.17	$1.92
2d quarter	1.69	1.35
3d quarter	1.40	1.39
4th quarter	1.18	1.18

It is interesting to note currently indicated dividend payouts for these four companies against their U.S. oil, gas, and chemical earnings:

Company	Indicated dividend	U.S. earnings [1]	Percent payout
Exxon	$5.30	$5.24	101.1
Gulf	1.70	2.65	64.2
Mobil	3.40	3.91	87.0
Texaco	2.10	1.69	124.3

[1] Gulf excludes nuclear, mineral, and other losses; Mobil includes foreign chemical profits.

Furthermore, U.S. oil and gas earnings dropped from 35% of total profits of the four in 1973 to only 31% in 1974 and accounted for a mere 17% of the gain in net income. By contrast, chemicals accounted for 39% of the increment, rising from 5.3% to 12.5% of aggregate income. Foreign oil and gas profits dropped somewhat from 63% of the total to 58%, but contributed 37% of the gain.

DOMESTICS

Atlantic Richfield

Fourth-quarter net income was affected by $21.7-million ($0.38 per share) resulting from the company's write-off of its withdrawal from the tar sands venture. Because of the manner in which Arco reports its divisional earnings, the figures should be regarded as approximations.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Oil and gas:														
United States	$360.8	$6.36	74.2	$477.4	$8.41	65.4	32.2	$124.6	$2.18	77.8	$138.7	$2.44	91.7	11.9
Foreign	82.6	1.46	17.0	129.1	2.27	17.7	56.3	25.9	.45	16.1	(17.9)	(.31)	(11.6)	
Chemical	27.7	.48	5.7	123.0	2.17	25.9	344.0	9.6	.17	6.1	30.4	.53	19.9	216.7
Corporate	15.2	.26	3.1	NA										
Subtotal	486.3	8.57	100.0	729.5	12.85	100.0	50.0	160.1	2.80	100.0	151.2	2.66	100.0	(6.2)
Expense items	216.1	3.81		254.9	4.49		18.0	68.4	1.19		54.3	.95		(20.6)
Total	270.2	4.76		474.6	8.36		75.6	91.7	1.61		96.9	1.71		6.2

Continental Oil

Earnings for the year were reduced by $71-million, or $1.40 per share to reflect adoption of LIFO. Net income for 1973, which reflected FIFO accounting, was approximately $50-million, or $0.99 per share, higher than if LIFO had been in effect. Of this, $40-million, or $0.79 per share, was in the fourth quarter of 1973. Consolidation Coal's earnings were impaired by $15-million, or $0.30 per share, as a result of the miners' strike. Based on fourth-quarter production of 9-million tons, earnings per ton were $2.13 before corporate overhead compared with $0.93 per ton for the full year. Results for the quarter also included a $7.4-million gain ($0.15 per share) from the sale of property compared with a write-off of $6.7-million ($0.13 per share) in 1973.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Oil and gas:														
United States	$131.7	$2.61	54.2	$220.8	$4.36	67.4	67.0	$31.3	$0.62	35.0	$54.0	$1.07	87.7	72.6
Canada	20.0	.40	8.3	30.3	.60	9.3	50.0	6.1	.12	6.8	6.8	.13	10.7	8.3
Other	(2.0)	(.04)	(.8)	(3.8)	(.07)	(1.1)		(1.0)	(.02)	(1.1)	(2.4)	(.05)	(4.1)	
Total Western Hemisphere	149.7	2.97	61.7	247.3	4.89	75.6	64.6	36.4	.72	40.7	58.4	1.15	94.3	59.7
Eastern Hemisphere	139.0	2.75	57.2	22.0	.43	6.6	(84.4)	74.1	1.47	83.0	(7.1)	(.14)	(11.5)	
Total oil and gas	288.7	5.72	118.9	269.3	5.32	82.2	(7.0)	110.5	2.19	123.7	51.3	1.01	82.8	(53.9)
Consolidation coal	(12.8)	(.25)	(5.2)	43.8	.87	13.4		(12.2)	(.24)	(13.6)	19.2	.38	31.1	
Conoco Chemicals	20.9	.41	8.5	67.7	1.33	20.6	224.4	5.4	.11	6.2	14.2	.28	23.0	154.5
Minerals	(6.1)	(.12)	(2.5)	(9.0)	(.18)	(2.8)		(1.9)	(.04)	(2.2)	(4.4)	(.09)	(7.4)	
Corporate	(48.0)	(.95)	(19.7)	(44.2)	(.87)	(13.4)		(12.5)	(.25)	(14.1)	(18.5)	(.36)	(29.5)	
Total	242.7	4.81	100.0	327.6	6.47	100.0	34.5	89.3	1.77	100.0	61.8	1.22	100.0	(31.1)

Getty Oil

Getty reported consolidated net income for 1974 of $281-million, or $15.00 per share, compared with $135-million (before an extraordinary gain of $7.2-million), or $7.15 per share in 1973. Net income was reduced $67.2-million ($3.61 per share) by cost accruals against the company's foreign operations and amounts in dispute with Phillips over prices paid for uncontrolled oil. A charge of $24.2-million ($1.30 per share) was made to net to reflect the company's equity share of losses by its 48.7%-owned affiliate. Mitsubishi Oil. The total of these charges in the fourth quarter, when the company reported earnings of $3.13 per share versus $2.78, was approximately $20.4-million, or $1.10 per share. Getty's remaining net equity interest in Mishubishi was $6-million at December 31. As we understand it, this would be the current limit to Getty's direct exposure to further losses at Mitsubishi. The oilspill damage resulting from the rupture of a storage tank at the company's Migushima refinery is estimated at in excess of $30-million, and in all likelihood Getty's equity investment will be reduced to zero in the first quarter. It may be noted that Getty's cash flow in 1974 was $468-million, or $30.47 per share.

Standard Oil of Indiana

The figures below indicate a loss of $9.5-million in Canada in the fourth quarter. In point of fact, quarterly earnings will be restated to take account of Canadian tax adjustments, and the correct figure attributable to Canadian operations in the fourth quarter is approximately a deficit of $2.3 million. It is also noted that 1973 Canadian earnings were restated to reflect a capital employed adjustment. The major surprise in the fourth quarter, however, was the sharp contraction in chemical profits. It is indicated that this occurred largely as a result of a sudden drop in demand for terephthalic acid and DMT around mid-November. The end uses for these products are in the home furnishing, apparel, and automobile industries. Since the company's chemical earnings had been averaging over $10-million per month, we surmise that December operations were substantially in the red. Gauging the end of the inventory adjustment for these products is extremely difficult, but hopefully it will occur by midyear. It may also be recalled that Indiana's first-half overseas petroleum operations were $58-million more (about $0.40 per share) than would have been reported under LIFO accounting.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Oil and gas:														
United States	$387.8	$2.69	76.0	$638.1	$4.36	65.8	62.1	$102.3	$0.71	84.5	$154.3	$1.04	88.1	46.5
Canada	35.1	.24	6.8	34.2	.23	3.5	(4.2)	3.9	.03	3.6	(9.5)	(.06)	(5.0)	
Overseas	43.5	.30	8.5	209.1	1.43	21.6	376.7	9.9	.07	8.3	34.1	.23	19.5	228.6
Chemical	48.3	.33	9.3	98.8	.68	10.2	106.1	6.3	.04	4.8	1.5	.01	.8	
Other	(3.5)	(.02)	(.6)	(10.0)	(.07)	(1.9)	(25.0)	(1.0)	(.01)	(1.2)	(5.7)	(.04)	(3.4)	
Total	511.2	3.54	100.0	970.2	6.63	100.0	87.3	121.5	.84	100.0	174.8	1.18	100.0	40.5

Standard Oil of Ohio

Sohio provides a breakdown of its earnings before interest expense and income taxes on percentage terms. The following figures attempt to reconcile this breakdown with the earnings statement and must accordingly be regarded as providing only a rough approximation of the divisional breakdown.

The improvement in Sohio's domestic petroleum operations that was noted in the third quarter gave way to an imputed loss in these operations in the fourth quarter. This was largely occasioned by loss of production and maintenance at the company's Marcus Hook refinery and other requirements in the Ohio refineries. Expenses attributed to this program increased $12 million over 1973 and crude runs were reduced 56,000 b/d. On the other hand, the fourth quarter was notably aided by a royalty payment of $18.2 million versus only $1.5 million in the similar 1973 period.

[Dollars in millions except EPS]

	Full-year earnings							4th-quarter earnings						
	1973			1974				1973			1974			
	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change	Net income	EPS	Percent of total	Net income	EPS	Percent of total	Percent change
Domestic petroleum	$45.6	$1.24	37.9	$34.7	$0.95	18.1	(23.4)	$1.6	$0.04	9.8	($4.9)	($0.13)	(9.2)	
Foreign petroleum	14.4	.39	11.9	38.6	1.05	20.0	169.2	3.9	.11	26.8	18.2	.51	36.2	363.6
Coal	12.0	.33	10.0	30.9	.84	15.9	154.5	3.6	.09	22.0	8.3	.23	16.3	155.6
Chemical and plastics	22.8	.26	19.0	48.3	1.32	25.0	112.9	3.9	.11	26.8	12.9	.35	24.8	218.2
Royalties	25.2	.69	21.2	40.5	1.11	21.0	60.9	1.5	.06	14.6	18.2	.50	35.5	733.3
Other											(1.7)	(.05)	(3.6)	
Earnings before interest, etc	120.0	3.27	100.0	193.0	5.27	100.0	61.2	15.1	.41	100.0	51.6	1.41	100.0	243.9
Net interest exp	11.8	.32		7.0	.19		(40.6)	2.5	.07		2.5	.07		
Income taxes	34.0	.93		60.0	1.64		76.3	1.0	.03		20.5	.56		167.7
Total	74.2	2.02		126.0	3.44		70.3	11.6	.31		28.6	.78		151.6

1975 EARNINGS ESTIMATES

The assumptions underlying our 1975 earnings estimates were detailed in the Energy Outlook dated December 24, 1974. Slippage in chemical income noted during the fourth quarter, however, has caused us to revise several earnings estimates downward. The exact form of oil tax legislation in the United States remains an unknown. Our initial assumption was that the final 1975 bill would closely approximate the one that cleared the House Ways & Means Committee late in 1974. We note that the windfall profit tax proposed by the Administration would have an almost identical effect as the Ways and Means bill. In both cases, the industry would be burdened with around $3-billion of additional U.S. taxes which would amount to a cut in the producing profit of roughly $1.00 per barrel. Our revised 1975 estimates appear below:

1974 EARNINGS AND 1975 ESTIMATES

	1974A	1975E	Percent change
Ashland	$3.83	$4.50	(17.5)
Atlantic Richfield	8.36	6.50	(22.2)
British Petroleum	£3.60	1.50	(58.73)
Cities Service	7.58	7.00	(7.7)
Continental	6.47	6.50	
Exxon	14.03	10.00	(28.7)
Getty	15.00	12.00	(20.0)
Gulf	5.47	4.40	(23.2)
Kerr-McGee	4.64	4.90	5.6
Louisiana Land	2.98	2.30	(22.8)
Marathon	5.70	4.30	(24.6)
Mobil	10.21	7.75	(24.1)
Phillips	5.66	4.90	(13.4)
Royal Dutch	£11.00	6.35	(42.3)
Shell	9.21	8.30	(9.9)
Standard Oil (California)	5.71	5.25	(8.1)
Standard Oil (Indiana)	6.63	5.00	(24.6)
Standard Oil (Ohio)	3.44	3.60	4.5
Sun	8.31	7.40	(11.0)
Texaco	5.84	4.75	(18.7)
Union	7.03	6.25	(11.1)

CAPITAL EXPENDITURES

A number of companies have announced their planned capital and exploratory expenditures for 1975. Among these are:

	1974A	1975E
Exxon	$3,610	$4,700
Gulf	1,700	1,800
Texaco	2,000	1,800
Arco	1,800	2,000
Conoco	759	935
Getty	450	687
Marathon	175	300
Phillips	637	1,200
Shell	929	1,000+
Standard Oil (Indiana)	1,800	2,000
Union	685	750

A recent survey by the Oil & Gas Journal indicated the industry had budgeted $26.2-billion for capital spending in the U.S. alone during 1975, an increase of 24.1% over 1974. The Journal's breakout of spending by area is of interest:

INDUSTRY CAPITAL EXPENDITURES

[In millions of dollars]

	Actual, 1973	Estimated, 1974	Budgeted, 1975	Percent change 1975–74
Exploration and production:				
Drilling exploration	$6,660.8	$7,657.0	$8,034.0	4.9
Production	1,734.8	2,005.9	2,104.0	4.9
OCS lease bonus	3,082.0	5,024.0	5,000.0	.5
Total	11,477.6	14,686.5	15,138.1	3.1
Others:				
Refining	1,103.8	1,974.7	3,127.8	58.4
Petrochemicals	269.1	816.3	1,643.1	101.3
Marketing	914.5	780.7	1,106.0	41.7
Natural gas pipelines	600.0	541.0	988.0	82.6
Crude product pipelines	150.0	1,069.0	2,318.0	111.5
Other transportation	152.9	178.7	240.4	34.5
Miscellaneous	646.9	1,073.3	1,684.0	56.9
Grand total	15,314.8	21,147.2	26,245.4	24.1

In the exploration/production category planned expenditures for lease bonuses appear very much on the high side in view of apparent environmentalists' opposition to lease sales anywhere except on the Gulf Coast. Aside from questionable geologic prospects, the fact that the February 4 lease sale off Texas drew only $300-million in high bids, compared with more than $1-billion at individual 1972–1974 sales, may hopefully indicate a more realistic view on the part of industry toward costly front-end load bonuses. It may be noted that these bonuses alone accounted for 43% and 49% of capitalized expenditures for exploration/production in 1972 and 1973, respectively. It would also appear that the amount allocated for refining/marketing is on the high side and that reduced consumption could bring about significant cancellations or deferrals in this category. Finally, the planned doubling in petrochemical expenditures would undoubtedly be reduced if a reversal in recent demand trends is not foreseen. In short, we regard these as "soft" budgets in most areas except for transportation (the Trans-Alaska Pipeline) and exploration/production. A number of companies have already warned that enactment of punitive tax legislation would result in a reconsideration of investment plans, and Texaco has in fact already reduced its originally contemplated $2.1-billion 1975 budget by $300-million. While more announcements of this nature may be forthcoming, we believe they will be related more to ventures whose needs are more questionable than exploration/production and, hence, will not have a negative impact on the business prospects for the petroleum service industry.

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February 24, 1975.

REFERENCES

Energy Notes: 1/24/75; 1/16/75; 8/30/74; 8/13/74; 8/2/74; 7/12/74; 1/18/74.

Morgan Stanley & Co. Incorporated has managed the most recent public offerings within the last three years of securities of British Petroleum, Continental, Exxon, Mobil, Shell, Standard Oil of Indiana, and Standard Oil of Ohio.

Mr. GRAVEL. I thank my colleagues from Washington for putting that in the RECORD. I think it should be noted that it is one person giving a little handout as opposed to Forbes magazine's annual evaluation of 850 American companies, as opposed to Business Week, as opposed to the Committee on Finance's new charts on profitability, as opposed to the tax returns of the oil companies. If that is the basis of his case, I will rest my case on the profits. The Senator can rest his case on the one little piece of paper that he has shown to the body.

Mr. JACKSON. Will the Senator yield so I can place something in the RECORD?

Mr. GRAVEL. I am happy to yield to the Senator from Washington.

Mr. JACKSON. I ask unanimous consent that there be printed in the RECORD a summary of the findings on the tax rate of the five leading oil companies which came as a result of the GAO study made for the Committee on Investigations last year. It shows, of course, that in 1968, the average oil corporate tax rate was 3.88 percent; in 1969, 2.55—this is compared to a general corporate tax rate that has a maximum of 48 percent. For 1970, it was 5.36, and for 1971, 4.94. For 1972 it was 4.41. This comes, Mr. President, as a result of the detailed

examination of the tax returns of the major international oil companies over a period of many months last year.

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

TABLE 1.—B. AGGREGATE—7 COMPANIES

[In thousands of dollars]

Year	Pretax net income [1]	Foreign income taxes [2]	U.S. income taxes [3]	Total U.S. and foreign income taxes	Effective rate		
					Foreign income taxes	U.S. income taxes	Total income taxes
1968	$7,576,607	$1,477,056	$294,018	$1,771,074	19.49	3.88	23.88
1969	8,161,889	1,623,103	208,500	1,831,603	19.89	2.55	44.22
1970	8,848,243	1,735,324	474,570	2,209,894	19.61	5.36	24.98
1971	9,460,257	2,522,981	467,467	2,990,488	26.67	4.94	31.61
1972	10,236,458	2,938,012	450,985	3,388,997	28.70	4.41	33.11

[1] Net income per book plus provision for Federal income taxes plus foreign creditable income taxes paid and deemed paid.
[2] Taxes paid and deemed paid.
[3] Regular plus minimum income tax.

Mr. LONG. Will the Senator from Alaska yield to me at that point?

Mr. GRAVEL. I am happy to yield.

Mr. LONG. I ask unanimous consent that right behind that table there be inserted a chart showing the taxes—those same companies paid when we look at all taxes. When we look at all the taxes they paid in foreign nations and all the taxes that they paid in the United States, it shows that in the United States, they paid an average of about 42 percent, measured against income, compared to 42 percent for the average for manufacturing. Overseas, they paid over 70 percent compared to an average far below that. I do not know what the average manufacturing company pays.

Mr. GRAVEL. If the Senator will yield, I shall give him the book published by this committee and he can read it.

Mr. LONG. When all the taxes are put in, we find that those companies paid a great deal more than the average for manufacturing.

For example, here is the 10-company average. They paid an average of 42.9 percent. Let me just explain that. That is domestic. In Louisiana, for example, our State takes advantage of the fact that an oil company cannot very well move away and produce energy from Arkansas or Illinois or someplace. If they want to produce Louisiana energy, they have to drill the holes in Louisiana to get it. They cannot move away, as a manufacturing company can. So in our State they raised it to almost 50 percent of the entire revenue to support that State government out of the oil industry.

Now, that is what a lot of people like to overlook.

If we take into account the taxes that they are paying locally and the taxes they are paying to the State government and add that to the taxes they are paying to the Federal Government, we find that that industry averages out to 42.9 percent in the United States, compared to an average of 42.0 percent for all manufacturing.

Now, let us look at overseas. Overseas, they paid 70.3 percent. The reason that the Senator can say that they paid only 3 percent in U.S. income tax is because they paid 70 percent of what they made overseas before they ever got back here with it. They paid very heavy taxes in Louisiana, Texas, Alaska, where the States tax them so much more heavily than they tax other industry. So if we take that into account, they are taxed more heavily than anybody except tobacco and alcohol, if we take all taxes into account.

Mr. JACKSON. Will the Senator yield on my time?

Mr. GRAVEL. I am happy to yield on the Senator's time.

Mr. JACKSON. I wish to ask the Senator from Louisiana, my good friend, this question. I think we went into it the other day, but we want to make the record straight. Let us take company A, that does all of its business in the United States. They produce a million barrels a year. Let us take company B, that produces half of that amount, 500,000 barrels, in the United States and 500,000 barrels overseas. Which pays the higher taxes and which will have the higher net, company A or company B?

Mr. LONG. If we are looking at all taxes, and it is an oil company the Senator is talking about——

Mr. JACKSON. I am talking about oil, of course.

Mr. LONG. Then here is the record. A company pays an average of 70.3 percent in foreign taxes and a company pays an average of 42.9 percent locally, within the United States.

Mr. JACKSON. The answer to that is that the price, under that old Treasury ruling of 1951, is treated as a tax that is deducted from the U.S. corporate tax.

Mr. LONG. Senator, they have long ago made that tax——

Mr. JACKSON. So the net return on a company that does business overseas is going to be greater than the company that does the business here.

Mr. LONG. Let me say something about taxation that the Senator ought to know, and probably does. It is a standing rule among nations that among equal sovereigns, one does not deduct taxes, one credits taxes paid to another. For example, in the State of Washington or the State of Louisiana, in levying a sales tax, they credit for a sales tax paid to Washington if somebody is doing business in Louisiana, where they might also pay a sales tax. If it is an income tax and the person is doing business in Washington State and Louisiana, we credit one State for the tax paid in another State.

It is also the same rule among nations, with the exception of the Hartke amendment voted the other day—and I voted for that. But it is also the rule among equal sovereigns that we do not deduct, we credit.

If we are talking in the United States about levels of government, we deduct what is paid at a local or State level against a Federal level. That is because the Federal Government is the overall sovereign. But if we look at the rule of taxation around the world and within the United States, whether it be city against city, State against State, county against county, or the United States against foreign countries, the rule is that among equal sovereigns, they do not deduct, they credit. That just happens to be the rule.

Generally speaking, among nations it is recognized that the nation in which one is operating has the privilege of taxing everything a business makes. If they want to, they can take it all. That is why nobody expects to make much money, more than just a pittance, by taxing someone for what he made doing business abroad in a foreign land. That is how most foreign countries treat foreign income. Just look at their laws.

They follow that concept for a very simple reason: To depart very far from it means that their companies doing business in foreign lands would not be competitive with those that are there or those of other nations that happen to be there.

Mr. JACKSON. Will the Senator answer the question, then, as to company A or company B: Who pays more taxes?

Mr. LONG. Does the Senator mean a company doing business overseas and here?

Mr. JACKSON. I am pointing out that an independent oil company in the United States which does all its business here pays way more in taxes than the oil company that does have its business—using that as an illustration——

Mr. LONG. If the Senator is using all taxes, they are just about the same. They are paying 70 percent overseas, 42 percent here.

Mr. JACKSON. I am talking about the consolidated taxes we were discussing the other day. Where all the confusion comes——

Mr. BROCK. The Senator is referring to taxes paid to this Government, not total taxes paid.

Mr. LONG. Senator, that is just the point we are talking about.

Mr. JACKSON. I am talking about the net income as a result of being able to deduct as a tax and treat as a royalty the price that they pay for the oil. That is not a tax.

Mr. BROCK. But we have already changed that law.

Mr. JACKSON. It is not changed yet.

Mr. BROCK. All right, but it is being——

Mr. JACKSON. I am talking about what the law is right now.

Mr. LONG. The point is that if you are talking about a company doing business overseas, you should not really feel too bad about the fact that they do not pay too much income taxes here. After all, they have already been 75 percent expropriated over there.

Mr. GRAVEL. Mr. President, if the Senator will yield on that point, what really happens when they repatriate the

dollar is that it comes back into the consolidated statement my friend from Washington likes to talk about. They are taxed again when it comes back. They are taxed twice, up to the rate of 48 percent.

Mr. JACKSON. Will the Senator yield on my time?

Mr. GRAVEL. I yield.

Mr. JACKSON. I am not going to pursue it anymore. The point is that they stretched it so far, to the price they pay for the oil; that is why there has been no incentive to hold the price down overseas, because the price for the purchase of it is treated as a royalty and as a tax credit.

My good friend from Louisiana has agreed that this is outrageous. He has voted for and supported the repeal of the so-called Treasury ruling.

We are talking about what the law is now, and what we have been operating under. It relates to the charts and to the whole issue of just taxation.

It is the independent oil company in this country that does all of its business here that is paying a lot more in taxes than the international company that operates overseas. Who in his right mind can claim, when they are paying $8 a barrel for a barrel of oil, that that is a tax? That is what the whole argument is about, and that is why this body virtually unanimously voted to repeal it.

I do not see any need, Mr. President, to pursue it any further, because my good friend from Louisiana understands the injustice of that versus the situation of the independents, and has joined in seeking the repeal of it. If it were just, I know he would have been on the other side. That is all I have to say.

SEVERAL SENATORS. Vote. Vote. Vote.

Mr. GRAVEL. Mr. President, I have a few more minutes left, and I would like to use them. I have been very patient.

Senators must appreciate that this amendment does affect the energy this Nation will chart in self-sufficiency. If I can only point out one thing on this particular chart here, look at what happened in 1969, when we reduced the depletion allowance. We had a drop in the amount of activity that took place. And we are going to experience that drop in activity in the next few months. This Nation is going to become more dependent on foreign oil as a result of our wipeout of the depletion allowance.

I do not mind that. I think the whole depletion issue was a red herring. I think that is one of the reasons why the energy industry is regulated today, because there is a desire to punish them.

All I am making a plea for with my amendment is to provide a free market for those companies. If a free market is good for Skyline, for Avon, or for Coca Cola, it should be good for Richfield, because they hold their place in American industry, and it makes little sense to punish them in that fashion.

Mr. NUNN. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I yield.

Mr. NUNN. Does the Senator from Alaska have an excess profits provision in this amendment?

Mr. GRAVEL. Yes.

Mr. NUNN. Is it a plowback, or will the Senator kindly explain it?

Mr. GRAVEL. The excess profits tax is a guarantee that the public will not be ripped off. It says that any oil or gas company can only earn up to 15 percent. Beyond that, it is taxed at a confiscatory rate of 80 percent, unless it is plowed back into energy.

Mr. NUNN. Does that plowback have to take place in the United States, or where does it have to take place?

Mr. GRAVEL. In the United States. It cannot take place abroad.

Mr. NUNN. I had been told it could be plowed back in other lands.

Mr. GRAVEL. No, that is misinformation that was put out by the paper drafted by the Senator from Washington. That is not the case, if the Senator will read the amendment.

Mr. JACKSON. Will the Senator yield briefly at that point?

Mr. GRAVEL. I am happy to yield.

Mr. JACKSON. Does that plowback include the right to take over such organizations as Montgomery Ward?

Mr. GRAVEL. No, it does not. Does that satisfy my colleague?

Mr. JACKSON. That is encouraging. That is progress.

Mr. GRAVEL. Do you know why a company would want to take over Montgomery Ward or Ringling Brothers? Because they have lost faith in Congress to establish policies which make it possible for them to operate. Why would a person want to put money in oil, when it is going to be regulated until it cannot make a profit?

Mr. NUNN. Is the Senator saying that the plowbacks have got to take place in the field of energy?

Mr. GRAVEL. In the field of energy.

Mr. NUNN. It has got to take place in the United States?

Mr. GRAVEL. In the United States.

Mr. NUNN. If it is reinvested in Saudi Arabia, it would not be credited?

Mr. GRAVEL. It would be taxed at a confiscatory rate. That is the feature of the bill that was called a sham by Senator JACKSON'S paper.

I would like to go to my amendment. Unfortunately, I am now in a tight situation. I have labored long and hard to put together a package to present to the Senate. I cannot now put together the whole package because of what has happened with respect to time limitation. So I will move very rapidly to the case of deregulation of natural gas and oil, the petroleum allocation, and then, of course, the excess profits tax.

I would like to yield, on my colleague's time, to the Senator from Wyoming.

Mr. HANSEN. Mr. President, on my time, it is my understanding that the distinguished Senator from Alaska has put his case very succinctly in a summary. Would the Senator kindly explain exactly what the important points in the summary are, that he would like to call to the Senate's attention?

Mr. GRAVEL. Well, very succinctly, this is something that was given to the Committee on Commerce on Tuesday of this week. It is a technical report by the FEA that says gas ought to be deregulated, and it will not cause a cataclysmic occurrence in this country if that happens.

What happens on gas is, of course, of great concern to the poor people. That is supposedly the reason why we do not want to raise the price of oil, or let it seek its normal price.

Let us look at what happens with natural gas.

This chart shows the demand. That is the demand for gas, and this is the supply of gas. That is if we have FPC regulation.

This shows there is more demand than gas, so that means someone will not get the gas. He may have a gas burner, but he will not get it.

Here the chart shows phased deregulation, and here I have complete deregulation. The price is going to rise to $1.50 per thousand cubic feet. You say, "My God, that is terrible. That is an unbelievable rise; the poor people cannot stand that."

Do you know what a $1.50 rise per thousand cubic feet means? Look at this chart. Here is the oil-gas conversion, the effect on home heating of natural gas—and the conversion is shown by this report from the FEA, so that at the wellhead 50 cents a thousand cubic feet—that is the ceiling on the United deregulated, to $1.50 per thousand cubic feet, what does that mean? That means the cost of heating his home will rise to $194 a year.

A $14 increase—$1.10 a month. Do you mean to tell me there is a citizen in this country, a consumer, who will not pay $1.10 a month more to stay on natural gas?

Here is the alternative: We really ought to take care of the poor person.

If that person has to shift from natural gas to fuel oil, the cost of heating his home will go from $180 a year to $300 a year. That is if you can afford the $2,000 to $3,000 to convert.

But the real poor person does not have the $3,000 to convert his furnace. Do you know what he does? He goes down to Peoples Drug Store and he buys a space heater. You know what it is going to cost him to heat his house now, with our emotion for the poor? It is going to cost him $720 a year to heat his house. That, my friends, is not the marketplace doing it to him; that is the Congress of the United States doing it to him.

I yield to my colleague from West Virginia.

Mr. RANDOLPH. What the Senator says in reference to natural gas is in part true. We have had votes here in the Senate on the deregulation of new natural gas. On one occasion, at least, we almost had an affirmative vote to deregulate natural gas. The Senator is familiar with that vote?

Mr. GRAVEL. It failed by one vote.

Mr. RANDOLPH. That is right. I cosponsored and supported that measure to deregulate new natural gas. I think this is a necessary step. Perhaps it will come to the Senate soon for another try.

Mr. GRAVEL. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. GRAVEL. To make a case of this proportion with 1 minute.

Mr. LONG. Mr. President, will the Senator yield at this point?

Mr. GRAVEL. I yield.

Mr. LONG. I have been looking at the chart the Senator from Washington used, and I think the whole thing should be placed in the RECORD so that the reader of the RECORD can judge for himself.

I believe I noted the word "obscene" to which the Senator made reference was in quotes, which was to suggest that those profits were not obscene at all, and I believe if one reads it—it looks as though what is claimed is that the industry is not able to raise enough funds. The whole thing ought to appear in the RECORD, so everyone can understand and see what it means.

Mr. JACKSON. I placed it in the RECORD.

Mr. MAGNUSON. Mr. President, will the Senator yield on my time? Those figures that the Senator has of the cost of natural gas versus fuel oil versus electric heat, are they yearly?

Mr. GRAVEL. Yes.

Mr. MAGNUSON. Well, I do not know, but it is just the opposite in my country, just completely turned around. The cheapest form of heat is electric heat.

Mr. BROCK. The Senator is fortunately blessed with a great deal of hydroelectric power, and that is why he has cheaper electricity than any other State in the United States.

Mr. MAGNUSON. Mr. President, I did not yield to the Senator.

I did not want it to go home that it is costing $720 to convert to electric heat. In my country that is not true. Those are not the figures. It may be in Tennessee.

Mr. BROCK. It is not in Tennessee either, thank goodness.

Mr. MAGNUSON. The Senator has cheap power.

Mr. BROCK. Yes, we do.

Mr. MAGNUSON. I want to check those figures because I have no experience with fuel oil. We do not use much of that.

Mr. BROCK. It is mostly in the Northeast.

Mr. MAGNUSON. But we surely have natural gas versus electric heat, and it is very competitive. The gas people advertise to use gas, and the electric people advertise to use electricity, and both of them say now to use less energy, but it is very competitive, and both of them are clean heat.

Mr. BROCK. The most competitive is the oil in the Northeast.

Mr. MAGNUSON. Yes, the oil is very competitive.

Mr. GRAVEL. Mr. President, let me just close by saying if I have spoken——

Mr. MAGNUSON. Yielding on my time, so I will not take up much time of the Senate, can I ask unanimous consent to make a statement at this point in the RECORD? It deals mainly with the Commerce Committee which is now ready to report a bill. Everything is ready, but we have held it up as a courtesy to Members of the Senate, including the Senator from Alaska and the Senator from Louisiana who has been very busy on the floor. We are ready to report the bill when we come back here after the recess. It will not take us more than two or three meetings to get a bill on reregulation of natural gas. It is a very well thought out bill.

It is thorough. We have heard witnesses, as the Senator from Illinois said, 25 days, 2 days again last week, who have discussed it pro and con. I think we have got a pretty reasonable bill to reform the regulation of natural gas.

Mr. STEVENSON. Yes.

Mr. MAGNUSON. That is why I would seriously oppose the Gravel amendment because it is doing it in a way that I do not think should be done.

Second, there was a unanimous-consent request to make the Senator's amendment germane. I do not know who was here when it happened. No member of the Commerce Committee that I can find was notified because we were struggling to complete a meaningful natural gas bill. I do not think the committee processes are well-served by coming in with an amendment like this at the last minute and hope to do everything in one amendment. That is one reason why I oppose it.

We are going to have a natural gas regulation bill that is going to be a good one. It is going to be fair.

Just one more thing: I have no doubt if this amendment prevails the price of natural gas within 6 months will triple, and every expert tells us that.

Therefore, I oppose the pending amendment. But I did want to point out the work of the Commerce Committee and the fact that this amendment is really not germane to the pending tax bill. But the Senator from Alaska got a unanimous-consent request here one morning to make his amendment germane.

I had never seen the amendment. The Commerce Committee, at the same time the Senator was getting this request, was working on a good, reasonable natural gas reregulation bill, a bill which includes deregulation of gas producers, if they sell under the ceiling price for a long term. We have been at it and we have heard scores and hundreds of witnesses on both sides, and we are ready now to report the bill to the full Senate. I think it is a fair bill, a much better bill than we could do tonight in an abrupt crash action way by a single amendment to a bill to which it is not germane to begin with.

As opposed as I am to the substance of the Gravel amendment, I ask my colleagues to put aside their own views on regulation versus deregulation.

The Gravel amendment raises a more fundamental question: Is this body going to put aside all senatorial courtesy and act on matters being actively considered in the committee of jurisdiction?

At the specific request of several members of the Senate, the Commerce Committee delayed its final markup on its natural gas reregulation bill.

At the very time I was honoring this request, the Gravel amendment, nongermane to the tax bill, was being qualified by unanimous consent as germane. The CONGRESSIONAL RECORD on page 7481 discloses how questionable the granting of that unanimous consent was.

A vote on the merits of the Gravel amendment, even though I am confident that such a vote would lead to the defeat of the Gravel amendment, would be a personal affront to the members of the Senate Commerce Committee who have been laboring so hard to bring to the Senate floor a natural gas bill and will bring that bill to the floor as soon as Congress returns from the recess.

The only decent thing to do with the Gravel amendment is to table it.

Mr. GRAVEL. I thank my colleague.

Just in closing let me apologize to the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PASTORE), the junior Senator from Washington (Mr. JACKSON), and the Senator from South Carolina (Mr. HOLLINGS). I have been overly intense because I feel very deeply about this subject. I feel I have been constrained in my ability to present the case. I will have an opportunity in the future to present the case, and I can assure my colleagues that I will continue to do so. All I ask with respect to my amendment is that we have a free market for the oil and gas industry, which is a vital part of making this Nation self-sufficient, like we have for every other American industry.

There is one person who is going to be involved in the end. He is called Mr. Consumer and Mr. Taxpayer. When the Government takes control there is no check and balance. When the private sector does it at least we have the Government's check and balance on the private sector, imperfect as that might be.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENSON. Mr. President, I have not said one word on this bill. I have 60 minutes remaining but I do not intend to take 4 minutes before I move to table this amendment.

There is only one thing wrong with those figures. They have been studied, they have been examined, and they are wrong. They do not take into account the unique accounting procedures of the oil and gas industry.

The revenues of the oil and gas industry are artificially depressed for tax and for reporting purposes by such practices as deducting intangible drilling costs; of course, in the past depletion allowances. But, even so, even recognizing the unique accounting practices and the artificial depressed revenues, the depressed effect of the figures in the industry, if you look at the Senator's own chart, the oil industry as a group enjoys the highest return on equity of any other group on that chart. Individually those companies enjoy a very high return, and they have historically. And, in fact, even in 1972, which was supposed to have been a low point, according to our own analyses, they were at about the same point as in other industries.

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

Mr. STEVENSON. No, I will not yield to any Senator. We have been in session for 13½ hours continuously, and I think it is time to make a decision on this amendment.

The effect of this amendment is to

increase, in fact to explode, profits which are already obscene.

The Senator from Washington would have to invent a new word to describe the profits that would follow as a result of this amendment.

It is labeled a deregulation amendment. It is in fact, a reregulation amendment. It would substitute the regulation of foreign governments, the governments of foreign oil-producing states for the regulation of the United States.

The price of new natural gas at the wellhead and the price of old oil in the United States would rise to equivalent levels for energy in the international markets. That would mean $2, at least, for natural gas. Oil would rise to the unregulated price of $11.40.

The overall effect with the associated increase in the cost of coal, about $40 billion.

In other words, far more in increased costs for the consumer than this tax bill proposes to return to the consumer.

The tax bill proposes decreased cost, tax benefits of about $30 billion. This would take back about $40 billion.

Now, Mr. President, the main point I would like to make is that this is exceedingly important and an exceedingly complex matter, and the issues raised genuinely and seriously by the Senator from Alaska, and he does feel strongly about them, ought to be considered by the Senate with benefit of serious study in the standing committees of the Senate.

Now, the Commerce Committee, as its distinguished chairman has mentioned, has held some 25 days of hearings on the subject of natural gas regulation. It has been working over 2 years. We will have a bill in a few days.

The Interior Committee, under the chairmanship of the distinguished Senator from Washington, has been working equally hard on the subject of oil price regulation.

The Finance Committee under the chairmanship of the distinguished Senator from Louisiana is perfectly competent to deal with the tax question raised by this amendment.

This is not the time or the place to act on this amendment. In fact, the Senate will have before it bills and committee recommendations, committee bills on natural gas and on oil, within a matter of weeks, at which point the Senator would be able to bring up these arguments in his proposal once again and the Senate will have a far better opportunity than it does at thi late hour to make a sensible decision on questions of great importance to the Nation.

With that having been said, Mr. President, I move to table the amendment.

Several Senators addressed the Chair.

Mr. JACKSON. Will the Senator yield for a unanimous consent request?

Mr. LONG. Will the Senator withhold a moment, just one moment?

The PRESIDING OFFICER. Does the Senator withhold?

Mr. STEVENSON. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, the Tax Reduction Act of 1975 is supposed to be a bit of overdue good news for the American people. Were the Senate to add the amendment of the Senator from Alaska (Mr. GRAVEL) that good news would be effectively negated by some very bad news.

The impact of this amendment should be clearly understood. If enacted, this amendment will implement the administration's irresponsible and inequitable policy of rationing by increasing energy prices. We have already voted on the question of implementation of the energy prices the administration favors. On February 19, 1975, by a vote of 66 to 28, the Senate rejected rapid escalation in domestic energy prices proposed by the administration. The vote in the House on this question was 309 to 114; an even more lopsided margin of almost 3 to 1.

There is no mystery why the administration's sledgehammer energy price policy was overwhelmingly rejected by the Congress. It is an economic disaster. Not one prominent economist outside of the President's own Council of Economic Advisers supports the administration policy. A distinguished group of economists, including the current Chairman of the Federal Reserve Board, has warned the Congress in very blunt terms not to accept this energy price policy. It will substantially increase the rate of inflation and seriously threaten the prospects for economic recovery.

The amendment of the Senator from Alaska would implement the provisions of the President's energy price decontrol policies which produce the heaviest economic impact:

Decontrol of new nautral gas will add well over $9 billion annually to the Nation's energy bill. On December 5, 1974, the Acting Deputy Administrator of the Federal Energy Administration, Eric Zausner, estimated that the price of "new" natural gas, if decontrolled, would rise to $1.80 to $1.90 per Mcf. The increase in the price of natural gas this implies, translates into over $3 billion in annual costs to consumers. The increase in intrastate gas prices—spurred by competition between the inter- and intrastate buyers for supplies—would add over $6 billion to consumer costs.

Decontrol of domestic crude oil will add an enormous $14 billion to the Nation's oil bill based on the current "new oil" price of over $12.00 per barrel. If the President's plan to add a $3 tax to each barrel of imported crude oil is allowed to take effect—and under the Gravel amendment it certainly could—the price of domestic oil would increase to over $14 per barrel and the cost to consumers would grow to an enormous $19 billion annually.

Mr. President, in 1974, the annual cost to consumers of imported oil increased by $17 billion and the cost of domestic oil rose by $11 billion. Gasoline prices increased by 15 cents per gallon, heating oil prices doubled, electricity rates soared, and coal and unregulated natural gas costs rose with oil prices. We had 12 percent inflation and, by the end of the year, 8 percent unemployment.

The Tax Reduction Act of 1975 is intended to give the American consumer some relief from this economic catastrophe. If the amendment of the Senator from Alaska is added to this bill there will be no relief. The impact on energy costs will be virtually the same as the OPEC-induced price increases. We have some experience with the economic impact on inflation and unemployment of these kinds of price increases. I propose we reject them entirely.

The cost to the U.S. economy of the combination of proposals authorized by this amendment and which the President intends to implement is a staggering $40 billion annually. This amounts to $190 for every man, woman, and child in the United States—$760 annually for an average four-person family. This is over three times the maximum rebate to a four-person family which would be authorized by the Tax Reduction Act. By adopting this amendment the Congress would give with one hand and take—three times as much—with the other.

Mr. President, it has been claimed that the cost to the average family of the administration's energy price policy would be $275. It has become increasingly clear that this figure grossly underestimates the real cost of these price increases. I was interested to see the estimate of over $600 per family as the cost of the administration's program in a paper prepared by William A. Johnson, former Director of the Office of Energy and Natural Resources of the Department of the Treasury and Assistant Administrator for Policy Analysis and Evaluation at the Federal Energy Office. The Senator from Tennessee (Mr. BROCK) inserted this paper in the RECORD on March 19. Dr. Johnson wrote:

Administration estimates of the impact of the President's program have been hotly disputed, even by some officials within the Administration itself. The Congressional Research Service of the Library of Congress undertook a quicky impact study at the request of Representative John Moss of California. This study concluded that the energy proposals would cost $50.3 billion rather than the $30 billion projected by the Administration. The effect of oil and gas price increases, it concluded, would be so significant that 1974's 12 percent rate of inflation would continue through 1975. Senator Jackson has asserted that the increased cost to the average household would be $800 rather than the $275 estimated by the Administration. The major reason for this difference is the fact that the Administration estimate assumes a significant decrease in profit margins and no increase in unregulated natural interstate natural gas and coal prices (sic). A Treasury Department Study estimating these indirect cost increases concludes that the total impact of the price and tax increases could be as high as $618 for the average family. Senator Jackson's estimate may not be too far from the truth.

In addition to implementing the principal—and most economically damaging—portions of the administration's energy tax, tariff and price decontrol proposals, this amendment would repeal the Emergency Petroleum Allocation Act. Repeal of the Allocation Act would remove the only existing legal authority to control oil prices at reasonable levels and to allocate scarce fuels to all regions of the country and to all sectors of industry in an equitable manner.

The proposed excess profits tax on fossil fuel producers proposed in the amendment is technically deficient and a sham, permitting the energy industry to spend the consumer's money to purchase coal reserves and make overseas investments in fossil fuels.

The proposals which are contained in this amendment deal with issues which are under active consideration in the Finance, Commerce, and Interior Committees. I see no reason why these committees should not be permitted the opportunity to act on these issues through the normal legislative process. There is even less merit in weighing down essential tax rebate legislation with a major and enormously questionable and controversial energy price decontrol policy.

Mr. President, I strongly urge the defeat of amendment No. 129 offered by the Senator from Alaska (Mr. GRAVEL).

Mr. LONG. Will the Senator yield for 1 minute, reserving his rights, reserving his rights?

Mr. STEVENSON. Well, reserving my rights to the floor, and for what purpose?

Mr. LONG. I just want to speak for a moment.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Reserving the Senator's rights.

Mr. STEVENSON. Reserving all my rights.

Mr. LONG. Yes.

Well, let me just say to the Senator that we all learn something from these debates, and I would suggest the Senator learn something he does not know at this moment, and that is that these figures do not reflect unique accounting practices. They are based on cost depletion.

When a company tells Forbes, National City Bank, and Chase, they are trying to sell their stock like anybody else, and also trying to borrow money. They use percentage depletion for computing their tax liability only. When they go to report to a bank for the purposes of borrowing money, they do it on a cost basis.

I believe the Senator knows, and if not I would like to educate him now, that the difference between percentage depletion and cost depletion is that with cost depletion we deplete our investment. With percentage depletion we deplete the resources.

But if we report an investment, we report it based on what we invest in it. We do not report it by entering on the books a value for the resources we have in the ground.

So the Senator will find that the companies just do not have unique accounting practices, even though like a great many others, accounting practices do vary from company to company and we have had some difficulty finding adequate comparability between them.

But the Senator will find that in preparing a report for someone like Forbes, Securities and Exchange Commission, or Chase Manhattan, or First National City, they do not use percentage depletion in reporting what their return on equity is because it would be misleading and, frankly, from their point of view it would fail to fully state what their profits actually were.

In other words, when it gets down to the point, Senator, it reminds me of the story about the father teaching his son about bidding, he said, "All right, let us see what you know, how much is 2 and 2?" He said, "Father, are we buying or selling?"

Now, when these companies are reporting what their profits are to the banks and lending institutions, they are selling and they are putting it on the high side.

Mr. STEVENS. I thank the Senator. I have great respect for the chairman. I respect his experience in this industry, with its accounting procedures, and I would just hope he might reciprocate in some measure.

Some of us have had experience in the oil industry, too. In my own case, I spent some 10 years as a lawyer representing one of the largest banks in the business of financing the oil companies. What is more, the authors of those figures have been before the Commerce Committee in the course of these lengthy hearings and have been cross-examined.

Now, unless there is any further unanimous consent——

Mr. HANSEN. Will the Senator yield without losing his right to the floor? Would the Senator yield and permit me to ask a question on my time?

Mr. STEVENSON. I am glad to yield for a question.

Mr. HANSEN. It occurs to the Senator from Wyoming that this question is divisible, and I would hope that the Senator from Illinois would give us an opportunity to divide the question and to have a separate vote on the issue of natural gas deregulation alone. Would the Senator from Illinois for that purpose——

Mr. STEVENSON. I regret that I have to disappoint the Senator, but I do not want to disappoint all the other Members of the Senate by prolonging this long session.

Mr. President, I move to table the amendment.

Mr. HANSEN. Mr. President, I move to adjourn.

The PRESIDING OFFICER. The question is on the Senator from Wyoming's——

Mr. HANSEN. I thought that was a privileged motion?

The PRESIDING OFFICER. The Senator is recognized.

Mr. HANSEN. Mr. President, am I recognized?

The PRESIDING OFFICER. The Senator is recognized for the purpose of making the motion to adjourn.

Mr. HANSEN. Mr. President, I move to adjourn for 10 minutes.

The PRESIDING OFFICER. The question is on the motion——

Mr. CASE. That is debatable, is it not?

The PRESIDING OFFICER. The motion to adjourn is not debatable.

Mr. CASE. Is that debatable?

The PRESIDING OFFICER. The motion is not.

The question is on the motion to adjourn. [Putting the question.]

The motion was rejected.

WHY DEREGULATION OF NATURAL GAS IS AGAINST THE PUBLIC INTEREST

Mr. PROXMIRE. Mr. President, we hear a great deal of talk about the problems of the producers of natural gas, who happen to be among the most profitable, integrated, and wealthiest companies not only in the United States but in the world. But we hear almost nothing about the problems and difficulties of the gas consumers, the ordinary family who has a house which is heated with natural gas, who cooks with natural gas, and who heats water with natural gas. They are the ones who will be the victims of any measure to deregulate natural gas and it is their plight with which we should be concerned.

GRAVEL AMENDMENT LOOSELY DRAWN

The fact is that the Gravel amendment would not merely deregulate new natural gas. It is so loosely drawn that its effect would be to deregulate almost all natural gas either because of its definition of new natural gas or because of the fact that when new contracts are negotiated or when the most favored nation clauses in gas fields are applied, virtually all gas would be deregulated. And the most favored nation clauses are those which effectively allow all the gas in a field to rise to the price of the most recent new contract. What is given to one producer is hence given to them all.

Let us look, therefore, at what will happen to the homeowner in Madison, Wis., or Chicago, Ill., or Washington, D.C., or New York City, or other major consumer areas of the country if the Buckley amendment is passed and if natural gas is deregulated. The enormity of the situation is breathtaking. Tens, indeed hundreds, of billions of dollars are at stake.

President Ford, in his speech to Congress shortly after he took office, called for the "deregulation of natural gas." He did not call for deregulation of new gas, but of natural gas. And the Buckley amendment would carry that out with a vengeance.

TRIPLE DIGIT INFLATION

At a time of rampaging inflation the President of the United States has put forward the most inflationary policy ever put forward by any President of the United States. The Buckley amendment or the Buckley bill carries it out. It is the most inflationary bill I can recall in the over 17 years I have been in the Senate.

We now have double-digit inflation. With respect to gas prices, this bill would give us "triple-digit inflation."

In the name of anti-inflation we have a proposed consumer rip-off which would raise the price of natural gas by a minimum of 300 percent. It could transfer a minimum of at least $16.5 billion from the pockets of the public to the oil and gas companies each year it is fully in effect. It would further give the oil and gas companies a $180 billion windfall in the immediate increase in the value of their existing gas reserves even if we calculate these matters on a conservative basis.

PRICE WOULD RISE FROM 25 CENTS TO $1 OR MORE PER MCF

If natural gas is deregulated it would rise to the price of the Btu equivalent of oil. For new oil, which is now priced at about $11 a barrel, the Btu equivalent

price of natural gas would be $2 a thousand cubic feet (mcf). For old oil, which is now priced at about $5.50 a barrel, the Btu equivalent price of natural gas would be $1 a thousand cubic feet (mcf).

On December 4, 1974, the Chairman of the Federal Power Commission, Mr. John N. Nassikas, testified before the Joint Economic Committee in answer to a question I put to him, that if natural gas were deregulated the price would increase from its present level to $1.50 to $2 per thousand cubic feet [transcript, p. 29].

But to be very conservative, let us first calculate the cost or price increase on the basis of $1 per mcf. Here is what would happen.

Natural gas prices have averaged just slightly more than 25 cents per thousand cubic feet. About 22 billion thousand cubic feet or 22 trillion cubic feet of natural gas is produced and sold each year. Therefore the price of natural gas at the well head is now about $5.5 billion a year, or 22 trillion cubic feet times 25 cents.

$16.5 BILLION ANNUAL BONANZA

If the price goes up to $1 per thousand cubic feet at the wellhead, think what would happen. The price at the wellhead would rise from $5.5 billion in total revenues a year to $22 billion a year, or an increase of $16.5 billion or by 300 percent.

Recently I had my staff phone to the gas company in Madison, Wis. We asked them how much the average homeowner who heats with gas and cooks with gas and heats his water with gas pays for gas a year. We did not ask for the price for the most luxurious home or the smallest home, but the cost for the average homeowner in Madison, Wis., per year.

The answer was $250.

MADISON, WIS., HOMEOWNERS COST WOULD RISE TO $1,000 A YEAR

Now, if the price at the wellhead goes up from 25 cents to $1 per thousand cubic feet, and if the gas pipeline pays that amount at the wellhead and then carries the gas to the pipeline by way of the gathering lines, and then by pipeline itself hundreds of miles to the local utility, and if the pipeline adds on its costs plus a fair return which it is allowed to receive, and if in turn the utility takes the gas and sends it out along its gas mains to the homeowner, and adds its costs plus its fair return, the ultimate price of the gas to the consumer could increase by about 300 percent.

The Madison, Wis., homeowner will be paying $1,000 a year for gas which now costs him $250 a year. And while it may not be as much for some other places in the country, because most places in the United States are warmer than Madison, Wis., one can expect that every homeowner who heats with gas and cooks with gas and heats his water with gas or has a gas dishwasher will pay 300 percent or four times as much for his gas as he now pays. That is inflation. That is not double-digit inflation. That is triple-digit inflation. And that is why I said this is the most inflationary proposal ever put forward by any President or by any Member of Congress in the 17 years I have been here.

$180 BILLION INCREASE IN RESERVES

But the $16.5 billion annual ripoff of the consumer is only the beginning. The big money is involved in the overnight, one-time increase in the value of the gas company reserves. The value of what economists call the unearned increment is almost too staggering to state. If the price of natural gas merely rises to $1 per thousand cubic feet, the value of the reserves now held by the gas producers and big oil companies will increase by a minimum of $180 billion now.

And one should remember that these wells have already been discovered. The major costs have already been paid. They will not increase. Therefore the increase in value is a windfall profit to those who hold existing reserves.

SIMPLE CALCULATION

The calculation of the $180 billion is very simple and very straightforward even when based on the conservative estimate that the price of gas will rise to only $1 per thousand cubic feet.

The oil and gas industry claims it has an 11-year supply of proven recoverable reserves on hand. Most experts believe the reserves are much bigger, and that in fact there is a 15- to 17-year supply on hand. Because the Federal Power Commission, unfortunately, is little more than the hand maiden of the gas producers, the FPC essentially accepts the gas and oil company estimates of their reserves and has done very little to guarantee that the facts about reserves are independently determined.

Therefore, using the oil and gas company estimates of an 11-year supply greatly underestimates the windfall they will receive. But if we merely use that estimate and also use the conservative figures of $1 per thousand cubic feet, deregulation means an immediate windfall and bonanza to the gas producers of over $180 billion on the value of their existing reserves.

The value of their reserves would rise from the present estimate of $60.6 billion—11 years of reserves times 22 billion cubic feet annual production times 25 cents per thousand cubic feet—to $242 billion—11 years of reserves times 22 billion cubic feet annual production times $1 per thousand cubic feet—or a net increase of $181.5 billion.

BIG MONEY AT STAKE

If anyone wonders why the lobbyists of the gas and oil companies have been stalking the halls of Congress these last few weeks; if any Senator or Senate employee has wondered why the form mail has rolled in urging deregulation of natural gas; and if any citizen of Washington, D.C., was surprised to see the airport limousines arriving at the local hotels with their cargo of oil producers from oil-producing States coming here to work out grand strategy to pass a bill to deregulate natural gas at the end of this Congress and before the new public interest, anti-inflation, proconsumer new Congressmen arrive; the answer is very simple.

At least $180 billion in windfalls and bonanzas are at stake if this bill passes the Congress. And that represents a most conservative estimate of the bonanzas because it is calculated on the price of natural gas rising merely to $1 a thousand cubic feet instead of the $1.50 to $2 level which the Chairman of the Federal Power Commission, an advocate of the legislation, predicted a price of $2 per thousand cubic feet would raise the price of natural gas to the Btu equivalent of new oil.

There is big money at stake in this bill. A very small group of powerful people stand to gain billions. And a very large group of American citizens—some 200 million of them—stand to be taken to the cleaners if the Buckley amendment is passed.

BONANZA IF THE PRICE GOES TO $2 PER THOUSAND CUBIC FEET

Mr. President, I am amazed at the modesty of my calculations based on a rise to $1 per thousand cubic feet. If the price goes to $2 the bonanza is even greater.

If the price rises to the Btu equivalent of new oil, which the Chairman of the FPC said it could, then annual revenues to the oil producers from wellhead gas will go up from $5.5 billion a year to $44 billion a year, or a $38.5 billion or a 700-percent rise.

The value of the present reserves, based on the oil and gas companies low estimate of only 11 years, would go up from $60.5 billion to $484 billion dollars, or a $420 billion increase.

A PHONEY SHORTAGE

One of the arguments the oil and gas producers use in favor of this bill is that without it there will be a shortage of gas this winter. They tell us not to complain if the gas supplies are cut off.

But why would there not be a shortage? If you were a gas producer and if the President of the United States kept telling you he was for deregulation, and if you knew that deregulation would increase the value of your gas from 300 to 700 percent overnight, you obviously would not be rushing to put your gas on the market.

That is why we have a shortage. And when we finally convince the oil and gas producers that they are not going to get their bonanza and that we intend to defeat the Buckley amendment, then gas supplies will begin to flow.

BIG INCREASES IN GAS PRICES ALREADY

There is no justification at all for increasing the price of gas to $1 or $2 per thousand cubic feet. Chairman Nassikas testified to the Joint Economic Committee that the price of gas has gone up from 15 to 17 per thousand cubic feet in 1969 to an average price of 27 cents today, or an 80-percent increase, in those 5 years.

Furthermore, the price of new gas on December 4 was raised to 50 cents, or an increase of three times or 200 percent in the last 5 years.

In addition, the Commission has been extremely generous with the gas producers, allowing them a 15-percent return, which is an extremely good return when one realizes that this is in addition to all the tax benefits, the depletion allowance, the special drilling and development cost deductions, and the dry

hole writeoffs the oil and gas companies routinely get.

When the gas producers learn that they are not going to get any more bonanzas, when the Government insists that they produce and deliver the gas now found on Government leases, and when the Government of the United States starts treating the oil and gas industry like everyone else instead of treating it like a spoiled child and with kid gloves, we will get an abundance of gas and oil production in this country. And the companies will get a fair return based on appropriate prices.

MONOPOLY PRICE

One of the most ironic arguments we have heard from the gas producers and their allies is that the price of gas should rise to the price of oil.

We all know that the present price of oil is a monopoly price. It is not a price determined by costs plus a fair profit. It is an arbitrary, monopoly price set by the OPEC cartel.

Now the gas industry tells us that since the price of oil is a monopoly price, we must raise the price of gas to that artificial monopoly price in the name of competition.

If there were true competition in this industry what we would see is the price of oil falling to the price of gas, instead of the other way around.

In fact what we should expect is that the price of oil would fall to the Btu equivalent price of gas if there was genuine competition in this industry.

CALCULATIONS OF BONANZA

Mr. President, I ask unanimous consent that a table setting forth the calculations of the proposed bonanzas which would come about if natural gas is deregulated be printed at this point in the RECORD.

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

NICREASE IN REVENUES AND RESERVES TO THE OIL AND GAS COMPANIES IF NATURAL GAS IS DEREGULATED

Basis of pricing	Price per M ft³	Production (b/M ft)³	Billions: Annual total/ well-head revenue	Billions: Value of reserves (based on 11-year estimate
1974 average well head price	$0.25	22	$5.5	$60.5
Fuel equivalent value of old oil	1.00	22	22.0	242.0
Fuel equivalent value of new oil	2.00	24	44.0	484.0

DEFEAT GRAVEL AMENDMENT

Mr. PROXMIRE. Unless we defeat the Gravel bill, there is no protection for the consumer of gas in the United States.

The average homeowner has spent several thousand dollars for his gas heating plant, his gas stove, and his gas water heater and other gas appliances. Once those are in place he is stuck with them. He has no alternative choice of fuels.

Furthermore, this industry is by nature a monopoly. There is a pipe which runs from the consumers house to the local utility, which is a regulated monopoly. The local utility gets its gas from a regulated pipeline, which is a natural monopoy. There is no justification for running two or five or ten pipelines built at very high costs from the same point to another identical geographical point. Then the pipeline has its gathering lines which go to the wellhead.

The Senator from Michigan (Mr. HART) has shown that the vast proportion of gas in this country is owned or leased or developed by a very few companies, often operating in joint leasing and joint ventures. These same companies own the pipelines. They therefore have no incentive whatsoever to compete which would drive down the price of gas. Since the FPC must pass on to the consumer the legitimate costs of a regulated pipeline, the pipeline has no incentive to bargain to keep the price of gas down.

And this is even more true when the companies which own the pipelines also own the gas wells. Their incentive is to pay themselves the highest possible price for their own gas. And without regulation that is exactly what they would do because that price would be passed on to the consumer who is locked in and has no real alternative.

That is why we have regulation and that is why regulation must continue at least until such time as there is an entirely new relationship and real competition in this industry.

When the day comes that an army of small producers own the gas wells instead of a handful of big producers who own and control most of them; when the pipelines are owned by nonproducing interests and when there are alternative methods of distribution in abundance so the utility and homeowner is not dependent on a single monopoly source; and when the special tax privileges of the gas and oil companies have been changed so they truly compete with other industries; then and only then can we seriously talk about deregulation.

But that day is not at hand. The oil and gas producers are more powerful today than they have ever been. The new monopoly oil prices have not increased refining and production, but production has actually been reduced.

In these circumstances it is folly and against the public interest even to consider deregulation of natural gas.

Mr. PHILIP A. HART. Mr. President, once again—under severe pressure from the industry—Congress is being asked to agree to the deregulation of natural gas and crude oil prices.

And the pot is being sweetened by a so-called excess profits tax, which I do not think will produce much in the way of taxes or in new production.

In effect, the gun is at our head as we deliberate. For bombarding us from all sides are stories of curtailments which supposedly "will close factories and chill homes" by next winter.

The picture being painted is that the wells are dry and there is not another cubic foot of gas available.

This, of course, ignores the fact that we have natural gas reserves sufficient to last us for 65 years at current usage. It also overlooks the fact that 10 times the gas needed to make up this winter shortage was dedicated to pipelines—ready to flow—but just was not pumped.

What we have is not a "shortage" of natural gas but a refusal by the industry to produce at today's prices.

What is being turned down by the industry is a price which covers all their costs—including dry holes—and allows a 15-percent return on investment.

This price—set a few months ago by the Federal Power Commission at 50 cents per thousand cubic feet—it not enough we are told by the industry. They want an "incentive" price. And, in their book that means one that is equal to the Btu cost of other fuels. The most popular other fuel cited is crude oil—whose price today is determined by an international cartel.

And when you figure out the Btu equivalent of natural gas versus crude oil you arrive at a price for natural gas of about $2 per thousand cubic feet.

That is some request when we consider that each penny of increase in the price per thousand cubic feet costs consumers $230 million.

Mr. President, I am most sympathetic with those who plan to agree to the amendment proposed by Senator GRAVEL which would tie natural gas deregulation to an excess profit tax. The problem in our factories and homes is very real. There is not enough natural gas flowing to supply the demand. And the inclination of any responsible representative is to do something. Based on everything we have been taught to believe over the years, it seems to follow that making profits more attractive will cause more product to be produced.

However, I firmly believe that that theory ignores the real world of this industry.

The theory that price brings forth sufficient product is one which applies in a competitive market. This is not a competitive market.

There are three criteria frequently cited as measures of whether a market is competitive. They are: A large number of buyers and sellers, an absence of significant barriers to entry, and independence of action of buyers and sellers.

Over the last 2 years, the Senate Antitrust and Monopoly Subcommittee has gathered much documentation that these conditions do not exist in the natural gas industry.

Let us examine some of that evidence:

NUMBER OF BUYERS AND SELLERS

Proponents of deregulation will tell you that there are some 3,600 producers of natural gas. That is true. But share of the market—particularly the share of the market in uncommitted reserves—is the meaningful measure. For when an interstate pipeline goes shopping for natural gas it must shop among those companies who have product available in the beginning end of their pipeline.

As table 1 indicates, as of June 30, 1972, in the major producing areas of the Nation, eight companies controlled from 83 to 100 percent of all uncommitted reserves in each area.

That, I submit, is the real world.

BARRIERS TO ENTRY

Apparently, they do exist, for the companies on top today were the same companies on top many years ago. The top 10 producers of natural gas in 1971 were Exxon, Shell, Amoco, Gulf, Phillips, Mobil, Texaco, Union, Atlantic Richfield, and Continental Oil. They, along with two other companies, held the top four slots in terms of concentration in each of the six major producing areas in the United States. The eight largest were the same in 1972 and in 1971. With one exception, they were the same in 1971 and 1972 as 15 years earlier. The exception was absorbed by a major.

Those who argue that there has been new entrants like to cite a report by the Senate Interior and Insular Affairs Committee. The report cited as new entrants: TransOcean Oil, Inc., founded in 1968 and four others—Exchange Oil and Gas Corp., Imperial American Management, King Resources Co., and Rodman Corp.—which entered the industry since 1966.

Dr. John Wilson, a witness before the Antitrust Subcommittee, analyzed for us just what kind of "new" competition this was.

He concluded:

a. TransOcean is a subsidiary of Swift & Co. It is quite deceptive to say that this firm is a "new seller founded in 1968." In truth, J. Ray McDermott & Co., Inc., which was founded in the 1940's, set up TransOcean Oil as a subsidiary in June of 1968. This "new" corporation merely took over McDermott's oil and gas operations before Swift acquired control through a stock purchase in April, 1970.

b. To argue that Exchange Oil and Gas Corporation is "new" is also misleading. Exchange is new only in the sense that it recently adopted that corporate name as opposed to Exchange Oil and Gas Co., under which it did business in the 1950's.

c. As for Imperial-American Management Co., rather than being a producer in the usual sense, it was primarily a management firm which entered into operational contracts to produce oil and gas for other producers. Moreover, according to a letter dated July 14, 1972, on file with the FPC, the Company experienced "numerous problems" after June, 1970, and In February, 1972, Imperial-American Resources Fund, Inc. was placed in a Chapter X bankruptcy proceeding in Denver, Colorado.

d. King Resources is also a bankruptcy case. An involuntary petition under Chapter X was filed against the company in August, 1971. Moreover, the company was not really new either. It was the corporate successor to King-Stevenson Corp., which sold gas in interstate commerce in the 1950's, and the King-Stevenson Gas and Oil Co.

e. Finally, the Rodman Corporation is primarily a gas processing firm. It buys gas from producers such as Continental Oil and Diamond Shamrock, extracts natural gas liquids at its two processing plants in Oklahoma, and then sells the residue to Cities Service. While Rodman Corp. and its president, E. G. Rodman, do own various working interests in Oil and Gas leases, Rodman has been selling his gas in interstate commerce since the 1940's.

In short, those examples fall short of documenting ease of entry into this industry.

INDEPENDENCE OF ACTION BY BUYERS AND SELLERS

The most striking thing about this industry is how often the buyers and the sellers are the same corporations, wearing different hats—or different corporate names.

Here table 2 is particularly significant. Running down it, you will see that many of the major pipelines in the country are joint ventures of oil companies, that is, natural gas producers. Added to that have to be the joint producing ventures where non-oil-company pipelines are also participants.

The relationships become even more intriguing when you look at the buyers in the intrastate market. This is the market today cited as the one paying the "competitive prices" for natural gas. The prices are called competitive because they are not regulated by the FPC.

But when you look at the buyers in this market, it certainly is questionable as to whether the negotiations are conducted at arm's length.

In the fall of 1972, the FPC collected data on large intrastate gas commitments over the most recent 12 months from each of the 75 largest intrastate suppliers. Dr. Wilson took that information and proceeded to identify the buyers as to who owned them.

His comments and a table he prepared show that in case after case the "buyer" paying the high "competitive" price was a subsidiary of a major oil company.

Mr. President, I ask unanimous consent that the appropriate excerpt from Dr. Wilson's testimony and his table be inserted at this point in the RECORD.

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

For example, there were 14 large intrastate buyers identified in the Permian Base. They are as follows:

1. Pecos Growers Oil Company—This buyer is a subsidiary of Texas Oil and Gas Corp., which is also the parent of Pecos Growers Gas Co., Delhi Gas Pipeline Corp., Nueces Co., and the Tonkawa Gas Processing Co. Four of these corporations are major interstate sellers. In 1971 Pecos Oil sold 5.6 billion cubic feet to interstate pipelines, Pecos Gas sold 18.6 billion cubic feet, Delhi sold 8.5 billion cubic feet, and their mutual parent, Texas Oil and Gas, sold 14.2 billion cubic feet of gas in interstate commerce.

2. Pecos Growers Gas Company—See Pecos Growers Oil Company.

3. Intratax Gas Company—This company is a subsidiary of Houston Natural Gas which is also the parent of Houston Pipeline Co. and HNG Oil Corp. Houston Natural Gas also is a co-owner of Oasis Pipeline Co. along with its partners, Dow Chemical and Tengasco, a subsidiary of Tenneco, Inc. Houston Natural sold 9.1 billion cubic feet of gas to interstate pipelines in 1971, and through its subsidiaries controls substantial production acreage.

4. Llano, Inc.—No information available.

5. Lo Vaca Gathering Company—Lo Vaca is a subsidiary of Coastal States Producing Co., one of the largest intrastate producers. In 1971 Coastal States sold 34.1 billion cubic feet of gas to interstate pipelines and Lo Vaca sold 64.7 billion cubic feet in interstate commerce. Another Coastal States subsidiary, the Nueces Industrial Gas Co., had 1971 interstate sales of 45.2 billion cubic feet.

6. Texas Utilities Fuel Co.—This company is a subsidiary of Texas Utilities Co., which is also the parent of Bi-Stone Fuel Co. It also owns, with Lo Vaca (a Coastal States subsidiary), an intrastate pipeline system reaching from the Permian Basin to Dallas.

7. Delhi Gas Pipeline Corp.—See Pecos Growers Oil Co.

8. BTA Oil Producers—This company is an independent gas producer. In 1971, BTA sold 2.1 billion cubic feet of gas in interstate commerce.

9. Lone Star Gas Company—Lone Star's subsidiary. Lone Star Producing Co., sold 70.8 billion cubic feet of gas in interstate commerce in 1971.

10. Pioneer Natural Gas Co.—Pioneer is the parent of Pioneer Production Co. which sells gas in interstate commerce to Michigan Wisconsin Pipe Line Co., Natural Gas Pipeline Co. of America, Northern Natural, Panhandle Eastern, and Transwestern.

11. Amoco Gas Co.—Amoco is a subsidiary of Standard Oil of Indiana. Together with Midwest, another Indiana Standard subsidiary, Amoco ranks second behind Exxon in natural gas sales to interstate pipelines.

12. The Dow Chemical Co.—Dow is an independent natural gas producer.

13. Houston Pipeline Co.—See Intratex Gas Co.

14. Pennzoil Pipeline Co.—Pennzoil Pipeline is a subsidiary of United Gas Pipeline, which is a subsidiary of Pennzoil United, Inc. Pennzoil United Inc. is also the parent of Pennzoil Producing Co., Pennzoil Petroleum, Ltd., Pennzoil Offshore Gas Operators, Inc., and Pennzoil Louisiana and Texas Offshore, Inc. Pennzoil United and its affiliates were the largest buyer of Offshore Louisiana leases in the December 1972 Federal offshore lease sale, and in June 1973 they had high bids totaling over $800 million in the Texas Offshore lease sale (out of a $1.6 billion total of high bids). Pennzoil is therefore one of the largest potential offshore gas producers. Their 1971 interstate sales totaled nearly 250 million cubic feet.

These then are the *buyers* who are bidding up the intrastate price in the Permian Basin. Surely one can be forgiven for suspecting that when Pennzoil, Amoco, Coastal States, *et al.*, acting as intrastate buyers, bid up the price of gas, there may be some potential for certain fairly obvious ulterior motives. A complete list of all the major intrastate buyers in major producing areas who were identified by the FPC in the 1972 intrastate price survey is presented in Table 18. It would be quite incredible, in view of this information, to permit these parties to go on establishing so-called intrastate "market prices" which they and their own corporate affiliates subsequently press upon the interstate market. Surely this gaping regulatory loophole must be closed if regulation is to work. The exemption presently undermines the Federal goverment's ability to regulate interstate commerce.

TABLE 18.—INTRASTATE BUYERS IDENTIFIED IN THE 1972 FPC SURVEY OF INTRASTATE NATURAL GAS PRICES

[Docket R389A]

Area and intrastate buyer	Also a gas producer? [1]	Interstate pipelines served in 1971 [1]
PERMIAN BASIN		
1. Pecos Growers Oil Co	Yes	Lone Star Gas Co., Natural Gas Pipeline Co., El Paso Natural Gas Co., Arkansas Louisiana Gas Co., Cities Service Gas Co., Colorado Interstate, Florida Gas Trans. Co., Michigan Wisconsin Pipeline Co., Northern Natural Gas Co., South Texas Natural Gas Gathering Co., Tennessee Gas Pipeline, Texas Eastern Trans. Corp., Trunkline Gas Co., Transcontinental Gas P.L., United Gas Pipeline Co.
2. Pecos Growers Gas Co	Yes	See Pecos Growers Oil Co above.
3. Delhi Gas Pipeline Corp	Yes	Do.
4. Intratex Gas Co	Yes	Consolidated Gas Supply Corp., Natural Gas P.L. Co., South Texas Nat. Gas Gath., Texas Eastern Trans. Corp., Texas Gas Pipe Line, Transcontinental Gas Pipeline Corp., Valley Gas Trans. Inc.
5. Houston Pipeline Co	Yes	See Intratex Gas Co. above.
6. Dow Chemical Co	Yes	None in 1971.
7. Lo-Vaca Gathering Co	Yes	Cities Service Gas, Columbia Gas Trans., Consolidated Gas Sup., Lone Star Gas Co., Natural Gas P.L., Co., South Texas Natural Gas Gathering Co., Tennessee Gas Pipeline, Texas Eastern Trans., Transcontinental Gas Pipeline Corp., Trunkline Gas Co., Arkansas Louisiana Gas, El Paso Natural Gas Co., Northern Natural Gas Co., Colorado Interstate Gas, Florida Gas Trans. Co.
8. Texas Utilities Fuel Co	Yes	None in 1971.
9. BTA Oil Producers	Yes	El Paso Natural Gas Co.
10. Lone Star Gas Co	Yes	Arkansas Louisiana Gas, Lone Star Gas Co., Natural Gas P.L. Co., Panhandle Eastern P.L., Texas Eastern Trans., Transcontinental Gas Pipeline Corp., United Gas P.L. Co.
11. Pioneer Natural Gas Co	Yes	Michigan Wisconsin P.L., Natural Gas, P.L. Co., Northern Natural Gas Co., Panhandle Eastern P.L.
12. Pennzoil Pipeline Co	Yes	United Gas Pipeline Co., Arkansas Louisiana Gas Michigan Wisconsin P.L., Natural Gas P.L. Co., Sea Robin P.L. Co., South Texas Natural Gas Gathering Co., Southern Natural Gas Co., Tennessee Gas Pipeline, Texas Eastern Trans., Texas Gas Trans. Corp., Transcontinental Gas Pipeline Corp., Trunkline Gas Co., United Gas Pipeline Co., Columbia Gas Trans., Consolidated Gas Sup., Transwestern P.L. Co.
13. Amoco Gas Co	Yes	Arkansas Louisiana Gas Co., Cimarron Trans. Co., Cities Service Gas Co., Colorado Interstate Gas, Columbia Gas Trans., El Paso Natural Gas Co., Florida Gas Trans. Co., Lone Star Gas Co., Michigan Wis. P.L. Co., Miss. River Trans. Corp., Montana Dakota Utility Co., Mountain Fuel Sup. Co., Natural Gas P.L. Co., Northern Natural Gas Co., Northern Utilities Co., Panhandle Eastern P. L., Sea Robin P.L. Co., Southern Nat. Gas Co. Tennessee Gas Pipeline, Texas Eastern Trans. Corp., Texas Gas P. L. Corp., Texas Gas Trans. Corp., Transcontinental Gas P.L., Transwestern P. L. Co., Trunkline Gas Co., United Gas P.L. Co., Valley Gas Trans., Inc.
4. Llano, Inc	No	N/A.
TEXAS GULF COAST		
1. Amoca Gas Co	Yes	See Amoco Gas—Permian Basin.
2. Atlantic Richfield Co	Yes	Arkansas Louisiana Gas Co., Cimarron Trans. Co., Cities Service Gas Co., Colorado Interstate Gas Co., Columbia Gas Trans. Corp., El Paso Natural Gas Co., Florida Gas Trans. Co., Kansas Nebraska Natural Gas Co., Lone Star Gas Co., Michigan Wisconsin Pipeline, Montana Dakota Utility Co., Mountain Fuel Supply Co., Natural Gas P. L. Co., Northern Natural Gas Co., Northern Utilities Co., Panhandle Eastern P. L. South Texas Natural Gas Gathering Co., Southern Natural Gas Co., Tennessee Gas Pipeline, Texas Eastern Trans. Corp., Texas Gas Trans. Corp., Transcontinental Gas P. L. Co., Transwestern P. L. Co., Trunkline Gas Co., United Gas P. L. Co., West Texas Gath. Co.,
3. Channel Industries Gas Co	Yes	Arkansas Louisiana Gas Co., Cimarron Trans. Co., Cities Service Gas Co., Columbia Gas Trans. Corp., El Paso Natural Gas Co., Florida Gas Trans. Co., Michigan Wisconsin P. L. Co., Mississippi River Trans. Corp., Montana Dakota Utility Co., Mountain Fuel Supply Co. Natural Gas P. L. Co., Northern Natural Gas Co., Oklahoma Natural Gas Gathering Corp., Panhandle Eastern P. L. Co., South Texas Natural Gas Gathering Co., Southern Natural Gas Co., Tennessee Gas Pipeline, Texas Eastern Trans. Corp., Texas Gas Trans. Corp., Transcontinental Gas P. L., Trunkline Gas Co., United Gas Pipeline Co., Western Trans. Corp., Kansas Nebraska Nat. Gas Co.
4. Coastal States Producing Co	Yes	See Lo-Vaca Gathering Co.—Permian Basin.
5. Texas Gas Utilities Co	Yes	Do.
6. Texas Southeastern Gas Co	Yes	Do.
7. Lo-Vaca Gathering Co	Yes	Do.
8. Continental Oil Co	Yes	Arkansas Louisiana Gas Co., Cascade Natural Gas Corp., Cities Service Gas Co., Colorado Interstate Gas Co., El Paso Natural Gas Co., Florida Gas Trans. Co., Kansas Nebraska Natural Gas Co., Lone Star Gas Co., Michigan Wisconsin P. L. Co., Montana Dakota Utility Co., Mountain Fuel Supply Co., Natural Gas P. L. Co., Northern Natural Gas Co., Northern Utilities Co., Panhandle Eastern P. L. Co., South Texas Natural Gas Gathering Co., Southern Natural Gas Co., Tennessee Gas Pipeline, Texas Eastern Trans. Corp., Texas Gas Trans. Corp., Transcontinental Gas P. L., Transwestern P. L. Co., Trunkline Gas Co., United Gas P. L. Co., West Texas Gathering Co.
9. Delhi Gas Pipeline Corp	Yes	See Delhi Gas Pipeline Corp.—Permian Basin.
10. Dow Chemical Co	Yes	None in 1971.
11. Houston Pipeline Co	Yes	See Intratex Gas Co.—Permian Basin.
12. Lone Star Gas Co	Yes	See Lone Star Gas Co.—Permian Basin.
13. Pennzoil Pipeline Co	Yes	See Pennzoil Pipeline Co.—Permian Basin.
14. Phillips Petroleum Co	Yes	Arkansas Louisiana Gas Co., Cities Service Gas Co., Columbia Gas Trans. Corp., Delta Gas, Inc., El Paso Natural Gas Co., Florida Gas Trans. Co. The Jupiter Corp., Lone Star Gas Co., Louisiana Nevada Transit, Michigan Wisconsin P. L. Co., Mississippi River Trans. Corp., Natural Gas P. L. Co., Northern Natural Gas Co., Panhandle Eastern P. L. Co., Southern Natural Gas Co., Tennessee Gas Pipeline, Texas Eastern Trans. Corp., Texas Gas Trans. Corp., Transcontinental Gas P. L. Corp., Transwestern Pipeline Co., Trunkline Gas Co., United Gas Pipeline Co., Valley Gas Trans., Inc., Western Gas Interstate Co.
15. American Smelting & Refining Co	No	N/A.
16. Goodyear Tire & Rubber Co	No	N/A.
17. Houston Chemical Co	No	N/A.
18. Olin Corp	No	N/A.
SOUTH LOUISIANA		
1. Continental Oil Co	Yes	See Continental Oil Co.—Texas Gulf Coast.
2. Allied Chemical Corp	Yes	El Paso Natural Gas Co., Lone Star Gas Co., Natural Gas Pipeline Co., Northern Natural Gas Co., Oklahoma Natural Gas Gathering Corp., Panhandle Eastern P. L. Co., Southern Natural Gas Co., Texas Eastern Trans. Corp., Texas Gas Pipeline Corp., Texas Gas Trans. Corp., Transcontinental Gas P. L. Corp., Transwestern Pipeline Co., United Gas Pipeline Co.
3. Monterey Pipeline Co	Yes	Arkansas Louisiana Gas Co., Colorado Interstate Gas Co., Columbia Gas Trans. Corp., El Paso Natural Gas Co., Florida Gas Trans. Co., Kansas-Nebraska Natural Gas Co., Lone Star Gas Co., Louisiana Nevada Transit, Michigan Wisconsin P. L. Co., Montana Dakota Utilities Co., Mountain Fuel Supply Co., Natural Gas P. L. Co., Northern Natural Gas Co., Panhandle Eastern P. L. Co., Plaquemines Oil & Gas Co., Southern Natural Gas Co., Tennessee Gas Pipeline, Texas Eastern Trans. Corp., Texas Gas Trans. Corp., Transcontinental Gas P. L. Corp., Transwestern P. L. Co., Trunkline Gas Co., United Gas P. L. Co., West Texas Gathering Co., Western Gas Interstate Co.
4. Louisiana Intrastate Gas Corp	No	N/A.
OTHER SOUTHWEST		
1. Arkansas Western Gas Co	Yes	None in 1971.
2. Arkansas Louisiana Gas Co	Yes	Arkansas Louisiana Gas Co., Arkansas Okla. Gas Corp., Mississippi River Trans. Corp., Texas Gas Trans. Corp.
3. Western Gas Corp	Yes	Kansas-Nebraska Natural Gas Co., Cities Service Gas Co., Texas Eastern Trans. Corp.
4. Delhi Gas Pipeline Corp	Yes	See Delhi Gas Pipeline Corp.—Permian Basin.
5. Bi Stone Fuel Co	Yes	None in 1971.
6. Lone Star Gas Co	Yes	See Lone Star Gas Co.—Permian Basin.
7. Oklahoma Natural Gas Co	Yes	Arkansas Louisiana Gas Co., Cities Service Gas Co., Michigan Wisconsin P. L. Co., Natural Gas P. L. Co., Northern Natural Gas Co., Oklahoma Natural Gas Gathering Corp., Panhandle Eastern P. L. Co., Transwestern Pipeline Co.
8. Oklahoma Natural Gas Storage Co	Yes	See Oklahoma Natural Gas Co. above.
9. Pioneer Natural Gas Co	Yes	Michigan Wisconsin P.L. Co., Natural Gas P.L. Co., Northern Natural Gas Co., Panhandle Eastern P.L. Co., Transwestern Pipeline Co.
10. Kansas-Nebraska Natural Gas Co., Inc	Yes	See Western Gas Corp.—Other southwest.
11. Anadarko Prod. Co	Yes	Arkansas Louisiana Gas Co., Cities Service Gas Co., Colorado Interstate Gas Co., Kansas-Nebraska Natural Gas Co., Lone Star Gas Co., Michigan Wisconsin P.L. Co., Natural Gas P.L. Co., Northern Natural Gas Co., Panhandle Eastern P.L. Co., Texas Gas Transmission Corp., United Gas Pipeline Co., Panhandle Producing Co., Colorado Interstate Gas Co.
12. Phillips Petroleum Co	Yes	See Phillips Petroleum Co.—Texas Gulf Coast.
13. Southwestern Gas P.L	No	N/A.
14. The LBA Co., Inc	No	N/A.
15. Coastal Chemical Corp	No	N/A.
16. Oklahoma Gas & Electric Co	No	N/A.
17. Transok Pipeline Co	No	N/A.
18. Reynolds Metals Co	No	N/A.
19. Mississippi Chemical Corp	No	N/A.
20. Mississippi Power & Light Co	No	N/A.

Area and intrastate buyer	Also a gas producer? [1]	Interstate pipelines served in 1971 [1]
ROCKY MOUNTAIN		
1. Amoco Gas Co.	Yes	See Amoco Gas Co.—Permian Basin.
2. Colorado Interstate Gas Co.	Yes	See Lo-Vaca Gathering Co.—Permian Basin.
3. Koch Industries, Inc.	Yes	Arkansas Louisiana Gas Co., El Paso Natural Gas Co.
4. Koch Oil Co.	Yes	See Koch Industries above.
5. McCulloch Gas Processing Corp.	Yes	McCullouch Interstate Gas Corp., Montana Dakota Utilities Co.
6. Mountain Fuel Supply Co.	Yes	None in 1971.
7. Southern Union Gas Co.	Yes	El Paso Natural Gas Co.
8. Cody Gas Co.	No	N/A.
9. Texas Gas Corp.	No	N/A.
10. Thomas G. Vessels	No	N/A.

[1] Either the company named or an affiliate.

Mr. PHILIP A. HART. A difficulty in understanding the lack of competition in this industry is that it is usually documented with percentages, tables, and charts.

Let me flesh out those bones a little with an example from the real world of what such intermingling produces.

Let us look at the request before the Federal Power Commission last fall for 45 cents per thousand cubic feet for gas which would be paid the producer, Sun Oil Co., by Truckline, a pipeline company.

According to the staff brief filed in the proceeding, there had been an agreement signed in 1971 between the two companies that when gas was to be produced it would be priced by a formula which would allow Sun Oil Co. the higher of three possible rates. The possibles were the highest area rate prescribed by the Federal Power Commission, or the highest unconditional rate any Federal agency is approving for offshore Louisiana or 30 cents per thousand cubic feet.

When it was time to sign the production contract, the highest rate of the three possibles would have been 30 cents. Yet, the buyer—Truckline—did not insist on getting the gas at 30 cents but joined Sun Oil Co. in requesting 45 cents.

Very strange—until you learn that a partner with Sun in the production venture was Anadarko Production Co., a subsidiary of Panhandle Eastern. Panhandle Eastern also happens to be the owner of Truckline.

That is the real world—and that is why we cannot trust this market to deliver to consumers sufficient natural gas at reasonable prices.

Mr. President, the question of the competitiveness of this industry has time and time again been before the Supreme Court. Each time the court has ruled that this is not a competitive industry. In light of that, to pass the amendment without restructuring the industry, I think, will guarantee us that we will get higher prices indeed but will not get sufficient quantities of natural gas.

This bill also proposes removal of price controls on domestic crude oil. The effect of this again will be to make domestic crude prices rise to the level set by the OPEC cartel. It is difficult to justify this measure on any theory. A price increase on such a basic necessity will have a disproportionate effect on poor and lower income peoples. The resulting increase in heating fuel prices in particular could be ruinous. But worse, it is difficult to foresee any offsetting benefits. It is inconceivable that such price increases could elicit any additional supply. First of all, the present price incentive for producing an additional new barrel of oil is more than $17. This is a result of the fact that the present price regulations permit a producer to realize not only the $11.50 for the barrel of new oil, but it also permits the release from price controls of a barrel of old oil. This permits him to realize an additional $6. Moreover, there is a physical limit as to how fast domestic production can expand in response to any price increase. It is perfectly obvious to anyone who has followed the problems related to the supply of drill pipe and drilling rigs that we are already at the outer edge of our shortrun producing capacity.

Senator GRAVEL's proposal would deregulate oil and gas prices—but with an excess profits tax. Simply removing the oil ceiling price and permitting old oil prices to rise by $6 or $7 a barrel would cost consumers something over $12 billion. Gas deregulation would cost consumers an additional $9.2 billion to $11.2 billion the first year. I doubt if the Treasury would recover anything like this in increased tax revenues. But even if the full amount of the increase went to the Treasury, I would oppose it. What we need to worry about right now are the prices paid by consumers, rather than whether or not the benefit of higher prices goes to the industry or whether some part of it goes to the Treasury.

Beyond this, I have some problems with excess profit taxation directed at any particular industry. Maybe a great many industries have run high profits. Aluminum prices have risen sharply, and Alcoa's profits last year went up 66 percent over 1973. Steel prices have been among the most rapidly rising in the economy. United States Steel's 1974 profits were 95 percent higher than in 1973. Chemical prices have gone up, and the rate of return in the chemical industry exceeds that of the petroleum industry. Should we also put excess profits taxation on aluminum, steel, and chemicals?

Now, would Senator GRAVEL's amendment take very much from the oil industry? I do not know. A 15 percent rate of return on total investment—not just stockholders' equity—is not ungenerous. It may be even higher than the industry's present rate of return on investment. Granted price increases could raise this further. But, I am sure that any excess profits taxes would be more than offset by present levels of qualified investment, as provided in the Senator's amendment.

Mr. President, for these reasons I oppose the amendment.

Mr. President, I ask unanimous consent that the tables referred to in my statement be inserted at appropriate places in the RECORD.

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

TABLE 1.—CONCENTRATION OF THE AVAILABLE NEW GAS SUPPLIES AS OF DEC. 31, 1971 AND JUNE 30, 1972 [1]

[Percentage of reported uncommitted reserves controlled by 4 and 8 largest producers] [2]

Producing area	Dec. 31, 1971		June 30, 1972	
	4 largest	8 largest	4 largest	8 largest
Permian Basin	63.6	86.5	80.6	94.2
Hugoton Anadarko	76.6	94.5	62.6	83.3
Other Southwest	93.3	98.6	94.4	99.3
South Louisiana: [3]				
Onshore	96.9	99.6	92.3	98.4
Offshore (Federal)	57.0	83.3	49.6	74.9
Offshore (State)	84.5	100.0	94.9	100.0
Texas gulf coast: [4]				
Onshore	89.4	96.7	84.4	92.4
Offshore (Federal)	98.5	100.0	100.0	100.0
Offshore (State)	100.0	100.0	100.0	100.0
Rocky Mountain	63.4	82.9	70.4	86.0
Appalachian	99.6	100.0	100.0	100.0
Unclassified:				
Michigan	100.0	100.0		
California	95.4	100.0	94.3	100.0
Miscellaneous	87.7	99.9	98.0	100.0
Alaska [5]	93.9	99.9	93.9	99.9

[1] Concentration ratios are based on individual company reserve reports. To the extent that 2 or more companies report pro rata ownership shares of jointly held leases for which there is a single operation, the concentration ratios tend to underestimate the actual degree of seller concentration.

[2] Reports were obtained from 79 large producers. These producers provide mos of the gas sold to interstate pipelines (e.g., in 1971 the top 22 supplied over 70 percent of all interstate gas). Nevertheless, to the extent that nonreporting small producers may have had significant volumes, the ratios reported here tend to slightly overstate actual market concentration.

[3] Combined concentration ratios for the south Louisiana area are not available Onshore represents 44 percent of the total, offshore (Federal) 53 percent, and offshore (State) 3 percent.

[4] Combined concentration ratios for the Texas gulf coast area are not available. Onshore represents 47 percent of the total offshore (Federal) 51 percent, and offshore (State) 2 percent.

[5] Does not include 26,000,000,000 ft [3] in North Slope reserves reported in the aggregate for all companies by 1 producer.

TABLE 2—JOINT VENTURES IN THE OIL PIPELINE INDUSTRY

	Percent held by each
Pipeline company and coowners:	
Badger Pipeline Co. (assets=$OE2,400,000):	
Atlantic-Richfield	34
Cities Service	32
Texaco	22
Union Oil	12
Dixie Pipeline Co. (assets=$46,400,000):	
Amoco	12.1
Atlantic-Richfield	7.4
Cities Service	5.0
Continental	4.1
Exxon	11.1
Mobil	5.0
Phillips	14.5
Shell	5.5
Texaco	5.0

TABLE 2—JOINT VENTURES IN THE OIL PIPELINE INDUSTRY—Continued

	Percent held by each
Dixie Pipeline Co.—Continued	
Gulf	18.2
Transco	3.6
Allied Chemical	8.6
Laurel Pipeline Co. (assets=$35,900,000):	
Gulf	19.1
Texaco	33.9
Sohio	17.0
Colonial Pipeline Co. (assets=$480,200,000):	
Amoco	14.3
Atlantic-Richfield	1.6
Cities Service	14.0
Continental	7.5
Phillips	7.1
Texaco	14.3
Gulf	16.8
Sohio	9.0
Mobil	11.5
Union Oil	4.0
Plantation Pipeline Co. (assets=$176,100,000):	
Exxon	48.8
Shell	24.0
Refiners Oil Corp	27.1
Four Corners Pipeline Co. (assets=$20,900,000):	
Shell	25
Chevron	25
Gulf	20
Continental	10
Atlantic-Richfield	10
Superior	10
Olympic Pipeline Co. (assets=$30,700,000):	
Shell	43.5
Mobil	29.5
Texaco	27.0
Wolverine Pipeline Co. (assets=$21,800,000):	
Union Oil	26
Mobil	21
Texaco	17
Clark	11
Marathon	10
Cities Service	8
Shell	7
Platte Pipeline Co. (assets=$33,000,000):	
Continental	20
Marathon	25
Union Oil	15
Atlantic-Richfield	25
Gulf	15
West-Shore Pipeline Co. (assets=$17,600,000):	
Shell	20
Amoco	16.5
Mobil	14
Texaco	9
Marathon	9
Clark	8
Cities Service	8
Continental	6.5
Union Oil	5.5
Exxon	3.5
Wyco Pipeline Co. (assets=$14,100,000):	
Amoco	40
Texaco	40
Mobil	20
Yellowstone Pipeline Co. (assets=$16,000,000):	
Continental	40
Exxon	40
Husky	6
Union Oil	14
West Texas Gulf Pipeline Co. (assets=$19,800,000):	
Gulf	57.7
Cities Service	11.4
Sun	12.6
Union Oil	9.0
Sohio	9.2
Chicago Pipeline Co. (assets=$25,600,000):	
Union Oil	43.4
Clark	33.2
Amoco	23.4
Cook Inlet Pipeline Co.:	
Atlantic-Richfield	20
Marathon	30
Union Oil	30
Mobil	20
Texas-New Mexico Pipeline Co. (assets=$30,500,000):	
Texaco	45
Atlantic-Richfield	35
Cities Service	10
Getty	10

The PRESIDING OFFICER. The question is on the motion to table.

Mr. JACKSON, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. HRUSKA), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from Texas (Mr. TOWER).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 66, nays 25, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—66

Abourezk	Hart, Gary W.	Morgan
Allen	Hart, Philip A.	Moss
Bayh	Hartke	Muskie
Beall	Haskell	Nelson
Biden	Hatfield	Nunn
Brooke	Hathaway	Pastore
Bumpers	Hollings	Pearson
Burdick	Huddleston	Pell
Byrd, Robert C.	Humphrey	Percy
Cannon	Inouye	Proxmire
Case	Jackson	Randolph
Chiles	Javits	Ribicoff
Church	Kennedy	Roth
Clark	Leahy	Schweiker
Cranston	Magnuson	Scott, Hugh
Culver	Mansfield	Stafford
Domenici	Mathias	Stevenson
Eagleton	McClellan	Stone
Fong	McIntyre	Talmadge
Ford	Metcalf	Tunney
Glenn	Mondale	Williams
Griffin	Montoya	Young

NAYS—25

Baker	Eastland	Long
Bartlett	Fannin	McClure
Bellmon	Garn	McGee
Brock	Goldwater	Scott,
Buckley	Gravel	William L.
Byrd,	Hansen	Sparkman
Harry F., Jr.	Helms	Stennis
Curtis	Johnston	Thurmond
Dole	Laxalt	Weicker

NOT VOTING—8

Bentsen	Packwood	Taft
Hruska	Stevens	Tower
McGovern	Symington	

So the motion to lay on the table was agreed to.

AMENDMENT NO. 205

Mr. KENNEDY. Mr. President, I call up my amendment No. 205.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes amendment No. 205. The amendment is as follows:

On page 40 beginning with line 6, strike out through the matter appearing below line 16 on page 43 and insert in lieu thereof the following:

SEC. 101. REFUND OF 1974 INDIVIDUAL INCOME TAX.

(a) IN GENERAL.—Subpart A of chapter IV of subchapter A of chapter 1 is amended by renumbering section 42 as 46 and inserting after section 41 the following new section:

"SEC. 43. PERSONAL EXEMPTIONS.

"(a) GENERAL RULE.—There shall be allowed, as a credit against the tax imposed by this chapter for the taxable year an amount equal to $50 multiplied by the number of exemptions to which the taxpayer is entitled under section 151.

"(b) LIMITATION.—That portion of the amount of the credit allowed under subsection (a) which exceeds an amount equal to $25 multiplied by the number of exemptions to which the taxpayer is entitled under section 151 shall be reduced (but not to an amount less than 0) by an amount which bears the same ratio to an amount equal to $25 multiplied by the number of exemptions to which the taxpayer is entitled under section 151 as the amount by which the adjusted gross income (as defined in section 62) of the taxpayer for the taxable year exceeds $20,000 bears to $10,000.".

(b) REFUND TO BE MADE WHERE CREDIT EXCEEDS LIABILITY FOR TAX.—

(1) Section 6401(b) (relating to excessive credits) is amended—

(A) by inserting ", 42 (relating to earned income credit), 43 (relating to personal exemptions)," before "and 667(b)"; and

(B) by striking out "and 39" and inserting in lieu thereof ", 39, 42, and 43".

(2) Section 6201(a)(4) (relating to assessment authority) is amended by—

(A) inserting ", 42 or 43" after "section 39" in the caption of such section; and

(B) inserting "42 (relating to earned income credit) or 43 (relating to personal exemptions)" immediately before "the amount so overstated".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1973, and before January 1, 1975.

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

Mr. KENNEDY. I yield.

Mr. LONG. Mr. President, I ask unanimous consent that debate on the amendment be limited to 10 minutes, to be equally divided between the sponsor and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. KENNEDY. Mr. President, on the desk of each Senator is a brief description of what this amendment will do. I hope Members will take a look at this description.

The amendment changes the method of calculating the 1974 rebate. Instead of using the percentage rebate initially proposed by the President and adopted by the Ways and Means Committee of the House of Representatives and then by the Finance Committee, my amendment substitutes a simpler rebate, equal to $50 per person. The revenue effect is essentially identical to the Mansfield version of the committee amendment now before the Senate.

If Senators will look at the printed description, they will see how the $50 per person rebate is distributed among the various income groups. They will see that compared to the Senate committee rebate more of the benefit goes to low- and middle-income groups, as compared to the Senate committee rebate.

An important advantage of the $50 approach is its simplicity. This rebate is designed for people, not computers. Yet the present committee version is a complex rebate with percentages, maximums, and minimums. Every individual will have a difficult time understanding the amount of the rebate he will actually receive.

Under the amendment I propose, the amount of the rebate will be very clear. It is $50 per individual, $100 per couple, $200 for the couple over 65, $200 for a family of four, $300 for a family of six. So it has the advantage of simplicity.

But most important of all, it has the further advantage of providing equity for families. It is unfair for a family of two or four or six to get the same rebate that a single person gets at the same income level.

Finally, there is the further advantage that, in terms of economic impact, the fact that the greatest benefits go to the lower income groups, will increase the likelihood that the rebate will be spent and that it will therefore accomplish its purpose of stimulating the economy.

For simplicity, for equity within the various economic groups, for help to hard-pressed families, for help to the poor, for its more efficient economic impact—for all of these factors, I think, this amendment is an improvement over the committee version.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield myself 10 minutes.

Mr. President, in the first place, the complication is no problem here. Both the House bill and the Senate bill have been carefully considered with the Treasury computers in mind. The computers can handle either bill very easily. As a matter of fact, the computers are presently being programed so they can handle either the Senate version or the House version. In any event, because both the House and the Senate bill have been made up with computer technology in mind, the computers can mail the checks out without any difficulty.

The House took the administration recommendation and drastically altered the tax reduction downward to favor the middle and lower income brackets. The Senate Committee on Finance did the same thing. We adopted the Mondale amendment, which further tilted the income distribution of the tax downward and favored large families.

The Senator's amendment further favors large families. In that respect, it would make the bill very much subject to the charge that we are discriminating against the single taxpayers and those with small families, which has already happened both in the Senate Committee on Finance and also through the amendments adopted here on the floor—the Tunney amendment, the Talmadge amendment in the committee, the earned income credit—all of these have tilted the income distribution toward the families. So the bill is, right now, subject to the charge that it discriminates against single persons, small families, and middle income taxpayers. This amendment would make that discrimination even worse.

Mr. President, I believe that we have gone about as far as one can justify. The House went a long way, the Senate committee went further that way, and here, on the Senate floor, the Senate has gone further and further in that direction, moving and shifting the income distribution to favor the lower income taxpayers, and further to favor the large families. Any addition to what has been done, in my judgment, would be rather unfair to those low-income and low- and middle-income taxpayers, as large families have been favored every step of the way—by the House committee, the Senate committee, and the Senate itself, here on this floor.

For those reasons, Mr. President, I believe that the rebate proposal which was recommended by the committee will probably be better.

Keep in mind that under this bill 35 percent of the reduction goes for low-income brackets, 49 percent goes to the middle brackets and 15 percent to the upper brackets. The Kennedy amendment would make a bigger reduction in the low-income brackets.

However, I point out that we have some provisions in this bill that do not favor anybody but the low-income people. They favor them by billions of dollars through such things as the earned income credit and the Mondale amendment. I feel, Mr. President, that to go any farther in that direction would leave us subject to the charge that we have very badly discriminated against the middle-income people who, after all, are those who are paying the overwhelming burden of taxes for this country.

Mr. KENNEDY. Mr. President, I say in response, that first, the Senator is talking about the 1975 tax cut. I am talking about the 1974 rebate. It is no answer to say that the 1975 cut is fair, when the 1974 rebate is unfair. The low-income and lower middle-income people deserve a fair share of the rebate.

Second, the Senator says my amendment discriminates against single persons. I say, the committee bill discriminates against the family. Under the committee rebate, a single person gets a $120 by a rebate for himself. A married couple still gets the same $120. If they have two children, they get the same $120. If they have four children, they still get the same $120. It does not make any difference if he is single, married, has two children or four children. He still gets only $120. What sort of equity is that?

So if we want to make the argument on discrimination, I would say the committee bill discriminates against a married couple with two children—that is the average American family. Under my amendment, they would receive $200, not $120.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the factsheet I mentioned may be printed in the RECORD.

The PRESIDING OFFICER. There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

KENNEDY 1974 TAX REBATE AMENDMENT

Purpose: Change the method of granting the 1974 tax rebate in Title I of the Act from the regressive 10 percent rebate method in the House bill and the 12 percent rebate in the Finance Committee substitute, to a new $50 per person rebate, based on the number of the taxpayer's dependents. The credit would be phased down to $25 for persons with incomes of $30,000 or more.

PRESENT BILL

House Version: Adopts President Ford's percentage rebate approach; the House formula contains a 10% rebate, with a $100 minimum, a $200 maximum, and a phase-down to $100 for persons with incomes over $30,000. Revenue loss: $8.1 billion.

Senate Substitute: 12% rebate, with $120 minimum, $240 maximum, and phase-down to $120 for incomes over $30,000. Revenue loss: $9.7 billion.

KENNEDY AMENDMENT

$50 rebate for each personal exemption claimed by the taxpayer on his return:

Single person, $50.
Married couple, $100.
Couple over 65, $200.
Family of four, $200.
Family of six, $300.
Revenue loss: $9.9 billion.

ADVANTAGES OF KENNEDY AMENDMENT

1. Simplicity: 1. The Kennedy per person rebate is simple and easy to understand. Any taxpayer can easily calculate the amount of his rebate by multiplying the size of his family by $50. By contrast, the percentage approach of the House and Senate committee bills is a Rube Goldberg rebate, full of conflicting rules and approaches. Most taxpayers won't know the exact amount of their rebate until the Treasury calculates it for them and they receive their rebate check in the mail.

2. Equity—the Kennedy per person rebate is "progressive taxation," whereas the House-Senate committee percentage rebate is regressive. A percentage rebate is inherently regressive, because it gives the largest rebate to those who pay the most taxes. That is why 43% of President Ford's $12 billion rebate, even with the $1000 cap, went to persons earning over $20,000. To counterract this inequity, the House and Senate committee bills have been forced to adopt a complex and unsatisfactory formula with minimums and maximums. And that formula still isn't fair to low and middle income groups. Congress should abandon the percentage method—we can't make a silk purse out of a sow's ear. The accompanying table shows the distribution of the rebate by income groups.

3. Help for Families—The Kennedy per person rebate would key the rebate to the size of the taxpayer's family. Under the House and Senate Committee versions, taxpayers

at the same income level would receive the same rebate, whether they are single or married couples, and whether they have no children, two children, or ten children. In fact, the Senate version penalizes a taxpayer for the size of his family—the larger his family, the larger the deduction he gets for his dependents. As a result, he pays lower taxes and gets a lower percentage rebate.

4. Help for the Poor—Unlike the House and Senate Committee bills, the Kennedy per person rebate is "refundable," so that it also helps those who work but who are so poor that they have no income tax liability. In the House and Senate Committee bills, a taxpayer with zero tax liability gets no rebate; those with a tax liability less than $100 get only a partial rebate. Under the Kennedy amendment, they would get the full rebate, so long as they have earned income.

5. Economic Effect—The Kennedy rebate is more likely to be spent instead of saved, since a higher proportion of the rebate goes to low and middle income groups. These groups are the hardest pressed by inflation and recession, and they will need more of the rebate to make ends meet.

(NOTE: The $50 rebate has no relation to Title II of the bill, which contains a $200 optional credit for 1975 taxes. The $50 rebate is simply an alternative method of computing the 1974 rebate.)

KENNEDY REBATE

Income class	Amount (millions)	Percent	Cumulative percent	Percent by segment
0 to $3,000	$996	10.1	10.1	42.5
$3,000 to $5,000	775	7.6	17.7	
$5,000 to $7,000	894	9.0	26.7	
$7,000 to $10,000	1,563	15.8	42.5	
$10,000 to $15,000	2,576	16.1	68.6	44.0
$15,000 to $20,000	1,772	17.9	86.5	
$20,000 to $50,000	1,224	12.6	99.1	13.5
$50,000 to $100,000	65	.7	99.8	
$100,000 and over	16	.2	100.0	
Total	[1] 9,880	100.0	100.0	100.0

[1] Source: Joint Committee on Internal Revenue Taxation; does not include returns representing beneficiaries of the rebate who are nonfilers under the 1970 filing requirements, or their refundable credits.

SENATE COMMITTEE REBATE (MANSFIELD SUBSTITUTE)

Income class	Amount (millions)	Percent	Cumulative percent	Percent by segment
0 to $3,000	$244	2.5	2.5	35.4
$3,000 to $5,000	806	8.3	10.8	
$5,000 to $7,000	949	9.8	20.6	
$7,000 to $10,000	1,433	14.8	35.4	
$10,000 to $15,000	2,613	27.0	62.4	49.0
$15,000 to $20,000	2,155	22.0	84.4	
$20,000 to $50,000	1,395	14.4	98.8	15.4
$50,000 to $100,000	79	.8	99.6	
$100,000 and over	19	.2	99.8	
Total	9,694	100.0	100.0	100.0

Mr. LONG. Mr. President, what the Senator overlooks is that the Senate committee structured its bill to the Mondale amendment, which carried out the same theory, that we provide a $200 tax credit for each individual and each dependent on their tax returns. It followed the same pattern as the Kennedy amendment in that theory and it is subject, itself, to the charge of discriminating in favor of the large families and against those single people and two place and three place families, as would the Kennedy amendment.

To use this in addition to the Mondale amendment, which was agreed to by the Senate committee and by the Senate, would be to go even farther in the direction with regard to which we are already subject to a charge of discrimination.

Mr. CURTIS. Will the Senator yield?

Mr. LONG. If I have time.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. CURTIS. The IRS is geared up for machines to take care of either the Senate or the House formula because it is based upon adjusted gross income for tax. It can go either way. Anything else would be a delay.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Nebraska (Mr. HRUSKA), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER), are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT), is absent due to illness.

The result was announced—yeas 43, nays 47, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—43

Abourezk	Hartke	Moss
Bayh	Hatfield	Muskie
Biden	Hathaway	Pastore
Brooke	Hollings	Pell
Bumpers	Huddleston	Proxmire
Burdick	Humphrey	Ribicoff
Case	Jackson	Schweiker
Clark	Kennedy	Sparkman
Cranston	Leahy	Stevenson
Culver	Magnuson	Thurmond
Eagleton	Mansfield	Tunney
Ford	Mathias	Weicker
Glenn	McGee	Williams
Hart, Gary W.	Metcalf	
Hart, Philip A.	Montoya	

NAYS—47

Allen	Fong	Morgan
Baker	Garn	Nelson
Bartlett	Goldwater	Nunn
Beall	Gravel	Pearson
Brock	Griffin	Percy
Buckley	Hansen	Randolph
Byrd, Harry F., Jr.	Haskell	Roth
Byrd, Robert C.	Helms	Scott, Hugh
Cannon	Inouye	Scott, William L.
Chiles	Javits	Stafford
Church	Johnston	Stennis
Curtis	Laxalt	Stone
Dole	Long	Talmadge
Domenici	McClellan	Young
Eastland	McClure	
Fannin	McIntyre	
	Mondale	

NOT VOTING—9

Bellmon	McGovern	Symington
Bentsen	Packwood	Taft
Hruska	Stevens	Tower

So Mr. KENNEDY'S amendment (No. 205) was rejected.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, it is the intention of the Senator from Illinois to yield back approximately 57 minutes of the 60 minutes that he would have allotted to him. I would merely like to make a few observations.

Mr. LONG. Mr. President, does the Senator plan to offer an amendment?

Mr. PERCY. I do not intend to offer an amendment.

Two days ago I sent a letter to all of my colleagues. I said unless the bill proposed by the Finance Committee was changed in several significant and important ways, I would be required to vote against the bill.

This does not detract in any respect from the hard work of the Finance Committee under the able leadership of Senator LONG.

Mr. HARRY F. BYRD, JR. Mr. President, may we have order?

Mr. PERCY. It does not in any way detract——

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Illinois.

Mr. PERCY. It does not in any way detract from the outstanding work done by your majority leader, Senator MANSFIELD and the other members of the leadership.

The essence of the fact remains, however, that in the first instance I had indicated and a great many of my colleagues also indicated, that the bill's emphasis should be on a temporary stimulus to renew economic activity in 1975. The necessary changes simply have not been made in the bill before us tonight.

The amount of the rebate has been increased to $10 billion by the Mansfield substitute, an improvement. But the bulk of the revenue loss in the bill, roughly $16 billion, stems from permanent changes in the tax laws.

Second, I said in my letter to my distinguished colleagues that the distribution of the rebate should, in my judgment, be changed to permit larger rebates in order to stimulate spending for durable goods and really help to create jobs. I proposed a rebate limit of $450. Although the rebate maximum in the bill has been increased by $50 to $250, I do not consider it enough to stimulate spending for job-creating consumer durables.

Neither, in my judgment will it contribute to building customer confidence, which is that all-important ingredient needed to stimulate economic recovery.

Third, I said that the permanent revenue loss measures in the bill should be as substantially as possible counterbalanced by the adoption of measures that would raise revenue in nonrecessionary ways. I proposed a package of revenue-raising measures totaling $16,280,000,000, and although the Senate accepted one of them, raising $500 million, and removed the oil depletion allowance, adding about $2 billion to revenue, the emphasis of the bill is still squarely on deficit-building, revenue-losing measures.

For these reasons, I reluctantly intend to vote against the bill despite the fact that it does contain some redeeming fea-

tures. On balance, it will not meet the needs of the economy. Rather than boost the confidence of the American public, I think it will show Americans that Congress is simply not willing today to face up responsibly to the urgent need to get this economy back on a sound and noninflationary footing.

The Federal deficit over the 2-year period of fiscal years 1975 and 1976, after passage of this bill is estimated to be from $120 to $150 billion, staggering figures. And, having put in this bill all of the sweeteners, the easy things to pass—and we have even had a struggle on that—we are now left with all of the bitter to be put in another bill to somehow counterbalance this and continue the fight against our other enemies; namely, inflation and excessive high-cost energy consumption.

I do not think the stimulus is in the right place. I do not think it is going to build the consumer confidence needed to get the economy moving again, and I still think we have an horrendous job ahead of us in putting together a piece of legislation that will restore the balance. That is going to be harder to pass than even this bill when we get down to it.

So, for that reason, without detracting one bit from the intensive work and some of the creative thinking that resulted in some of the good measures in this bill, I reluctantly have concluded I will have to vote against it.

The Nation is in the grip of the most severe economic recession since the great depression. Although there are some signs that recession may have moved through its worst phase, the key indicators of economic activity—real economic growth, industrial production and unemployment—all showing continuing recession. Real GNP dropped by 9.1 percent in the fourth quarter. The Federal Reserve Board's index of industrial production showed a 3 percent drop in February, 12.2 percent since September 1974. Unemployment increased to 8.2 percent in February.

There is an urgent need to stimulate economic recovery.

Action is needed to provide new consumer purchasing power to stimulate production of cars, appliances, furnishings, and other durable goods;

Action is needed to encourage immediate business investment in new plants and equipment;

Action is needed to renew consumer and business confidence in the economy without the inflationary impact of huge deficits.

The acid test of any bill—be it the Finance Committee bill or the substitute as amended—is whether and how well it meets these needs for economic recovery.

I conclude that both bills have important failings.

The Finance Committee bill failed to provide enough stimulus to encourage consumer spending this spring and summer. The bill contained a one-time tax rebate of only $8.1 billion, less than the $12 billion rebate proposed by the President. The bill also called for a number of indefensible, special interest-oriented, permanent tax changes such as the so-called housing credit. These tax changes would have weakened the tax structure and would have provided little income relief for the majority of taxpayers.

The fact which I am most concerned about is the addition to debt which this bill entails. The fiscal year 1975 deficit is already conservatively estimated at $45 billion and for fiscal 1976, at least $80 billion. These estimates assume a number of recisisons and other savings which the President has proposed that will, realistically, not be made by this Congress. Thus we are likely anticipating a 2-year addition to debt from $120 to $150 billion. This bill produce revenue losses in calendar 1975 of nearly $30 billion which will cost another $30 billion to finance in interest costs alone over the next 10 years. I believe it could well be dangerous for us to assume this additional level of debt and debt servicing.

This bill is so obviously deficit-oriented, it will further erode the taxpayers' confidence in the will of their government to take the necessary steps to cure an ailing economy and to control inflation.

On Wednesday I introduced an interrelated package of amendments to the committee bill. I believed them to be preferable to the Mansfield substitute as well and intended to offer them for consideration were there adequate time. Unfortunately, I was able to offer only two prior to the vote on cloture. The germaneness provision under rule XXII made it impossible to offer my package after cloture was invoked.

The amendments I offered are intended:

To provide a strong measure of temporary fiscal relief this year;

To raise revenues in nonrecessionary ways in order to help pay for tax cuts;

And to develop credibility and therefore public confidence by demonstrating that we intend insofar as possible to "pay as we go," continue the fight against inflation, and deal responsibly with the energy problem.

The revenue raising measures I proposed would increase receipts by $16.28 billion. The stimulative tax rebates and cuts I proposed would amount to $32.4 billion, for net spending of $15.12 billion. In addition to the investment tax credit increase costing $4.3 billion, the removal of truck excise taxes costing $100 million, and the increased small business exemption costing $1.2 billion, the total net spending I proposed was no more than $21.32 billion, compared with a Ways and Means total of $19.9 billion, the Finance Committee total of $29.2 billion, and the Mansfield substitute's approximate total of $28 billion.

The revenue raising amendments I proposed are as follows:

First. An increase of the Federal gasoline tax to 20 cents per gallon the first year and 30 cents the second. The tax on the first 450 gallons would be rebated to individuals. The effect, in the first year, would be to conserve 750,000 barrels of oil a day. The tax would be in lieu of any further increase in the oil import fee or in oil and gas excise taxes. It would target our energy conservation effort onto the oil derivative that is most responsive—gasoline. The revenue generated by the tax would be $18 billion the first year, of which $9 billion would be rebated, and of which $2.7 billion would be offset by increased business tax deductions reflecting the increased cost of gas. The net revenue gain would thus be $6.3 billion.

Second. Double the tax on cigarettes and increase alcohol taxes 50 percent. There has been no increase in these luxury taxes in 23 years. My amendment would increase the tax per 1,000 short cigarettes from $4 to $8 per thousand. It would increase by 50 percent the tax on the proof of alcoholic beverages, so that the Federal tax on a bottle of wine would increase by 8½ cents and the tax on a fifth of 100 proof whiskey would be $1. The revenue gain would be $5.8 billion.

Third. Repeal the deductibility of State and local gas taxes from taxable income for Federal tax purposes. The benefits of this deduction go mainly to higher income taxpayers who itemize deductions. The revenue gain would be $600 million. Unfortunately, the Senate chose not to adopt this amendment.

Fourth. Require refineries to dye fuel oil so that if it is fraudulently used in diesel vehicles its use can easily be detected. This practice, which permits escape from excise taxes on diesel fuel that would otherwise be bought at the pump, is estimated to cost the Federal Treasury as much as $500 million in lost revenue. Canada has implemented this practice with considerable success. I am pleased that the Senate adopted this amendment.

Fifth. Eliminate the dollar for dollar foreign tax credit for oil companies on royalties paid to foreign countries. Presently, oil companies may take as a credit against U.S. taxes the full amount of tax payments to foreign governments, and they are permitted to calculate royalties paid to such government as taxes on income. This amendment would limit the amount of the credit claimed by oil companies to 52.8 percent of foreign source income. It repeals the "per country" limitation, thus requiring U.S. corporations to treat their foreign earned income on a worldwide basis. To the extent that foreign losses offset domestic source income, it provides for a recapture in subsequent years when foreign income is earned or the foreign assets are disposed of. Revenue raised: $580 million.

Sixth. Eliminate the oil depletion allowance with an exception for independents as provided in the Hollings amendment. The revenue gain would be $2.5 billion.

The stimulative spending measures I proposed, in place of the provisions in the substitute, are as follows:

First. A two-stage rebate of 1974 personal income taxes totaling $15.9 billion. The total rebate would be 19 percent of an individual's 1974 tax bill, to be distributed in May and September 1975. The important differences between this proposal and the substitute's are the total amount, and the distribution of, the rebates. I believe it is now critically important to provide a boost in consumer

purchasing power sufficient to encourage consumers to buy durable goods. Thus, I propose a distribution schedule paying a maximum rebate of $450 and a minimum of $100. I ask unanimous consent that a table illustrating this plan be included in the record at this point.

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

EXAMPLES OF REVENUE EFFECT OF 19 PERCENT REBATE OF 1974 TAXES

[Total cost $15.8 billion]

$9,000 adjusted gross income—family of four:	
Under current law, tax paid would be	$529.90
Under House bill, minimum rebate would be	100.00
Under Percy amendment, total rebate would be	100.68
$11,000 adjusted gross income—family of four:	
Under current law, tax paid would be	1,024.70
Under House bill, minimum rebate would be	102.47
Under Percy amendment, total rebate would be	194.69
$17,500 adjusted gross income—family of four:	
Under current law, tax paid would be	2,156.00
Under House bill, minimum rebate would be	200.00
Under Percy amendment, total rebate would be	409.64

Source: Treasury estimates.

Mr. PERCY. A permanent change in the personal income tax rates to accomplish two purposes: to offset the effect of inflation in forcing wage earners into higher and higher tax brackets; and to provide greater progressivity in the tax schedules. This change would cost $16.5 billion. I ask unanimous consent that a table illustrating the effect of this change be included in the RECORD at this point.

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

EFFECT OF CHANGE IN PERSONAL INCOME TAX RATES, 1975 LEVELS

[In billions of dollars]

Adjusted gross income class (thousands)	Income tax paid under present law	Amount of income tax reduction	Percentage reduction in income tax percent
0 to $3,000	3	−.25	−83.3
$3,000 to $5,000	1.8	−1.20	−66.7
$5,000 to $7,000	4.0	−1.96	−49.0
$7,000 to $10,000	8.9	−3.38	−38.0
$10,000 to $15,000	21.9	−4.72	−21.6
$15,000 to $20,000	22.8	−2.70	−11.8
$20,000 to $50,000	44.4	−2.15	−4.8
$50,000 to $100,000	13.5	−.11	−.0
$100,000 and over	13.3	−.03	−.2
Total	130.9	−16.50	−12.6

TAX CHANGES ILLUSTRATED FOR A FAMILY OF 4

Adjusted gross income	Present tax [1]	New tax	Tax saving	Percent saving
$5,600	$185	----------	$185	100.0
$7,500	402	$110	292	72.6
$10,000	867	518	349	40.3
$12,500	1,261	961	300	23.8
$15,000	1,699	1,478	221	13.0
$20,000	2,660	2,450	210	7.9
$30,000	4,988	4,837	151	3.0
$40,000	7,958	−7,028	130	1.6

[1] Calculated assuming low income allowance or itemized deductions equal to 17 percent of income, whichever is greater.

Mr. PERCY. I also included as a part of this package two amendments that will have no net revenue loss or gain effect, but which are intended to implement the extremely important goal of energy conservation.

The first is a fuel efficiency tax and rebate plan under which purchasers of autos with EPA-certified performance of less than 16 miles per gallon—average city and long-distance driving—would be taxed more severely the less efficient are their autos. However, purchasers of cars performing at better than 16 miles per gallon would be given a Federal rebate increasing in amount as the fuel efficiency of the auto increased, up to 24 miles per gallon. The plan is designed so that the taxes charged would be sufficient to offset the rebates.

This tax/rebate plan based on fuel efficiency is designed to meet two urgent problems: the need for energy conservation through purchase of more efficient autos, and the need to stimulate auto production and sales.

While stimulating auto sales now, however, I believe that it is highly desirable to pursue the long-term goal of decreasing this country's reliance on the auto and increasing the availability, speed, and quality of mass transportation.

Therefore, I believe it important to abolish the bloated Highway Trust Fund and convert it to the general revenues.

I ask unanimous consent that a table summarizing this combination of proposals be included in the RECORD at the conclusion of my remarks.

In summary, Mr. President, I regret that the Senate did not adopt some of the bitter with the sweet and pass a tax reducion that will lay the basis for economic growth without inflation this year and in future years.

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

Revenue raising, spending, and related amendments proposed by Senator Percy to the Tax Reduction Act of 1975

[In billions of dollars]

Revenue raising measures:	
Gas tax (20 cents a gallon), net of rebates totaling $9 billion*	$6.3
Alcohol and tobacco tax increases	5.8
Repeal deductibility of State and local taxes	.6
Dry fuel oil	.5
Limit the foreign tax credit	.58
Eliminate oil depletion allowance	2.5
Total revenue raised	16.28
Spending measures for economic stimulation:	
Rebates of 1974 taxes (2 stages, $450 max./$100 min.)	15.9
Permanent change in the personal tax rate schedule	16.5
Total spending	32.4
Net spending resulting from these measures	15.12
Related measures in Percy package:	
Abolish highway trust fund—no revenue gain.	
Auto efficiency tax/rebate plan—no net revenue loss or gain.	
In addition to these measures, Senator Percy supports the committee bill's provisions that:	
Increase the investment tax credit	4.3
Remove truck excise taxes	.7
Increase the small business exemption	1.2
Total	6.2

*Also net of $2.7 billion in increased business tax deductions that could result from increased gas costs.

Thus the total of revenue and spending measures proposed and sponsored by Senator Percy results in a deficit totaling $21.32 billion compared with the Ways and Means total of $19.9 billion, and the Finance Committee total of $29.2 billion.

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

Mr. PERCY. Yes.

Mr. PELL. Would the Senator characterize the bill not as a Christmas tree, perhaps, but as an Easter basket?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I am very proud of the U.S. Senate. I want to tell this body that the restraint shown by the U.S. Senate on this bill has been absolutely remarkable. The net revenue loss is still below $30 billion, and I had predicted it would come out of committee at $30.5 billion. There has not been a single revenue-losing provision added to the bill since noon. [Laughter.] And, furthermore, Mr. President, I am still holding onto an amendment that would reduce the amount of the bill by $1 billion. So that is far different from what is often said that if the committee increases the bill by $10 billion, the Senate increases it by $20 billion. I am proud of the restraint shown by the Senators.

Mr. MANSFIELD. Mr. President, I wonder if we could have an indication of how many more amendments will be offered tonight.

The PRESIDING OFFICER. The Chair has been advised of three so far.

Mr. LONG. I believe most of them should go by voice vote, Mr. President.

How many Senators' amendments can go by voice vote? Apparently only one.

Mr. BARTLETT. Mr. President, I have an amendment in behalf of the Senator from Kansas (Mr. DOLE) and myself, and I would like to send it to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk re as follows:

At the end of the bill, add the following: Notwithstanding any other provisions of law or this Act, any requirement for plow back for depletion on oil and gas production shall be satisfied by the construction, erection, or acquisition of new or used equipment.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. BIBLE. Yes.

Mr. LONG. Is this the same plowback amendment relating to used equipment which the Senator discussed with me?

Mr. BARTLETT. Yes.

Mr. LONG. I discussed this matter with the Senator from South Carolina (Mr. HOLLINGS). It amends a part of the bill he put in, and he agrees it is a meritorious amendment. It should be agreed to, and it should be agreed to by a voice vote.

Mr. HOLLINGS. We have no objection. We accept it.

Mr. LONG. We yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amend-

ment of Mr. BARTLETT (putting the question).

The amendment was agreed to.

AMENDMENT NO. 138

Mr. ALLEN. Mr. President.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I call up Amendment No. 138.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes an amendment numbered 138.

The amendment is as follows:

At the end of the committee amendment, add the following new title:

TITLE .—AN ALTERNATE METHOD OF VALUING CERTAIN REAL PROPERTY FOR ESTATE TAX PURPOSES

(a) Section 2052 of the Internal Revenue Code of 1954 (relating to exemption for purposes of the Federal estate tax) is amended by striking out "$60,000" and inserting in lieu thereof "$200,000".

(b) Section 6018(a)(1) of such Code (relating to estate tax returns) is amended by striking out "$60,000" and inserting in lieu thereof "$200,000".

SEC. 2. The amendments made by the first section of this Act shall apply to the estates of decedents dying after the date of enactment of this Act.

SEC. 3. INCREASE IN ESTATE TAX MARITAL DEDUCTION.—

(a) Section 2056(c) of the Internal Revenue Code of 1954 (relating to limitation of aggregate marital deduction) is amended by inserting after "shall not exceed" in paragraph (1) "the sum of $100,000, plus".

(b) The amendment made by subsection (a) shall apply with respect to decedents dying after the date of enactment of this Act.

SEC. 4. ALTERNATE VALUATION OF CERTAIN REAL PROPERTY.—

(a) Section 2031 of the Internal Revenue Code of 1954 (relating to definition of gross estate) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE VALUATION OF CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—If the executor of an estate so elects, the value of any qualified real property included in the estate shall be determined by its value for the use under which it qualifies, under paragraph (2), as qualified real property.

"(2) DEFINITION OF QUALIFIED REAL PROPERTY.—For purposes of this subsection, the term 'qualified real property' means real property substantially all of which is, and, for the 60 months preceding the date of death of the decedent, has been, devoted to—

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) woodland (including land use for the commercial production of trees and land used for scenic and recreational purposes), or

"(C) scenic open space.

"(3) ELECTION REQUIREMENTS.—An election under this subsection shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the person to whom the property passes under the terms of the decedent's will or by operation of law.

"(4) REVOCATION OF ELECTION.—If property valued under paragraph (1)—

"(A) is sold or transferred, by or on behalf of the person to whom the property passed, within 5 years after the date on which the return of the tax imposed under this chapter was filed, or

"(B) is converted substantially to a use not described in paragraph (2) within that 5-year period by that person, the election made under this subsection shall be revoked and the difference between the tax actually paid under this chapter on the transfer of the estate and the tax which would have been payable on that transfer had the property not been valued under paragraph (1) shall be a deficiency in the payment of the tax assessed under this chapter on that estate.".

(b) Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by inserting before the period at the end thereof a comma and the following: "or, in the case of an election under section 2131(c) (relating to alternative valuation of certain real property), the value thereof as determined under such action for the applicable valuation data.".

SEC. 5. The amendments made by section 4 of this Act shall apply with respect to the estates of decedents dying after the date of enactment of this Act.

Mr. LONG. Would the Senator agree to a 10-minute limitation?

Mr. ALLEN. It will not be very long, but I would rather not have a 10-minute limitation. Some other Senators might want to speak on it.

Mr. LONG. Would the Senator need 15 or 20 minutes?

Mr. ALLEN. Twenty. I do not think I will use it all.

Mr. LONG. Well, 20.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that the following named Senators be added as cosponsors of the amendment: Mr. MONDALE, Mr. CULVER, Mr. FORD, Mr. HUDDLESTON, Mr. SPARKMAN, Mr. CLARK, Mr. BUMPERS, Mr. NUNN, Mr. DOMENICI, Mr. MORGAN, Mr. HUMPHREY, Mr. JOHNSTON, and Mr. HELMS.

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

Mr. ALLEN. Mr. President, I might state that I have been looking for a measure on which I found myself in agreement with the distinguished senior Senator from Minnesota (Mr. MONDALE), and I have finally found that amendment.

Mr. President, this amendment might well be called the "Save the Family Farm Amendment."

As the Presiding Officer understands, many farmers work all their lives and end up with a farm on which they have a large mortgage, and at the time of their death the property, for purposes other than farming might be worth a great deal. But it is impossible for the family farm to stay in existence because it is necessary, on account of the value for purposes other than farming that is placed on the farm, to sell the farm for the purpose of paying the inheritance tax.

Now, the amendment as previously filed called for raising the amount of the exemption from the present $60,000, which has been the exemption for more than a generation to $200,000.

I have a modification which would cut the amount of the exemption down to $100,000. In other words, it would be a raise from $60,000 to $100,000.

Mr. President, I ask parenthetically that the distinguished Presiding Officer of the Senate (Mr. STONE) be added as a cosponsor.

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

Mr. ALLEN. And the distinguished Senator from Idaho (Mr. CHURCH), the distinguished Senator from North Dakota (Mr. BURDICK), as cosponsors.

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

Mr. ALLEN. But the main thrust of the amendment is not the raise in the amount of the exemption, but it is to allow the heirs of the decedent farmers to elect to have the farm, or woodland, or scenic open space, valued for estate tax purposes—and it is called, of course, death duties, I believe, in England—not for the potential use that it might have as a subdivision, but the value placed on it as a farm.

Now, if the property stays in the family for 5 years and the use to which it is put remains the same, then that original tax payment would remain operative, but if the property was transferred, or if it was subdivided or put to a different use, then the owners of the property would have to pay the difference between the inheritance tax they paid on it as a farm and the value that would have been placed on it for other purposes.

Mr. HELMS. Mr. President, this amendment would amend the Internal Revenue Code to provide a $100,000 Federal estate tax exemption rather than the present $60,000 exemption.

Historically, the amount of the Federal estate tax exemption has variously ranged from $50,000 at its inception in 1916, to a high of $100,000 from 1926 to 1932, to a low of $40,000 from 1935 to 1938. The present $60,000 exemption was established in 1942 and has not been changed since that time, a period of 33 years.

During the intervening 33 years great changes have occurred in our economy. Years of inflation have had the practical effect of reducing the exemption and increasing the tax. Since 1942 the Consumer Price Index has increased 220 percent. Had the exemption been increased proportionately, it would now be in the amount of $132,000. However, I do not at this time propose such an increase. I propose simply to return the amount of the exemption to $100,000 as it was from 1926 to 1932.

It is important that this action be taken now, because as a result of spiraling inflation, it has become very difficult for farmers to pass their agricutlural enterprises on to the next generation. As is commonly known, farming involves a very large investment in land and machinery. The return on this investment is small when compared to other industries.

At present, upon a farmer's death, it is often very difficult for his heirs to find the funds to pay his Federal estate taxes without selling some, or all, of the farm land. The purpose of this amendment is to increase the estate tax exemption just enough to allow the small farmer a chance of passing his farm on to his children. All too often we have seen the ravaging effects upon the environment

of converting farmland to other uses. Additionally, at this time, when there is a world food crisis, I seriously question the wisdom of a tax policy which inhibits the future production of much needed agricultural products.

Further, the small farmers of America have traditionally been the very heart of our agricultural enterprise. With the current rate of inflation, even the smallest farm together with its equipment is worth in excess of the amount of the present exemption. If we fail to allow this modest increase, we will deny access to agricultural enterprise to the average citizen whose family has traditionally engaged in this form of livelihood. Our failure to allow this increase would effectively mandate that future farming operations will be conducted by large corporations with great resources. It is therefore entirely appropriate that we take this means of preserving competition in the production of food and other agricultural commodities.

I urge the adoption of this amendment.

Mr. ALLEN. Mr. President, I ask unanimous consent that the amendment may be modified as suggested by the modification.

The PRESIDING OFFICER. Is there objection?

Without objection——

Mr. LONG. Mr. President, I believe I will have to object to that.

The PRESIDING OFFICER. The objection is heard.

Mr. LONG. I believe I would be charged with not treating all Senators the same if I did not object.

Mr. ALLEN. Does the Senator speak to the modification?

Mr. LONG. I regret that I must. I have objected to other modifications.

Mr. ALLEN Very well.

Mr. LONG. I feel that I would be subject to the charge that I was not treating all Senators the same if I did not do so, Senator.

Mr. ALLEN. Very well.

Mr. President, I ask unanimous consent that the names of Mr. BUCKLEY, Mr. MCCLURE, Mr. FANNIN, and Mr. PERCY be added as cosponsors.

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

Mr. ALLEN. In view of the objection of the distinguished chairman of the Finance Committee, Mr. President, I ask unanimous consent that there may be printed in the RECORD at this point the modification that I intended to offer and suggest that if the amendment does pass as presented at the desk that the conferees would be guided by the provisions of the modification, and that they will take that into view.

Mr. HOLLINGS. Will the Senator yield?

Mr. LONG. Will the Senator yield?

Please understand I have objected to other Senators modifying their amendments, and I honestly feel I am compelled to object.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. But I will keep in mind that the Senator did propose to modify it.

Mr. ALLEN. I understand the Senator objected to the modification, but does the Senator object to my inserting this in the RECORD?

Mr. LONG. No; go right ahead.

Mr. ALLEN. That is all the Senator asked, that this be inserted in the RECORD.

The amendment, as modified, is as follows:

AMENDMENT No. 138

Intended to be proposed by Mr. ALLEN, Mr. MONDALE, Mr. HUMPHREY, Mr. JOHNSTON, Mr. HELMS, Mr. CULVER, Mr. FORD, Mr. HUDDLESTON, Mr. SPARKMAN, Mr. CLARK, Mr. BUMPERS, Mr. NUNN, Mr. DOMENICI, and Mr. MORGAN, to H.R. 2166, an Act to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, viz: At the end of the committee amendment, add the following new title:

TITLE .—AN ALTERNATIVE METHOD OF VALUING CERTAIN REAL PROPERTY FOR TAX PURPOSES

(a) This amendment shall be known as the "Save the Family Farm Amendment."

(b) Section 2052 of the Internal Revenue Code of 1954 (relating to exemption for purposes of the Federal estate tax) is amended by striking out "$60,000" and inserting in lieu thereof $100,000.

(c) Section 6018(a)(1) of such Code (relating to estate tax returns) is amended by striking out "$60,000" and inserting in lieu thereof "$100,000".

SEC. 2. The amendments made by the first section of this Act shall apply to the estates of decedents dying after the date of enactment of this Act.

SEC. 4. ALTERNATE VALUATION OF CERTAIN REAL PROPERTY.—

(a) Section 2031 of the Internal Revenue Code of 1954 (relating to definition of gross estate) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE VALUATION OF CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—If the executor of an estate so elects, the value of any qualified real property included in the estate shall be determined by its value for the use under which it qualifies, under paragraph (2), as qualified real property.

"(2) DEFINITION OF QUALIFIED REAL PROPERTY.—For purposes of this subsection, the term 'qualified real property' means real property substantially all of which is, and, for the 60 months preceding the date of death of the decedent, has been, devoted to—

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) woodland (including land use for the commercial production of trees and land used for scenic and recreational purposes), or

"(C) scenic open space.

"(3) ELECTION REQUIREMENTS.—An election under this subsection shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the person to whom the property passes under the terms of the decedent's will or by operation of law.

"(4) REVOCATION OF ELECTION.—If property valued under paragraph (1)—

"(A) is sold or transferred, by or on behalf of the person to whom the property passed, within 5 years after the date on which the return of the tax imposed under this chapter was filed, or

"(B) is converted substantially to a use not described in paragraph (2) within that 5-year period by that person, the election made under this subsection shall be revoked and the difference between the tax actually paid under this chapter on the transfer of the estate and the tax which would have been payable on that transfer had the property not been valued under paragraph (1) shall be a deficiency in the payment of the tax assessed under this chapter on that estate.".

(b) Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by inserting before the period at the end thereof a comma and the following: "or, in the case of an election under section 2131(c) (relating to alternative valuation of certain real property), the value thereof as determined under such action for the applicable valuation date.".

SEC. 5. The amendments made by section 4 of this Act shall apply with respect to the estates of decedents dying after the date of enactment of this Act.

Mr. ALLEN. Mr. President, I would like to ask unanimous consent that Mr. THURMOND, Mr. HATFIELD, and Mr. HANSEN be added as cosponsors.

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

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

Mr. ALLEN. Yes.

Mr. HOLLINGS. The Senator told us about the thrust. What about the cost? How much does that amendment cost?

Mr. ALLEN. I do not have the figures, some of it is speculative.

I do not know that the Treasury Department would know how many farmers would elect, or the heirs of how many farmers would elect to have the property so treated.

Mr. HOLLINGS. But the $60,000 to $200,000 is in there?

Mr. ALLEN. No, the Senator from Alabama is trying to reduce the thrust.

Mr. HOLLINGS. But the amendment on the desk does not reduce it?

Mr. ALLEN. That is correct, I do not have the figures.

Mr. HOLLINGS. So that is about a $2 billion cost.

Mr. ALLEN. Well, that is what the Senator states.

As I say, a great deal of it is speculative.

Mr. HOLLINGS. Yes.

Mr. ALLEN. And I have asked that the conferees take into account the provisions of the modification which the Senator from Alabama sought to make to his amendment.

Mr. HOLLINGS. It would be about $2 billion.

Mr. ALLEN. Well, that is what the Senator states.

Mr. HUMPHREY. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. HUMPHREY. Would it be that, if the modification takes place?

Mr. ALLEN. No, sir; it would be a negligible add-on, or a negligible reduction. It is raised only $60,000 to $100,000.

Mr. BAYH. Mr. President——

Mr. HASKELL. Will the Senator yield for a question?

Mr. ALLEN. Yes.

Mr. HASKELL. As I understand the amendment it provides that if the property is kept as farm land for 5 years.

then this treatment is given. If in the sixth year something else happens, why there is no——

The PRESIDING OFFICER. All time of the proponents of the amendment has expired.

Mr. ALLEN. That is correct, it would just guarantee to be used that way for 5 years.

Mr. HASKELL. Mr. President, maybe I am against the amendment. I am not sure. That is why I am asking the Senator from Alabama a question.

Mr. BAYH. Mr. President——

Mr. HASKELL. Could I finish my question, Mr. President? I may be against the amendment.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HASKELL. Would the Senator consider making a modification to his proposal to make it 10 years? In a 5-year span there could be some very careful planning to get within the amendment, but I doubt if anybody would hang on for 10 years.

Mr. LONG. Mr. President, point of order.

The PRESIDING OFFICER. The point of order is well taken. The time has expired.

Mr. LONG. If I ever saw a good case where amendments should be considered by the committee before being reported on the floor, this is it.

For example, this amendment has been explained as an amendment to save the family farm. I am sure the Senator has that in mind.

But our Joint Committee's estimate, and they have oftentimes been a lot more accurate than the Treasury estimates, is that this amendment will cost the Treasury $2,600,000,000. How much of that will the farmers get? Only $100 million. So the farmers will get 4 percent of that benefit, and the other 96 percent goes to somebody else. Where does that go? $500 million of that benefit would go in the form of increased marital deductions.

The other $2.1 billion in cost results from increasing the estate tax exemption $60,000 to $200,000. That exemption applies to any type of estate assets, that is stocks and bonds, oil income, royalties, dividends, you name it, anything that could be described as properly subject to the estate tax, would be increased from $60,000 to $200,000, at a cost of $2 billion.

The Senator said he would like to modify this part of his amendment. But even as modified, the lion's share, over 90 percent of the benefit, would go to persons other than farmers, by increasing the estate tax exemption from $60,000 up to $100,000.

Mr. President, that is an area that we ought to look at in terms of tax reform concerning trusts and foundations, and I am not talking about the legitimate foundations that actually give money to charity and education; I am talking about situations in which people set up foundations but in effect give the money to themselves.

Mr. ALLEN. Will the Senator yield?

Mr. LONG. Not at this point.

Mr. BAYH. Will the Senator yield for a question?

Mr. LONG. There are all sorts of ways that people can get around estate taxes now. We want to take a good look at it. The House Ways and Means Committee wants to take a good look at it. We are not raising as much money through inheritance taxes as we should be.

This is something, Mr. President, that ought to be considered by the committee. We ought to have a Treasury report on it. We ought to know what the Treasury thinks about it. It should be the subject of hearings, not just legislated here on the floor of the Senate.

To raise the estate exemption from $60,000 to $200,000 will eliminate 50 percent of all the revenue raised by the estate tax.

Mr. BAYH. Mr. President, will the Senator yield briefly?

Mr. LONG. I yield.

Mr. BAYH. Last year we passed a family farm inheritance tax bill that would provide a $200,000 exemption for family farms.We could not keep it in conference. This amendment only provides $100,000, and the farmers will tell you it is not enough. But what concerns me even more than that—and I am sure the Senator from Alabama does not realize it, is that this is the biggest loophole we have had come down the pike in some time. I am a family farm man but when you talk about scenic open spaces. That means something else altogether. Under this bill, a scenic open space like the Rockefeller estate would qualify for special valuation.

When you give special treatment to woodland, that means a fellow can have 1,000 acres of walnut logs worth more than $1,000 apiece, and all he has to do is leave it alone and the logs will get more valuable during the 5-year period. The valuation would be small since the use is negligible. The land is valued as parkland, not as walnut logs.

Mr. President, I must say I want to help the family farm, but I do not want to do it this way and create a loophole which will allow people to escape the intent of the inheritance tax laws.

Mr. ALLEN. Will the Senator from Louisiana yield?

Mr. LONG. Mr. President, let me repeat, this amendment would reduce the revenue raised by the estate tax in half. Just half of it would be gone by this one amendment.

Mr. ALLEN. Will the Senator yield?

Mr. LONG. I yield for a question only.

Mr. ALLEN. The Senator said something about foundations and one thing and another. Foundations do not die. Foundations are not subject to the inheritance tax. I do not know where he gets that.

Another thing—

Mr. LONG. I did not yield for a statement. I yielded for a question.

Mr. ALLEN. Will the Senator yield further?

Mr. LONG. I ask for order, Mr. President.

The PRESIDING OFFICER. The Senator will proceed.

Mr. LONG. Mr. President, the record shows that the estate tax area ought to be the subject of reform to get the Government more revenue, not less revenue. In any event, the matter should be subject to hearings. We do not know what we are doing at this time. We ought to know about the kind of things that even I do not know about, such as the matter mentioned by the Senator from Indiana.

Mr. President, this is not the way the Senate of the United States ought to legislate.

When my time has expired, Mr. President, I am going to move that the amendment be laid on the table.

Mr. HUMPHREY. Will the Senator yield?

Mr. LONG. I yield.

Mr. HUMPHREY. I want to say I joined in cosponsoring this because I thought it related to values of farmlands and the fact that the lands could be assessed as if they were to be subdivided for suburban development purposes and, therefore, have different assessments.

I think the Senator from Louisiana is right. I think this opens up a Pandora's box of difficulties and revenue change. I want to say that I withdraw my name, I regret to say, as a cosponsor. I think it is not the way we ought to proceed. I say I think we ought to set it aside. I hope my friend from Alabama will withdraw the amendment and we can come back another day to find out what is objectionable in terms of agricultural lands in terms of their estate value and have a hearing on it to really find out what the facts are.

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

(The following Senators also withdrew their names as cosponsors of the amendment: Mr. CHURCH, Mr. FORD, and Mr. CULVER.)

Mr. LONG. Mr. President, last year I accepted an amendment by the junior Senator from Indiana for family farms that would do twice as much for the family farm and would not cost but 4 percent of what this amendment would cost.

Mr. President, this amendment, if it is for the family farm, should be carefully drafted, thoroughly considered, and be a matter for hearings. I would be glad to hold a hearing on this. It was the suggestion of the Senator from Indiana (Mr. BAYH) and others, to see that we do not give away half of the revenue that the estate tax would raise while we are trying to help somebody with a family farm.

I yield to the Senator for a question.

Mr. CURTIS. I yield it back.

[Laughter.]

Mr. LONG. Mr. President, I yield back the remainder of my time. I move to lay the amendment on the table.

Mr. ALLEN. I call 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 clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENT-

SEN) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 68, nays 21, as follows:

[Rollcall Vote No. 108 Leg.]

YEAS—68

Abourezk	Goldwater	Mondale
Baker	Gravel	Montoya
Bartlett	Hart, Gary W.	Moss
Bayh	Hart, Philip A.	Muskie
Beall	Haskell	Nelson
Biden	Hathaway	Nunn
Brock	Hollings	Pastore
Brooke	Huddleston	Pearson
Bumpers	Humphrey	Pell
Byrd, Harry F., Jr.	Inouye	Proxmire
	Jackson	Randolph
Byrd, Robert C.	Javits	Ribicoff
Cannon	Johnston	Schweiker
Case	Kennedy	Scott, Hugh
Chiles	Laxalt	Scott, William L.
Church	Leahy	
Cranston	Long	Stafford
Culver	Magnuson	Stevenson
Curtis	Mansfield	Stone
Eagleton	Mathias	Tunney
Eastland	McClellan	Weicker
Fong	McGee	Williams
Ford	McIntyre	
Glenn	Metcalf	

NAYS—21

Allen	Garn	Morgan
Buckley	Hansen	Percy
Burdick	Hartke	Roth
Clark	Hatfield	Sparkman
Dole	Helms	Stennis
Domenici	Hruska	Talmadge
Fannin	McClure	Thurmond

NOT VOTING—10

Bellmon	Packwood	Tower
Bentsen	Stevens	Young
Griffin	Symington	
McGovern	Taft	

So the motion to table was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote and ask to be recognized.

Mr. President, I am for the Allen amendment. I think that we should not let the record be closed without a further explanation of this.

The Senator offered a good amendment. The greatest thing that can be said for it is that it is just. After all, that should be the purpose of government, to do justice. The $60,000 exemption was established back in the twenties, almost 60 years ago. Let us get out our slide rules and decided what it ought to be now. It ought to be ranged up to about where this amendment provides. That is just. The fact that it affects all people and not just agriculture is why it runs into a little money. But we have thrown billions out of the window all week now.

What happens when people of modest- and lower-middle income have to pay an estate tax? It means their property has to be sold.

Who can buy a small business? The giants.

When a farm or a ranch has to be sold, who can buy it? The large speculators.

The estate tax is a very small part of the revenue that comes into the U.S. Treasury, but the estate tax, without amendment, today is operating to further monopoly; it is operating to destroy small operators. It is operating to destroy small business.

I could cite many cases. I know of a dairy, well known in my State, that faced a situation like this, a family operation. They had been successful enough that the estate tax was very burdensome. It escaped being sold by a great deal of ingenuity, but only Carnation and Pet and a few others would have bid on it. It is the biggest incentive to monopoly and concentration of power that we have, because families have to sell their farms and ranches and their businesses to pay the estate tax.

All this amounted to was bringing a 1920 figure up to the present time. The Senator from Alabama should be commended for it. I think, in the business of taxation, the first thing that is required of us is to be just. If that happens to be in favor of the taxpayer and against the Treasury, so be it. If it happens to be in favor of the Treasury and against the taxpayer, so be it.

It was never intended that the estate tax should be imposed upon anyone other than the rather substantially wealthy. But because of our trend of inflation, it is a threat to every hard-working, successful family in America. And the Congress of the United States ought to change it.

Whether or not this bill is the right place, as a member of the committee, I understand some of those arguments. But I cannot understand the demagoguery that ridicules it as a bad amendment.

Mr. ALLEN. Will the Senator yield for a question?

Mr. CURTIS. I yield for anything the Senator wants.

Mr. ALLEN. The Senator from Alabama did not have a great deal of opportunity, in view of his agreement to limit the time on this debate at the request of the chairman of the committee. He would like to use this time to elicit information from the distinguished Senator from Nebraska.

Does the Senator from Nebraska think that it is a reasonable assertion to say that this amendment would cost the Treasury half of the receipts from the estate tax, when all it is is a raise from $60,000 to $100,000 for the estate tax exemption, and to allow farms and open areas and timberland to be taxed as such, rather than a potential use that they might be put to? Does the Senator from Nebraska think that that is a reasonable estimate?

Mr. CURTIS. The estimate that was placed on it on the floor?

Mr. ALLEN. I say does the Senator from Nebraska think that the estimate that this would cost the Treasury half of the customary receipts from the estate tax is a reasonable statement?

Mr. CURTIS. Not if it had been amended the way the Senator sought to amend it.

Mr. ALLEN. Does the Senator feel that the use of estimates with regard to a bill that the Senator from Alabama sought to modify is a proper estimate, or should the estimate be based on the modification offered by the Senator from Alabama?

Mr. CURTIS. I think the estimate should be on that basis.

On the other hand, I can understand that staff would feel inclined to respond in accordance with the amendment. I do not think we can get it adopted tonight, and I am about to yield back my time and withdraw the motion to reconsider.

I do think that the Senator has offered a sound amendment. He was ridiculed on this floor. Cosponsors withdrew, or at least one did, and I think because it was totally misunderstood.

It is not in the public interest that the rank and file of successful people should be faced with this tax. It was never intended for that. It is driving the families out of business, and it is increasing monopoly and the concentration of power and wealth.

There is one thing that is very true in the tax business: If someone has already made his pile, it is easy to be for a higher estate tax and all these other things. High taxes do not hurt the rich, because they can find ways and means to split the burden to take care of it. We should look at our tax system to see what it does to the people who are coming up, who have great ability and can add to the productiveness of America and to its wealth.

Mr. President, I withdraw the motion to reconsider.

Mr. LONG. Mr. President, in justice to myself and to the staff of the Committee on Internal Revenue Taxation, I think I should make a point or two of fair warning.

I gave the revenue estimates on that amendment both ways, both as originally proposed and as to what the cost would be if the amendment were modified as suggested.

The fact is that the estate tax raises about $5 billion. A reduction of the amount raised by that tax of $2.6 billion would cut that in half, as I said. If the amendment were modified downward, it would, of course, be less than that.

Mr. President, when the Senator said that the deduction does not help as much as it once did because of inflation, of course that is true. He failed to state that in 1948, during the period the Senator mentioned, Congress passed a law granting a marital deduction to a couple, so that for a married couple it had the effect of eliminating half of the estate from taxation and made a great deal of difference, drastically reducing the amount of money raised by the estate tax. The Senator did not mention that.

Furthermore, Mr. President, as a matter of justice we tax based on how much revenue the Government needs. We tax based on the needs of the Government,

looking, then, to see how, in the judgment of the taxing body, which in this case would be Congress, would be the most appropriate way to raise the funds.

Mr. WILLIAM L. SCOTT. Mr. President, I will be very brief at this hour, but I was interested in the remarks by the distinguished Senator from Louisiana a few minutes ago characterizing this as a good bill.

I can understand the pride the chairman of one of our major committees would have in a bill that comes out of his committee, one that has been considered for some days in the committee. He made the statement, perhaps jokingly, that there had been no increase in this bill since noon today. And yet I wonder, 5 years from now, how good we will think a bill that adds $30 billion to the deficit that this Government faces at this time.

We now have a $500 billion deficit. We would add $30 billion. It has been suggested that instead of $52 billion, we are going to have a deficit for the next fiscal year which may approximate $100 billion, when the new programs that have even been mentioned by this time are added to what the President has recommended in his budget.

Mr. President, I believe this is a bad bill. I believe it is a bill that we will come to regret. I believe the deductions and the rebates that the people are going to get under this bill will be taken away from them in the marketplace in the form of higher prices for everything they purchase. I believe we should give very serious consideration to whether or not we should vote for this measure.

I have not spoken about it before because, looking at the magnitude of it and that alone, it is an overreaction to the serious economic condition in which we find ourselves.

I think there are some good parts of this bill. I think when we stimulate the private sector it is a very fine thing. But these rebates, in my opinion, are not going to cure our economic situation, and I am going to vote against the bill, and would urge my colleagues to vote against it.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. ALLEN. Mr. President, does the Senator from Maryland have an amendment?

Mr. MATHIAS. I am glad to defer to the Senator from Alabama. I have lost my amendment.

AMENDMENT NO. 179

Mr. ALLEN. I call up my amendment No. 179.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) offers amendment No. 179: In lieu of the language proposed to be inserted by the committee substitute, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE—This Act may be cited as the "Tax Reduction Act of 1975".

The amendment is as follows:

Mr. ALLEN's amendment (No. 179) is as follows:

In lieu of the language proposed to be inserted by the committee substitute insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reduction Act of 1975".

(b) TABLE OF CONTENTS.—

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provisions, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—REFUND OF 1974 INDIVIDUAL INCOME TAXES

SEC. 101. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6428. REFUND OF 1974 INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for his first taxable year beginning in 1974 in an amount equal to 10 percent of the amount of his liability for tax for such taxable year.

"(b) MINIMUM PAYMENT.—The amount treated as paid by reason of this section shall not be less than the lesser of—

"(1) the amount of the taxpayer's liability for tax for his first taxable year beginning in 1974, or

"(2) $100 ($50 in the case of a married individual filing a separate return).

"(c) MAXIMUM PAYMENT.—

"(1) IN GENERAL.—The amount treated as paid by reason of this section shall not exceed $200 ($100 in the case of a married individual filing a separate return).

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—The excess (if any) of—

"(A) the amount which would (but for this paragraph) be treated as paid by reason of this section, over

"(B) the applicable minimum payment provided by subsection (b),

shall be reduced (but not below zero) by an amount which bears the same ratio to such excess as the adjusted gross income for the taxable year in excess of $20,000 bears to $10,000. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$10,000' for '$20,000' and by substituting '$5,000' for '$10,000'.

"(d) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for the taxable year shall be the sum of—

"(1) the tax imposed by chapter 1 for such year, reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income),

"(C) section 38 (relating to investment in certain depreciable property),

"(D) section 40 (relating to expenses of work incentive programs), and

"(E) section 41 (relating to contributions to candidates for public office), plus

"(2) the tax on amounts described in section 3102(c) or 3202(c) which are required to be shown on the taxpayer's return of the chapter 1 tax for the taxable year.

"(e) DATE PAYMENT DEEMED MADE.—The payment provided by this section shall be deemed made on whichever of the following dates is the later:

"(1) the date prescribed by law (determined without extensions) for filing the return of tax under chapter 1 for the taxable year, or

"(2) the date on which the taxpayer files his return of tax under chapter 1 for the taxable year.

"(f) JOINT RETURN.—For purposes of this section, in the case of a joint return under section 6013 both spouses shall be treated as one individual.

"(g) MARITAL STATUS.—The determination of marital status shall be made under section 143.

"(h) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to any estate or trust, nor shall it apply to any nonresident alien individual."

(b) NO INTEREST ON INDIVIDUAL INCOME TAX REFUNDS FOR 1974 REFUNDED WITHIN 60 DAYS AFTER RETURN IS FILED.—In applying section 6611(e) of the Internal Revenue Code of 1954 (relating to income tax refund within 45 days after return is filed) in the case of any overpayment of tax imposed by subtitle A of such Code by an individual (other than an estate or trust and other than a nonresident alien individual) for a taxable year beginning in 1974, "60 days" shall be substituted for "45 days" each place it appears in such section 6611(e).

(c) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"SEC. 6428. Refund of 1974 individual income taxes."

SEC. 102. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

Any payment considered to have been made by any individual by reason of section 6428 of the Internal Revenue Code of 1954 shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES

SEC. 201. INCREASE IN LOW INCOME ALLOWANCE.

(a) IN GENERAL.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $2,500 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $1,900 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,250 in the case of a married individual filing a separate return."

(b) CHANGE IN FILING REQUIREMENTS TO REFLECT INCREASE IN LOW INCOME ALLOWANCE.—So much of paragraph (1) of section 6012(a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,650,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $3,250, or

"(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $4,000 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home. Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

"(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);".

SEC. 202. INCREASE IN PERCENTAGE STANDARD DEDUCTION.

(a) INCREASE.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income but not to exceed—

"(1) $3,000 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,500 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,500 in the case of a married individual filing a separate return."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended to read as follows:

"(B) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $3,000 ($2,500 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a)))."

SEC. 203. CREDIT FOR CERTAIN EARNED INCOME.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by redesignating section 42 as section 43 and by inserting after section 41 the following new section:

"SEC. 42. EARNED INCOME CREDIT.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of the taxpayer's adjusted earned income for the taxable year.

"(b) ADJUSTED EARNED INCOME.—For purposes of this section, the term 'adjusted earned income' means—

"(1) so much of the individual's earned income for the taxable year as does not exceed $4,000, reduced by

"(2) two times the excess over $4,000 of the greater of—

"(A) the taxpayer's adjusted gross income for the taxable year, or

"(B) the taxpayer's earned income for the taxable year.

"(c) EARNED INCOME DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'earned income' means—

"(A) wages, salaries, tips, and other employee compensation, plus

"(B) the amount of taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) except as provided in subparagraph (B), any amount shall be taken into account only if such amount is includible in the gross income of the taxpayer for the taxable year,

"(B) the earned income of an individual shall be computed without regard to any community property laws,

"(C) no amount received as a pension or annuity shall be taken into account,

"(D) compensation described in paragraph (1)(A) for services performed by an individual in the employ of his spouse, father, mother, son, or daughter (within the meaning of section 3121(b)(3)) shall be taken into account only if such compensation constitutes wages (as defined in section 3121(a)) and only if such wages are evidenced by a receipt required to be furnished under section 6051(a) (relating to receipts for employees),

"(E) in the case of an individual who has not attained the age of 18 years by the close of his taxable year—

"(i) compensation described in paragraph (1)(A) shall be taken into account only if such compensation is evidenced by a receipt required to be furnished under section 6051(a), and

"(ii) earnings described in paragraph (1)(B) shall be taken into account only if such individual has self-employment income for the taxable year (within the meaning of section 1402(b)), and

"(F) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

"(d) REQUIREMENT OF JOINT RETURN.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for thhe taxable year under section 6013.

"(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of a taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months."

(b) REFUND TO BE MADE WHERE CREDIT EXCEEDS LIABILITY FOR TAX.—Section 6401(b) (relating to excessive credits) is amended—

(1) by inserting ", 42 (relating to earned income credit)," before "and 667(b)"; and

(2) by striking out "and 39" and inserting in lieu thereof ", 39, and 42".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Earned income credit.
"Sec. 43. Overpayments of tax."

SEC. 204. WITHHOLDING TAX.

(a) REQUIREMENT OF WITHHOLDING.—Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—

"(1) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with—

"(A) in the case of wages paid on the basis of an annual payroll period, the table set forth in paragraph (2), or

"(B) in the case of wages paid on the basis of other payroll periods, tables prescribed by the Secretary or his delegate.

In the tables prescribed under subparagraph (B), the amounts set forth as the amount of wages and the amount of income taxes to be deducted and withheld shall be computed on the basis of the table set forth in paragraph (2). For purposes of this subsection, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1).

"(2) ANNUAL PAYROLL PERIOD.—

"(A) Single Person—Including Head of Household:

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $3,000	0.
Over $3,000 but not over $4,500	33% of excess over $3,000.
Over $4,500 but not over $7,500	$495 plus 21% of excess over $4,500.
Over $7,500 but not over $10,500	$1,125 plus 26% of excess over $7,500.
Over $10,500 but not over $14,000	$1,905 plus 21% of excess over $10,500.
Over $14,000 but not over $15,200	$2,640 plus 28% of excess over $14,000.
Over $15,200 but not over $18,000	$2,976 plus 30% of excess over $15,200.
Over $18,000	$3,816 plus 35% of excess over $18,000.

"(B) Married Person:

"If the amount of wages is:	The amount of income tax to be withheld shall be:
Not over $2,450	0.
Over $2,450 but not over $5,450	16% of excess over $2,450.
Over $5,450 but not over $9,250	$480 plus 20% of excess over $5,450.
Over $9,250 but not over $12,250	$1,240 plus 21% of excess over $9,250.
Over $12,250 but not over $14,750	$1,870 plus 15% of excess over $12,250.
Over $14,750 but not over $20,950	$2,245 plus 26% of excess over $14,750.
Over $20,950 but not over $25,650	$3,857 plus 30% of excess over $20,950.
Over $25,650	$5,267 plus 36% of excess over $25,650."

(b) CONFORMING AMENDMENT.—Section 3402(c)(6) (relating to wage bracket withholding) is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period set forth in subsection (a)(2)".

SEC. 205. EFFECTIVE DATES.

(a) FOR SECTIONS 201 AND 202(a).—The amendments made by sections 201 and

202(a) shall apply to taxable years ending after December 31, 1974. Such amendments shall cease to apply to taxable years ending after December 31, 1975.

(b) FOR SECTION 203.—The amendments made by section 203 shall apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

(c) FOR SECTIONS 202(b) AND 204.—The amendments made by sections 202(b) and 204 shall apply to wages paid after April 30, 1975, and before January 1, 1976.

TITLE III—CERTAIN CHANGES IN BUSINESS TAXES

SEC. 301. INCREASE IN INVESTMENT CREDIT.

(a) INCREASE OF INVESTMENT CREDIT TO 10 PERCENT.—Paragraph (1) of section 46(a) (determining the amount of the investment credit) is amended to read as follows:

"(1) GENERAL RULE.—

"(A) 10-PERCENT CREDIT.—Except as provided in subparagraph (B), the amount of the credit allowed by section 38 for the taxable year shall be equal to 10 percent of the qualified investment (as determined under subsections (c) and (d)).

"(B) 7-PERCENT CREDIT.—In the case of property—

"(i) the construction, reconstruction, or erection of which is completed by the taxpayer before January 22, 1975, or

"(ii) which is acquired by the taxpayer before January 22, 1975,

the amount of the credit allowed by section 38 for the taxable year shall be equal to 7 percent of the qualified investment (as defined in subsection (c)).

"(C) TRANSITIONAL RULE.—In the case of property—

"(i) the construction, reconstruction, or erection of which is begun by the taxpayer before January 22, 1975, and

"(ii) the construction, reconstruction, or erection of which is completed by the taxpayer after January 21, 1975.

subparagraph (B) shall apply to the property to the extent of that portion of the basis which is properly attributable to construction, reconstruction, or erection before January 22, 1975, and subparagraph (A) shall apply to such property to the extent of that portion of the basis which is properly attributable to construction, reconstruction, or erection after January 21, 1975."

(b) PUBLIC UTILITY PROPERTY.—

(1) DETERMINATION OF QUALIFIED INVESTMENT.—Subparagraph (A) of section 46(c)(3) (relating to determination of qualified investment in the case of public utility property) is amended to read as follows:

"(A) To the extent that subsection (a)(1)(B) applies to property which is public utility property, the amount of the qualified investment shall be 4/7 of the amount determined under paragraph (1)."

(2) INCREASE IN 50-PERCENT LIMITATION.—Section 46(a) (relating to determination of amount of credit) is amended by adding at the end thereof the following new paragraph:

"(6) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

"(A) IN GENERAL.—If, for a taxable year beginning after 1974 and before 1981, the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, then subparagraph (C) of paragraph (2) of this subsection shall be applied by substituting for 50 percent his applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year is—

"(i) 50 percent, plus

"(ii) that proportion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 50 percent plus the tentative percentage for such year.

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year begins in:	The tentative percentage is:
1975 or 1976	50
1977	40
1978	30
1979	20
1980	10.

"(D) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

(c) CAP ON THE INCREASE IN INVESTMENT CREDIT BENEFITS FOR PUBLIC UTILITIES WHICH MAY RESULT FROM INCREASING INVESTMENT CREDIT TO 10 PERCENT.—

(1) IN GENERAL.—The amount of the credit allowed by section 38 of the Internal Revenue Code of 1954 to any taxpayer which is a public utility for the taxable years shall not exceed by more than $100,000,000 the amount of such credit which would have been allowed to such taxpayer for such year but for the amendments made by subsections (a) and (b)(1) of this section.

(2) CREDIT IN EXCESS OF CAP MAY BE CARRIED ONLY TO TAXABLE YEARS TO WHICH THIS SUBSECTION APPLIES.—For purposes of section 46(b)(1) of the Internal Revenue Code of 1954 (relating to carryback and carryover of unused credits), the excess of the amount which would be allowable as a credit under section 38 of such Code for any taxable year over the amount which is allowable under such section after the application of paragraph (1) of this subsection—

(A) shall be treated as an excess described in such section 46(b)(1), but

(B) shall be an investment credit carryback and an investment credit carryover only to taxable years to which paragraph (1) of this subsection applies.

(3) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subsection, persons who are members of the same controlled group of corporations shall be treated as one taxpayer. For purposes of the preceding sentence, the term "controlled group of corporations" has the meaning given to such term by section 1563(a).

(4) PUBLIC UTILITY DEFINED.—For purposes of this subsection, the term "public utility" means a taxpayer 50 percent or more of the qualified investment of which for the taxable year consists of public utility property within the meaning of the first sentence of section 46(c)(3)(B) of the Internal Revenue Code of 1954.

(d) INCREASES FROM $50,000 TO $75,000 OF DOLLAR LIMITATION ON USED PROPERTY.—Paragraph (2) of section 48(c) (relating to dollar limitation in case of used section 38 property) is amended—

(1) by striking out "$50,000" each place it appears and inserting in lieu thereof "75,000", and

(2) by striking out "$25,000" and inserting in lieu thereof "$37,500".

SEC. 302. ALLOWANCE OF INVESTMENT CREDIT WHERE CONSTRUCTION OF PROPERTY WILL TAKE MORE THAN 2 YEARS.

(a) GENERAL RULE.—Section 46 (relating to amount of credit) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED PROGRESS EXPENDITURES.—

"(1) IN GENERAL.—In the case of any taxpayer who has made an election under paragraph (6), the amount of his qualified investment for the taxable year (determined under subsection (c) without regard to this subsection) shall be increased by an amount equal to his aggregate qualified progress expenditures for the taxable year with respect to progress expenditure property.

"(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'progress expenditure property' means any property which is being constructed by or for the taxpayer and which—

"(i) has a normal construction period of two years or more, and

"(ii) it is reasonable to believe will be new section 38 property having a useful life of 7 years or more in the hands of the taxpayer when it is placed in service.

Clause (i) and (ii) of the preceding sentence shall be applied on the basis of facts known at the close of the taxable year of the taxpayer in which construction begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

"(B) NORMAL CONSTRUCTION PERIOD.—For purposes of subparagraph (A), the term 'normal construction period' means the period reasonably expected to be required for the construction of the property—

"(i) beginning with the date on which physical work on the construction begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

"(ii) ending on the date on which it is expected that the property will be available for placing in service.

"(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term 'qualified progress expenditures' means the lesser of—

"(i) the amount paid during the taxable year to another person for the construction of such property, or

"(ii) the amount which represents that proportion of the overall cost to the taxpayer of the construction by such other person which is properly attributable to that portion of such construction which is completed during such taxable year.

"(4) SPECIAL RULES FOR APPLYING PARAGRAPH (3).—For purposes of paragraph (3)—

"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any progress expenditure property shall be taken into account—

"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the progress expenditure property, and

"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

"(B) CERTAIN BORROWINGS DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person constructing the property for him shall not be treated as an amount expended for such construction.

"(C) CERTAIN UNUSED EXPENDITURES CAR-

RIED OVER.—In the case of non-self-constructed property, if for the taxable year—

"(i) the amount under clause (i) of paragraph (3)(B) exceeds the amount under clause (ii) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (i) for the succeeding taxable year, or

"(ii) the amount under clause (ii) of paragraph (3)(B) exceeds the amount under clause (i) of paragraph (3)(B), then the amount of such excess shall be taken into account under such clause (ii) for the succeeding taxable year.

"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—In the case of non-self-constructed property, the determination under paragraph (3)(B)(ii) of the proportion of the overall cost to the taxpayer of the construction of any property which is properly attributable to construction completed during any taxable year shall be made, under regulations prescribed by the Secretary or his delegate, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

"(E) NO QUALIFIED PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for any period before January 22, 1975 (or, if later before the first day of the first taxable year to which an election under this subsection applies).

"(F) NO QUALIFIED PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any property, no qualified progress expenditures shall be taken into account under this subsection for the earlier of—

"(i) the taxable year in which the property is placed in service, or

"(ii) the first taxable year for which recapture is required under section 47(a)(3) with respect to such property,

or for any taxable year thereafter.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property more than half of the construction expenditures for which it is reasonable to believe will be made directly by the taxpayer.

'(B) NON-SELF-CONSTRUCTED PROPERTY.—The term 'non-self-constructed property" means property which is not self-constructed property.

"(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

"(D) ONLY CONSTRUCTION OF SECTION 38 PROPERTY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

"(6) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary or his delegate may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary or his delegate.

"(7) TRANSITIONAL RULES.—The qualified investment taken into account under this subsection for any taxable year beginning before January 1, 1980, with respect to any property shall be (in lieu of the full amount) an amount equal to the sum of—

"(A) the applicable percentage of the full amount determined under the following table:

"For a taxable year beginning in:	The applicable percentage is:
1974 or 1975	20
1976	40
1977	60
1978	80
1979	100;

plus

"(B) in the case of any property to which this subsection applied for one or more preceding taxable years, 20 percent of the full amount for each such preceding taxable year.

For purposes of this paragraph, the term 'full amount', when used with respect to any property for any taxable year, means the amount of the qualified investment for such property for such year determined under this subsection without regard to this paragraph."

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENT OF SECTION 46(c).—Section 46(c) (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (d).—The amount which would (but for this paragraph) be treated as qualified investment under this subsection with respect to any property shall be reduced (but not below zero) by any amount treated by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 47(a)(3)(C), by the lessee) as qualified investment with respect to such property under subsection (d), to the extent the amount so treated has not been required to be recaptured by reason of section 47(a)(3)."

(2) AMENDMENT OF SECTION 46(a)(1).—Paragraph (1) of section 46(a) (as in effect without the amendment made by section 301(a)) is amended by striking out "(as defined in subsection (c))" and inserting in lieu thereof "(as determined under subsection (c) and (d))".

(3) DISPOSITION, ETC.—

(A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) PROPERTY CEASES TO BE PROGRESS EXPENDITURE PROPERTY.—

"(A) IN GENERAL.—If during any taxable year any property taken into account in determining qualified investment under section 46(d) ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be new section 38 property, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the qualified investment taken into account with respect to such property.

"(B) CERTAIN EXCESS CREDIT RECAPTURED.—Any amount which would have been applied as a reduction of the qualified investment in property by reason of paragraph (4) of section 46(c) but for the fact that a reduction under such paragraph cannot reduce qualified investment below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year in which the property is placed in service.

"(C) CERTAIN SALES AND LEASEBACKS.—Under regulations prescribed by the Secretary or his delegate, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom section 48(d) applies shall not be treated as a cessation described in subparagraph (A) to the extent that the qualified investment which will be passed through to the lessee under section 48(d) with respect to such property does not exceed the qualified progress expenditures properly taken into account by the lessee with respect to such property.

"(D) COORDINATION WITH PARAGRAPH (1).—If after property is placed in service, there is a disposition or other cessation described in paragraph (1), paragraph (1) shall be applied as if any credit which was allowable by reason of section 46(d) and which has not been required to be recaptured before such cessation were allowable for the taxable year the property was placed in service."

(c) CLERICAL AMENDMENTS.—

(1) Paragraph (4) of section 47(a) (as redesignated by subsection (b)(3)(A) of this section) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1) or (3)".

(2) Paragraphs (5) and (6)(B) of section 47(a) are each amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

(3) Paragraphs (1) and (2) of section 48(d) are each amended by striking out "section 46(d)(1)" and inserting in lieu thereof "section 46(e)(1)".

(4) Subsection (f) of section 50B is amended by striking out "section 46(d)" and inserting in lieu thereof "section 46(e)".

Sec. 303. Increase in corporate surtax exemption.

(a) GENERAL RULE.—Section 11(d) (relating to surtax exemption) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1561(a) (as in effect for taxable years beginning after December 31, 1974) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(2) Paragraph (7) of section 12 (relating to cross references for tax on corporations) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(3) Section 962(c) (relating to surtax exemption for individuals electing to be subject to tax at corporate rates) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

Sec. 304. Effective dates.

(a) FOR SECTION 301.—

(1) INCREASE OF INVESTMENT CREDIT TO 10 PERCENT.—The amendments made by subsections (a) and (b)(1) of section 301 shall apply to—

(A) property placed in service after January 21, 1975, and before January 1, 1976, in taxable years ending after January 21, 1975,

(B) property—

(i) acquired pursuant to orders placed before January 1, 1976, and

(ii) placed in service in 1976 in taxable years ending after December 31, 1975,

(C) property the construction, reconstruction, or erection of which is completed by the taxpayer and which is placed in service after December 31, 1975, but only to the portion of the basis of such property which is properly attributable to construction, reconstruction, or erection by the taxpayer after January 21, 1975, and before January 1, 1976, and

(D) qualified progress expenditures, as described in section 46(d) of the Internal Revenue Code of 1954, made after January 21, 1975, and before January 1, 1976, but only to the portion of the basis of the progress expenditure property, as described in such section 46(d), which is properly attributable to construction, reconstruction, or erection for the taxpayer after January 21, 1975, and before January 1, 1976.

(2) INCREASE IN 50-PERCENT LIMITATION.—The amendment made by subsection (b)(2)

of section 301 shall apply to taxable years beginning after December 31, 1974.

(3) INCREASE IN LIMITATION ON USED PROPERTY.—The amendments made by subsection (d) of section 301 shall apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

(b) FOR SECTION 302.—The amendments made by section 302 shall apply to taxable years ending after December 31, 1974.

(c) FOR SECTION 303.—

(1) IN GENERAL.—The amendments made by section 303 shall apply to taxable years ending after December 31, 1974. Such amendments shall cease to apply for taxable years ending after December 31, 1975.

(2) CHANGES TREATED AS CHANGES IN TAX RATE.—Section 21 (relating to change in rates during taxable year) is amended by adding at the end thereof the following new subsection:

"(f) INCREASE IN SURTAX EXEMPTION, ETC.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 303, and the change made by the second sentence of section 304(c)(1), of the Tax Reduction Act of 1975 in section 11(d) (relating to corporate surtax exemption) and in section 962(c) (relating to individuals electing to be taxed at corporate rates) shall each be treated as a change in a rate of tax."

TITLE IV—REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS

Sec. 101. Repeal of oil and gas depletion.

(a) Section 613(b)(1)(A) of the Internal Revenue Code is amended by striking out the words "oil and gas wells," and by substituting therefor the words "certain gas wells as defined in subsection (e)."

(b) Section 613(b)(7) of such Code is amended by:

(1) Deleting "or" at the end of subparagraph (A) thereof;

(2) Deleting the period at the end of subparagraph (B) thereof and by inserting, in lieu thereof, "; or"; and

(3) Adding the following new subparagraph after such subparagraph (B):

"(C) Oil and gas wells."

Sec. 102. Certain gas wells.

The following new subsection is added to section 613 of the Internal Revenue Code:

"(e) SPECIAL RULE FOR CERTAIN GAS WELLS.—

"(1) The gas wells referred to in section 613(b)(1)(A) are—

"(A) wells producing regulated natural gas,

"(B) wells producing natural gas sold under a fixed contract, and

"(C) any geothermal deposit which is determined to be a gas well within the meaning of section 613(b)(1)(A).

"(2)(A) The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on February 1, 1975, and all times after before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this section by reason of the repeal of percentage depletion. Price increases subsequent to February 1, 1975 shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence.

"(B) The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(C) The term 'domestic' refers to petroleum from an oil or gas well located in the United States or in a possession of the United States.

"(D) The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(E) The term 'regulated natural gas' means domestic natural gas produced and sold by the producer, prior to July 1, 1976 subject to the jurisdiction of the Federal Power Commission the price for which has not been adjusted to reflect to any extent the increase in liability of the seller for tax by reason of the repeal of percentage depletion. Price increases subsequent to February 1, 1975 shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence."

Sec. 103. Effective dates.

The amendments made by section 101 and 102 of this bill shall apply to oil and gas produced on or after January 1, 1975.

Sec. 104. Reform of percentage depletion in case of oil and gas wells.

(a) IN GENERAL.—Part I of subchapter I chapter 1 (relating to deductions with respect to natural resources) is amended by adding at the end thereof the following new section:

"Sec. 613A. Denial of percentage depletion in case of oil or gas well.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the allowance for depletion under section 611 with respect to any oil or gas well shall be computed without reference to section 613.

"(b) SPECIAL RULE FOR CERTAIN GAS WELLS.—

"(1) IN GENERAL.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(A) wells producing regulated natural gas,

"(B) wells producing natural gas under a fixed contract, and

"(C) any geothermal deposit which is determined to be a gas well within the meaning of section 613(b)(1)(A).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) NATURAL GAS SOLD UNDER A FIXED CONTRACT.—The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on February 1, 1975, and all times thereafter and before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liabilities of the seller for tax under this section by reason of the repeal of percentage depletion. Price increases subsequent to February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates to the contrary by clear and convincing evidence.

"(B) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(C) REGULATED NATURAL GAS.—The term 'regulated natural gas' means domestic natural gas produced and sold by the producer prior to July 1, 1976, subject to the jurisdiction of the Federal Power Commission, the price for which has not been adjusted to reflect to any extent the increase in liability of percentage depletion. Price increase subsequent to February 1, 1975, shall be presumed to take increases in tax liabilities into account unless the taxpayer demonstrates the contrary by clear and convincing evidence.

"(c) SMALL PRODUCER EXEMPTION.—

"(1) IN GENERAL.—The allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(A) so much of the producer's average daily production of domestic crude oil as does not exceed 3,000 barrels, and

"(B) so much of the producer's average daily production of domestic natural gas (other than natural gas with respect to which subsection (b) applies) as does not exceed 18,000,000 cubic feet.

"(2) AVERAGE DAILY PRODUCTION.—For purposes of paragraph (1)—

"(A) the producer's average daily production of domestic crude oil or natural gas (not including natural gas with respect to which subsection (b) applies), as the case may be, shall be determined by dividing his aggregate production of domestic crude oil or natural gas (not including natural gas with respect to which subsection (b) applies) during the taxable year by the number of days in such taxable year, and

"(B) in the case of a producer holding a partial interest in the production from any property (including an interest held in a partnership or joint venture), such producer's production shall be considered to be an amount of such production determined by multiplying the total production of such property by the producer's percentage participation in the revenues from such property.

"(3) EXEMPTIONS TO BE DETERMINED ON A PROPORTIONATE BASIS.—

"(A) DOMESTIC CRUDE OIL.—If the producer's average daily production of domestic crude oil exceeds the producer's exemption under this subsection, the barrels to which this subsection applies shall be determined by taking from the production of each property a number of barrels which bears the same proportion to the total production of the producer for such year from such property as the number of barrels to which this subsection applies bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the producer for such year.

"(B) DOMESTIC NATURAL GAS.—If the producer's average daily production of domestic natural gas exceeds the producer's exemption under this subsection, the production of domestic natural gas to which this subsection applies shall be determined by taking from the production of each property a number of cubic feet of natural gas (not including natural gas to which subsection (b) applies) which bears the same proportion to the total production of the producer for such year from such property as the number of cubic feet of natural gas to which this subsection applies bears to the aggregate number of cubic feet representing the average daily production of domestic natural gas of the producer for such year.

"(4) BUSINESS UNDER COMMISSION CONTROL; MEMBERS OF THE SAME FAMILY.—

"(A) COMPONENT MEMBERS OF CONTROLLED GROUP TREATED AS ONE PRODUCER.—For purposes of this subsection, corporations which are members of the same controlled group of corporations shall be treated as one producer.

"(B) AGGREGATION OF BUSINESS ENTITIES UNDER COMMON CONTROL.—If 50 percent or more of the beneficial interest in two or more corporations, trusts, or estates is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), or if 50 percent or more of the beneficial interest in one or more corporations, trusts, or estates is owned by a person who has income from the production of oil or gas, the exemptions provided by this subsection shall be allocated among all such corporations, trusts, estates, and persons in proportion to the respective production of domestic crude oil or natural gas (not including natural gas with respect to which subsection (b)

applies), as the case may be, during the period in question by such entities.

"(C) ALLOCATION AMONG MEMBERS OF THE SAME FAMILY.—In the case of individuals who are members of the same family, the exemptions provided by this subsection shall be allocated among such individuals in proportion to the respective production of domestic crude oil or natural gas during the period in question by such individuals.

"(5) DEFINITION AND SPECIAL RULES.—For purposes of this subsection—

"(A) The producer of crude oil or natural gas means the person whose liability for tax under this chapter will be affected by the deduction allowed for depletion with respect to such crude oil or natural gas, except that in the case of a subchapter S corporation, the corporation and not the shareholder shall be considered the producer, and in the case of an estate or trust the producer shall be the person entitled to the depletion deduction under section 611(b).

"(B) The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that 'more than 50 percent' shall be substituted for 'at least 80 percent each place it appears in section 1563(a).

"(C) A corporation is a related person to another corporation if such corporations are members of the same controlled group of corporations, and a person is a related person to another person, if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children, and

"(D) The family of an individual includes only his spouse and minor children.

"(6) TRANSFER OF OIL OR GAS DEPLETION PROPERTY.—

"(A) In the case of a transfer (as defined for these purposes under regulations prescribed by the Secretary or his delegate), of any oil or gas depletion property after March 17, 1975, paragraph (1) shall not apply to the transferee with respect to his production of crude oil or natural gas from such oil or gas depletion property. For purposes of this paragraph the term 'oil or gas depletion property' means any property interest (including an interest in a partnership, trust, or estate) with respect to the income from which a deduction for depletion is allowable under section 611 for domestic crude oil or domestic natural gas but only if the principal value of the property has been demonstrated before such transfer by prospecting or exploration or discovery work.

"(B) Subparagraph (A) shall not apply in the case of (i) a transfer of an oil or gas depletion property at death, or (ii) a transfer in an exchange to which section 351 applies if following the exchange the exemptions provided by this subsection are allocated among the transferor and transferee by reason of paragraph (4)(B).

"(d) LIMITATION BASED ON QUALIFIED INVESTMENT.—

"(1) GENERAL RULE.—So much of the deduction allowed for depletion as is computed by reference to section 613 by reason of subsection (c) shall not exceed for any taxable year an amount equal to the sum of the producer's qualified investment and qualified investment carryover for the taxable year.

"(2) QUALIFIED INVESTMENT.—For purposes of paragraph (1), any person's qualified investment for any taxable year is the amount paid or incurred by such person during such taxable year (with respect to areas within the United States or a possession of the United States) for—

"(A) intangible drilling and development costs;

"(B) the following items if paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas within the United States or a possession of the United States:

"(i) aerial photography;

"(ii) geological mapping;

"(iii) airborne magnetometer surveys;

"(iv) gravity meter surveys;

"(v) seismograph surveys; or

"(vi) similar geological and geophysical methods;

"(C) the construction, reconstruction, erection, or acquisition of the following items, but only if the original use of such items begins with such person:

"(i) depreciable assets used for the exploration for or the development or production of oil or gas (including development or production from oil shale); converting oil shale, coal, or liquid hydrocarbons into oil or gas; or refining oil or gas (but not beyond the primary product stage);

"(ii) pipelines for gathering or transmitting oil or gas, and facilities (such as pumping stations) directly related to the use of such pipelines.

"(D) secondary or tertiary recovery of oil or gas, including remedial work necessary to maintain or restore primary production, or

"(E) the acquisition of oil and gas leases but the aggregate amount which may be taken into account under this subparagraph for any taxable period shall not exceed one-third of the aggregate of the amounts which may be taken into account by the taxpayer under subparagraphs (A), (B), (C), and (D) for such period.

"(3) QUALIFIED INVESTMENT CARRYOVER.—For purposes of paragraph (1), a producer's qualified investment carryover shall be the amount, if any, by which the amount of the producer's qualified investment for the preceding taxable year exceeds so much of the deduction allowed for depletion as is computed under section 613 by reason of subsection (c) (determined without regard to this subsection) for such preceding taxable year.

"(4) ROYALTY OWNERS.—Paragraph (1) shall not apply in the case of any producer for depletion with respect to a producer's share of production from a royalty interest.

"(e) PRODUCER MUST BE INDEPENDENT.—

"(1) RETAILS EXCLUDED.—Subsection (c) shall not apply in the case of any producer who directly, or through a related person, sells gasoline, kerosene, distillates (including Number 2 fuel oil), refined lubricating oils, or diesel fuel—

"(A) through any retail outlet operated by the producer or a related person, or

"(B) to any person—

"(i) obligated under an agreement or contract with the producer or a related person to use a trademark, trade name, or service mark or name owned by such producer or a related person, in marketing or distributing gasoline, kerosene, distillates (including Number 2 fuel oil), refined lubricating oils or diesel fuel, or

"(ii) given authority pursuant to an agreement or contract with the producer or a related person, to occupy premises owned, leased, or in any way controlled by the taxpayer or a related person.

"(2) RELATED PERSON.—For purposes of this subsection, a person is a related person with respect to the producer if a significant ownership interest in either the producer or such person is held by the other, or if a third person has a significant ownership interest in both the producer and such person. For purposes of the preceding sentence, the term 'significant ownership interest' means—

"(A) with respect to any corporation, 5 percent or more in value of the outstanding stock of such corporation,

"(B) with respect to a partnership, 5 percent or more interest in the profits or capital of such partnership, and

"(C) with respect to an estate or trust, 5 percent or more of the beneficial interests in such estate or trust.

"(f) DEFINITIONS.—For purposes of this section—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(3) DOMESTIC.—The term 'domestic' refers to production from an oil or gas well located in the United States or in a possession of the United States.

"(4) BARREL.—The term 'barrel' means 42 United States gallons.

"(b) TECHNICAL AMENDMENTS.—

"(1) Subparagraph (A) of section 613(b)(1) (relating to 22 percent of depletion rate for certain minerals) is amended to read as follows:

"(A) oil and gas, to the extent allowable under section 613A;

"(2) The last sentence of paragraph (7) of section 613(b) (relating to 14 percent depletion rate for certain other minerals) is amended by striking out "or at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or", and by adding at the end thereof the following new subparagraph:

"(C) oil or gas wells."

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter I of chapter 1 is amended by inserting after the item relating to section 613 the following new item:

"Sec. 613A. Denial of percentage depletion for oil and gas wells."

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

The distinguished Senator from Louisiana objected to the amendment offered by the Senator from Alabama on the ground that there would be a loss of revenue to the Treasury, and that is certainly true, though the Senator from Alabama felt that, with the conferees on the part of the Senate in full control of the amendment in the conference, it could be passed in such a way as to grant to farmers the opportunity of passing on their farms to their families, and keep the family farms in operation without the rest of the family having to sell the farm in order to pay the inheritance tax.

The amendment offered by the Senator from Alabama at this time, when we are talking about saving money for the Treasury, would save anywhere from $11 to $13 billion or $14 billion over the bill as it exists at this time. This may well be the last call tonight for fiscal responsibility and fiscal sanity.

This substitute which the Senator from Alabama has offered takes the House bill, which was in the vicinity of a $20 billion reduction and adds the Bentsen amendment to the House bill.

We all know what the Bentsen amendment would do: We approved of it here in the Senate, on the Senate floor. This is an opportunity, I will say to the Members of the Senate, to save the Treasury from $11 to $13 billion, because the bill would go to conference with the provisions of the House bill and the Bentsen amendment added, so that all that the conferees would have to consider would be the matter of the oil depletion allowance—the difference between the House cutting it out and the Bentsen amendment saving it for small—or I withdraw

the word "small," because it preserves the exemption for independents that produce up to 3,000 barrels of oil a day.

So that is all that would be left.

The reason I am not able to give an exact estimate as to the saving that this amendment would accomplish is that we have not had any estimates out of the committee in quite some time.

The Mansfield motion for the recommittal of the bill, and its reporting back forthwith to the Senate, was a barebone substitute of some $31 billion. Numerous additions have been made since that time, and so we have not had any estimate. and I hope that the Senator from Louisiana would give us an estimate other than just saying it is about $30 billion that the Senate bill has in cuts and rebates.

Well, Mr. President, I do not feel that a tax reduction measure calling for reductions and rebates of around $33 billion and, possibly, a whole lot more, is in order at this time when even with the President's estimates and his proposals on tax reduction and tax refund there is going to be a $52 billion deficit.

When you add these additions on, if the Senate passes a $33 to $35 billion tax reduction, and the House goes along somewhere in the neighborhood, and the Senate continues adding spending programs, Congress continues adding spending programs, I intended to say, this deficit could get up in the neighborhood of $90 to $100 billion just at a time when the economy is showing some signs of improving perking up, and we have a whole lot of overkill in this bill.

So, if we are anxious to save money for the Treasury, here is an opportunity to do it. The House passed a pretty good bill, and we can take that bill with the amendment that the Senator from Alabama has offered, put on the Bentsen amendment, and save some $11 to $13 billion for the treasury.

Are we interested in doing that? It remains to be seen. We worked for 2 days here in the Senate marching up the hill and down the hill on this bill. The work of 2 days was wiped out by the Mansfield motion which, by the way, was, one reason for it apparently was, to provide the method to get in this matter of the gift of $100 to social security and other Federal program beneficiaries.

So, Mr. President, give us an opportunity to see how much we really want to save money for the Treasury, whether we are willing to have a $31 to $33 to $35 billion outlay by the Treasury in these critical times.

If we do, vote down the amendment, and I am satisfied it will be voted down, but that does not prevent the Senator from Alabama to at least make the effort.

The Senator from Alabama would like to see the refunds and tax cuts cut down somewhere in the neighborhood of the figure that the President recommended, and in the neighborhood of the amount that the House approved.

I do not see why it is the Senate always has to add to the programs and the appropriations that the House sends over to us. But that seems to be the custom.

So, Mr. President, as the last opportunity we are going to have with respect to this bill, because I do not believe there are more than one or two more amendments, this would be a complete substitute, would cut off further amendments, would freeze the payout by the Treasury after the $20 billion figure, and would save the taxpayers from $11 to $13 billion.

I do not know what support this amendment will draw, but if any Senators are interested in cutting the present bill down by from $11 to $13 billion, here is the opportunity. They will not get another one, because there is no other single amendment at the desk that would accomplish what this amendment will do. So far as the Senator from Alabama knows, this is the only substitute at the desk. This is the last opportunity for economy, the last call, the last call for economy. We will not get many more opportunities like this, and I hope the Senate will avail itself of this opportunity to save $11 to $13 billion. It may be $15 billion, I do not know. We have not had an advisory opinion recently on this amount.

There was an amendment passed, either yesterday or today, adding $800 million to the payout. I am sure that the Senator from Louisiana can furnish us with a pretty good estimate on the amount of money this is going to cost the taxpayers. It is not just a payout that we have before us, it has got to come out of somebody's pocket.

Well, this amendment the Senator from Alabama is offering is a taxpayers' protection amendment, a TPA. You hear a lot about CPA, this is TPA—taxpayers' protection amendment. That is what the Senator from Alabama is offering.

Mr. President, I call 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.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. 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 Texas (Mr. BENTSEN), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER), and the Senator from Ohio (Mr. TAFT) would each vote "yea."

The result was announced—yeas 36, nays 52, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—36

Allen	Domenici	McClellan
Baker	Eagleton	McClure
Bartlett	Eastland	McGee
Biden	Fannin	Morgan
Brock	Fong	Nunn
Buckley	Garn	Pell
Burdick	Goldwater	Randolph
Byrd, Harry F., Jr.	Gravel	Scott, William L.
Byrd, Robert C.	Hansen	Stennis
Chiles	Helms	Stone
Curtis	Hruska	Thurmond
Dole	Laxalt	
	Mansfield	

NAYS—52

Abourezk	Hathaway	Muskie
Bayh	Hollings	Nelson
Beall	Huddleston	Pastore
Brooke	Humphrey	Pearson
Bumpers	Inouye	Percy
Cannon	Jackson	Proxmire
Case	Javits	Ribicoff
Church	Johnston	Roth
Clark	Kennedy	Schweiker
Cranston	Leahy	Scott, Hugh
Culver	Long	Stafford
Ford	Magnuson	Stevenson
Glenn	Mathias	Talmadge
Hart, Gary W.	McIntyre	Tunney
Hart, Philip A.	Metcalf	Weicker
Hartke	Mondale	Williams
Haskell	Montoya	
Hatfield	Moss	

NOT VOTING—11

Bellmon	Packwood	Taft
Bentsen	Sparkman	Tower
Griffin	Stevens	Young
McGovern	Symington	

So Mr. ALLEN'S amendment was rejected.

AMENDMENT NO. 155

Mr. MATHIAS. Mr. President——

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. I call up amendment No. 155.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 56, line 20, strike the quotation marks and insert the following: "The Secretary or his delegate may further amend such tables in order to reduce excess withholding means the amount by which funds withheld exceed tax obligations actually incurred by the taxpayer.".

Mr. MATHIAS. Mr. President, this is a brief amendment which 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 to 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 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.

Mr. MATHIAS. Mr. President, I believe this amendment can be unique this evening——

The PRESIDING OFFICER. The Senator will suspend.

The Senate will be in order and the Senators will take their seats.

The Senator from Maryland.

Mr. MATHIAS. Mr. President, 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. As in section 204 of the bill, the Secretary is empowered to adjust tables in other respects. That is the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, what the Senator overlooks is that a great number of taxpayers use the withholding system as a way of actually saving. 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.

What this amendment would do, to a considerable degree, would be to delegate the taxing power to the executive branch of Government. I do not know why we would want to do that. It would seem to me that we would do just as well to leave the taxing power where it is, in the Congress. Our staff has studied it and they do not think it is a good idea.

I would think, Mr. President, if we are to do something of this sort, it could well be subject to some study, to know what the Treasury suggestions would be in this area, and to see the various suggestions that could be made to a committee headed by the Senator from Colorado (Mr. HASKELL) who is very diligently studying the procedures of the Internal Revenue Service.

In my judgment, there are a number of reasons why this amendment should not be agreed to. It may very well be that in further hearing and study someone might find ways to improve on the system, but in my judgment this amendment creates, and I say this with the advice of the joint committee staff, more problems than it solves.

Mr. MATHIAS. Mr. President, very briefly to respond to the distinguished chairman of the committee, 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.

Furthermore, with regard to the powers delegated to the Secretary, there is no greater power delegated to the Secretary by this amendment than is already delegated to the Secretary under section 204 of the bill as it now stands.

So, Mr. President, I urge the Senate to adopt this amendment.

Mr. LONG. Mr. President, there are now devices in the tax system available to all taxpayers, completely legal, whereby the taxpayer can have the Treasury overwithhold if he wants that done. Some taxpayers have explained to me their reasons why they wanted their taxes overwithheld.

I move to lay the amendment on the table.

Mr. MATHIAS. 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 agreeing to the motion to table.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the vote be a 10-minute vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT) is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 52, nays 36, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—52

Abourezk	Hansen	McGee
Allen	Hart, Gary W.	McIntyre
Bayh	Hart, Philip A.	Mondale
Burdick	Hartke	Morgan
Byrd, Harry F., Jr.	Haskell	Moss
	Hathaway	Muskie
Byrd, Robert C.	Helms	Nelson
Cannon	Huddleston	Nunn
Church	Humphrey	Pastore
Clark	Inouye	Pell
Cranston	Jackson	Proxmire
Culver	Johnston	Ribicoff
Dole	Leahy	Stennis
Eagleton	Long	Stone
Eastland	Magnuson	Talmadge
Fannin	Mansfield	Tunney
Glenn	McClellan	Williams
Gravel	McClure	

NAYS—36

Baker	Ford	Percy
Bartlett	Garn	Randolph
Beall	Goldwater	Roth
Biden	Hatfield	Schweiker
Brock	Hollings	Scott, Hugh
Brooke	Hruska	Scott, William L.
Buckley	Javits	Stafford
Bumpers	Kennedy	Stevenson
Case	Laxalt	Thurmond
Chiles	Mathias	Weicker
Curtis	Metcalf	
Domenici	Montoya	
Fong	Pearson	

NOT VOTING—11

Bellmon	Packwood	Taft
Bentsen	Sparkman	Tower
Griffin	Stevens	Young
McGovern	Symington	

So the motion to table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, while we have such good attendance, I should like at this time, first, to ask how many more amendments there are which will be offered this morning. Four.

Second, I think I should announce to the Senate—and I feel like Daniel in the lion's den in so doing—that the Senate has agreed to a unanimous-consent proposal that it take up the agriculture bill at 9 o'clock in the morning. I wish at this time to ask unanimous consent that the time be changed to 11 o'clock Monday morning. Anybody who wishes to object can knock it off.

Mr. HUDDLESTON. Mr. President, reserving the right to object, I inquire of the majority leader whether or not there is a possibility that we might set a time certain on Monday for a vote on *final* passage of the farm bill.

Mr. MANSFIELD. I am prepared to make such a proposal, with little hope of success. May I say that the reason for the change from Saturday to Monday is due to the possibility of a filibuster to a particular amendment by a Member on the Democratic side, plus objections of other Members on the Democratic side, plus objections of Members on the Republican side. It is most difficult to find a way in a period such as this on which all Members can agree, and there are Members who, if the Monday date is agreed to, will be very much put out and very unhappy because of that change. But no matter what day we pick, that would very likely be the result.

Mr. ALLEN. Reserving the right to object, I shall not object. I am wondering; the distinguished majority leader gave us some rather frightening news there when he said that a filibuster was in prospect. I wonder if the distinguished majority leader had possibly heard that the Senator from Alabama might engage in any such nefarious practice.

Mr. MANSFIELD. No, the word "filibuster," I think, was overused in this instance. "Delay" might have been a better word, and a number of amendments might well have been offered dealing with the same subject.

Mr. ALLEN. That is actually not attributed to the Senator from Alabama, I think.

Mr. MANSFIELD. No, whenever he filibusters, the whole world knows it.

Mr. WEICKER. Reserving the right to object.

Is it the intention of the distinguished majority leader that we shall then, on Monday, actually consider the agriculture bill, with whatever votes might occur, and that we will probably also have to continue on, to consider the conference report vis-a-vis the legislation which is now being considered by the Senate?

Mr. MANSFIELD. Yes.

Mr. WEICKER. Is this merely something that is expected to fade away, or are we actually expected to work during the course of the session next week?

Mr. MANSFIELD. No; the joint leadership considered the possibility of coming in on Monday or Tuesday in the hope of having a reading at that time from the conference on the tax bill to decide what should be done subsequent to that period. But if the agreement is reached to come in on Monday, rather than on Saturday, I add a further caveat to the effect that no votes occur before 4 o'clock —again to try to comply with the wishes of Members on both sides of the aisle who find themselves in difficulties of sorts.

I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding. Is it the intention of the Senator from Montana that we should go to final passage of the agriculture bill, or is it, as some have it, that there should be general discussion and vote on amendments, with final passage coming after the recess?

Mr. MANSFIELD. The personal wish of the Senator from Montana is that we be able to finish the bill on the day we take it up. But I am not at all sure that that will be possible. I shall do everything I can, and this fits in with the suggestion made by the distinguished Senator from Kentucky, to see that the matter be brought to a conclusion on that particular day because, except for one amendment that I know of, there is not much in the way of roadblocks in the consideration of that legislation.

Mr. TALMADGE. Will the distinguished majority leader yield at this point?

Mr. MANSFIELD. Yes, indeed.

Mr. TALMADGE. The Committee on Agriculture and Forestry today approved the House bill with some amendments, by a unanimous vote. This is an emergency bill. The reason we think that time is of the essence is because farmers in the South and in the Southwest are planting their crops at the present time. Farmers throughout the United States are making plans as to what crops they will plant. Those decisions take time. Before one plants a crop, one must arrange financing, one must get the necessary machinery, must acquire the necessary labor, must acquire the necessary fertilizer. In some instances, one must acquire the land. More than 8 million people who farm for a living in the United States of America are entitled to know what they can expect of their Government this year and they are entitled to know soon. They ought not to be kept waiting any longer. So I hope that the Senate can expeditiously act on this bill not later than Monday.

As the Senate knows, we had a unanimous-consent agreement to come in this morning, 8 hours and 40 minutes from now, to act on this bill with a 2-hour limitation on the bill, 30 minutes on each amendment. There was some objection interposed on the part of one Democratic Senator. The leadership discussed it with me, with the ranking minority member of the Agriculture and Forestry Committee, and several other Senators. Since I have been in the Senate, for 18 years, I have never asked the leadership of this party to postpone a bill for the convenience of the Senator from Georgia. I have canceled engagements already for Atlanta, Ga., tomorrow night, on the assumption that the Senate would act on this bill today. I have never quibbled with the leadership about when they ought to schedule matters for consideration by this body. I realize that the leadership needs flexibility in order to try to accommodate themselves to the difficult task which they undertake.

We have 99 Senators—100 Senators—who have different points of view, different reservations, and different timetables. I would hope that the request of the majority leader would be acceded to. I would hope that we could come in at 11 a.m. Monday in accordance with the request that he has made, and I would hope that this body could complete action on that bill expeditiously Monday, in order that those who farm for a living in this Nation will know what to expect this year.

Several Senators addressed the Chair.

Mr. MANSFIELD. I yield to the Senator from Tennessee.

Mr. BROCK. Mr. President, I would just like to ask, since there are an awful lot of Senators who have canceled, as has the Senator from Georgia, things for tomorrow, and the Senator did not——

Mr. MANSFIELD. Today.

Mr. BROCK. Well, all right, today, Saturday. I wonder if it would not be possible, or what the logic is of putting the debate over. I am not sure that I really understand why we cannot proceed at least to begin the debate tomorrow, as was requested and agreed to by virtually all Senators in the Chamber.

Mr. MANSFIELD. We could. All a Senator has to do, one Senator, is to interpose an objection to the unanimous-consent request I made.

The same arguments would prevail for Monday and Tuesday, as would prevail for today. There is no way under God's green earth that you can find a solution which will take care of all the 100 Senators of this body at this particular time, in view of the expectations of some days ago.

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

Mr. MANSFIELD. Yes, indeed.

Mr. McCLURE. There is, as I understand it, an existing agreement under which the bill would be considered today if there were objection to the pending request of the Senator from Montana?

Mr. MANSFIELD. Yes; it would be considered beginning shortly after 9 o'clock this morning.

Mr. McCLURE. Will the Senator yield further?

Mr. MANSFIELD. Yes.

Mr. McCLURE. Had the Senator from Utah (Mr. Moss) indicated any preference whether it be on Monday as compared to Saturday? He is the gentleman who made some comment earlier about bringing it up on Saturday.

Mr. MANSFIELD. The Senator from Utah will have to speak for himself. I yield to him for that purpose.

Mr. MOSS. Mr. President, I am glad to respond to that. The Senator from Utah did not ask for the change; it was requested by others.

I would like to point out that we still do not have a report. If we start in the morning and spend 8 hours on this thing, we are going to be starting blind. We do not even have anything to look at, to find out what we are talking about. Therefore, it made sense to me to go over to Monday, and I agreed to it.

I, too, have canceled things for tomorrow and all next week. I have done those things just because, for some reason, we want to get on the agriculture bill. The Senator from Georgia thinks it is because the farmers have to know when to plant; but the Senator from Georgia tells me there will not be any attempt even to go to conference until after we come back. The Senator from Utah offered to come back in on the day we come in after we have had our nonlegislative period, to come in and, under a time limitation, present a single amendment, have it voted up or down, and have the bill done with. But that was not accepted. Therefore, I must take the course I took.

Mr. PASTORE. Mr. President, will the majority leader yield?

Mr. MANSFIELD. First I yield to the Republican leader. Then I will yield to others.

Mr. HUGH SCOTT. Mr. President, I must say I am in agreement with the distinguished Senator from Tennessee. One suspects that more than half the Senators in this Chamber have canceled engagements for tomorrow. I suppose we are considering the greatest good for the greatest number, and we have got to get the fertilizer down to the farmers. The Senate is, of course, in an exporting position in that regard. [Laughter.]

But I think we ought to recess, come in tomorrow, and finish this bill, if we can, tomorrow or Monday.

Mr. MANSFIELD. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I agree. There is a dimension here that has not been discussed. Here it is, 25 minutes past 12. There is no guarantee that we will get out of this Chamber much before 2 o'clock. By the time we get back home and ready for bed, it will be 3 o'clock in the morning, and after all, even the Constitution provides against cruel and unusual punishment. After all, we are dealing with the people's business, and I think we ought to deal with it with clear, cool, and rested heads.

Senators know all the machinations that can take place in this Chamber. We could be harassed and harassed and harassed with live quorum calls, and maybe accomplish little or nothing. After all, the difference between Saturday and Monday is not going to hurt the farmers too much, and if the agreement has already been made, why do we not just do it that way, and come back here Monday? We have to come back anyway to discuss the conference report, and in all probability a conference will be held over the weekend, so that we can wind up this matter.

We have to come back anyway. Give us a break on this weekend. We came in here at 8 o'clock this morning, and here it is, 12:30 the next day, and God knows when we are going to get out of here tonight. To come back here after 4 or 5 hours and take up an important bill, where we do not even have the report, I do not think that augurs well with the people.

Monday is not very much different than Saturday. I realize Senators have called off engagements, and I would hope the agreement being suggested by the majority leader will be agreed upon, we will come back here Monday, and I think we will all have a better frame of mind. We will not have the harassment that we would have tomorrow. We went through that on the change of rules, how much one Member can stand up and harass this body, and ask for a live quorum with every single amendment he proposes, and by 5 o'clock we would not have accomplished anything anyway. I think we ought to go home, come back Monday, and do the people's business.

Mr. MANSFIELD. I yield to the Senator from California.

Mr. TUNNEY. Mr. President, I do not think any Senator wants to ask the entire Senate to make accommodations, change the entire schedule for him, and I certainly would not ask that myself.

On the other hand, I understood until approximately an hour ago that we were going to have a Saturday session, and as a result of that I canceled, as many other Senators did, a trip to California in which I had several meetings of great importance. They are of no importance to anyone else in this Chamber, but they are of great importance to me, because I am up for reelection next year. I wanted to go to those meetings. Some of them were groups of several hundred people that I was speaking to.

I cannot help but feel that by puting this off until Monday we are making a personal accommodation for some Senators who feel they do not want to be here on Saturday; they would rather be here on Monday than Saturday.

Well, that is fine, except for the fact that we had unanimous-consent agreement that was in being for many days, and many of us understand that we were going to be coming in on Saturday.

The one thing that I have heard in the corridors of the Senate and in the cloakroom more than any other thing about the scheduling, and recognizing the terrible difficulty that the majority leader has in scheduling the business of this body to make accommodations to fit the schedule of everyone, is the need for some degree of security and knowledge of what the program is going to be in the days ahead, so that we can make plans.

I think that the majority leader has an impossible task, quite frankly, in trying to make that schedule so that it does serve for the benefit of the Nation as well as individual Senators. But I just cannot help but feel that if we have had a schedule that was planned for many days now, with a unanimous-consent agreement to come in on Saturday, and many of us have canceled our Saturday schedules to be sure that we are here, and now we are going to put it off until Monday, which will mean we will have to cancel our schedule for Monday after we have already canceled for Saturday, it just is not fair. I am loath to object, as one person, in order to satisfy or accommodate myself; but I cannot help but have the feeling that the accommodation that is being made for Monday is to satisfy the individual schedules of a few other Senators around here.

Mr. MANSFIELD. May I say that I certainly appreciate the sentiments of the distinguished Senator from California, and if he feels strongly enough all he has to do is to object to the unanimous-consent request, and we will do our best to come in this morning.

What I am trying to do is to find a way out of a labyrinth in which we find ourselves because of circumstances over which we do not have too much control.

I yield to the Senator from Kentucky as I agreed to.

Mr. HUDDLESTON. Mr. President——

Mr. MANSFIELD. I wish somebody would say yes or no.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. That is it. Objection is heard.

Mr. CHILES. Mr. President, will the leader yield? I wonder if there is not a way to try to find a way around there. It seems we really have more than one problem. We have got to also concern ourselves with returning or coming back for the conference report on the tax bill when we finish that. I would guess that perhaps the best chance that that would happen would be, say, around Wednesday, that that conference report might be up. I wonder if we came in tomorrow, and if we know that the Senator from Utah is going to hold us beyond tomorrow, and that is his right, and if we knew that, would we not be better off to come in tomorrow, file a cloture motion, call that motion up on Wednesday, and then if we come in, if we get cloture on Wednesday, we would know that we would be able to finish the bill, plus have a good shot at taking up the conference report on the tax thing, and we would know 3 or 4 days in advance so we could at least make our schedules and tearing them up for Wednesday.

SEVERAL SENATORS. Vote.

Mr. MANSFIELD. Mr. President, the regular order, please. A Senator is entitled to be heard.

Mr. CHILES. That may be the basis on which we could get out. If we come in tomorrow we are not going to finish the bill. If we come in Monday we are not going to finish the bill. So we are going to waste those days. It would seem much better if we laid down a cloture

motion and go about our business until Wednesday when we take up the cloture motion.

Mr. MANSFIELD. It is perfectly legitimate and within the rules of the Senate, and if the Senator desires to do so or any Senator, he can do so on that basis.

I yield to the Senator from Maryland. I am using my time under the cloture.

Mr. BEALL. Before the Senator from Florida made his suggestion, I was going to suggest it might be accommodating to most of the Senators if the conference report and the agricultural bill would be considered on the same day because that is something that could be worked out. It is a good idea that when the conference report comes back that we start the agricultural bill and——

Mr. MANSFIELD. If it works that way it would be fine. But we do know we have an agricultural bill before us, and we do not know as yet when a conference report will be available.

I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I would like to point out that none of us has seen a report of the agricultural bill, and the final effect upon the cotton farmers in my State who are very strongly opposed.

Mr. PASTORE. Mr. President, may we have order. I would like to hear the Senator.

Mr. GOLDWATER. They are opposed to the legislation as we heard it.

I think it is very wrong for this body to consider such important legislation as agriculture within a few hours when we have not even seen what we are going to talk about, and when they have already entered into a unanimous-consent agreement to vote tomorrow. I do not see how you can do this in good conscience, and I suggest that it is rather useless to call this an emergency bill. Farmers know when they are going to plant. They know pretty much what they are going to plant, and they know how much money they are going to need, and they know all about fertilizer. [Laughter.]

I would certainly hope that the decision made by the majority leader to come in here Monday could be abided by. It is going to inconvenience everybody, as everything we do in this body inconveniences some 1, 2, or 3 of the 100 Members. But I think we put on a rather silly display this week. Now, let us not cap this week off by trying to pass a multibillion-dollar agricultural bill that many large farm organizations do not want, and do it in 1 day, in fact, in 2 hours under a controlled agreement that I did not know was made. I do not think there were more than three people on the floor when it was asked for.

I would certainly back the leader in his suggestion that we come in on Monday. As I understand it, the distinguished chairman of the Senate Agriculture Committee has no intentions of taking this to conference with the House until after the recess, so why all the fire? Why all the get-there-tomorrow with it when we are already coming up to 1 o'clock in the morning and we have not even reached a decision on the effort we have been in for these last 100 hours?

Mr. TALMADGE. Mr. President, will the majority leader yield at this point?

Mr. MANSFIELD. Yes.

Mr. TALMADGE. For the information of the Senate, the committee report is being printed in the Government Printing Office at this moment. It will be on every Senator's desk by 9 a.m. tomorrow. I believe it is short enough, brief enough, simple enough, where every Member of this body can read it in less than 30 minutes and understand it fully. It is not a complicated report.

As I stated a moment ago in response to the distinguished Senator from Arizona, for whom I have very great affection, it is planting time in many areas of the country now, and it will soon be planting time in other areas of the country. Farmers cannot decide today what they are going to plant, and plant it tomorrow. It takes time to make those decisions. There must be acquisition of fertilizer, acquisition of pesticides, acquisition of farm equipment, acquisition of labor and, in many instances, acquisition of land.

The farmers of this country are expecting Congress to act, if the witnesses who came before our committee are any indication. We had 164 before our committee.

Mr. STENNIS. Mr. President, I call for order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. TALMADGE. We had 2 full weeks of hearings. Since the Agricultural Act of 1973 was adopted, we have had the Arab embargo; we have had inflation and, in many instances, that has gone up 100 percent. The target prices and loan levels of basic farm commodities in this country now are grossly inadequate, and I hope the Senate will consider that fact.

I have no objection to going over till Monday. I have indicated that to the majority leader and the majority whip. The ranking Republican member of our committee has concurred in that. He raises no objections. But I do think this Congress ought to act on this bill before we go home for the Easter recess, and that is what I urge that we do.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, if we had spent the time we are spending seeking a unanimous-consent agreement as to when to come in, tomorrow or Monday, on the tax bill, we would be through with the tax bill.

Now, I plead with the Senate, let us spend the next hour on the tax bill and get out of here, and we can come back any time we want to, and I will try to accommodate everyone.

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

Would it be possible now to get a time limitation on each of the remaining amendments?

Mr. MANSFIELD. Hold it. Let us get one question settled at a time.

I yield to the assistant majority leader.

Mr. ROBERT C. BYRD. Mr. President, I would hope that we could agree to the majority leader's request. I am as inconvenienced as is any Senator here by virtue of the canceling out of the Saturday session. I secured unanimous consent 2 to 3 days ago for the Senate to meet on Saturday so all Senators were on notice.

I canceled an engagement for tonight, which I considered to be a pretty important engagement. I canceled one for Sunday because I felt that we were going to be in session here on Saturday. But my own personal convenience does not matter.

I do think we ought to settle this thing one way or the other, and unless we get a new agreement we are locked in by the unanimous-consent agreement that requires us to come in here today at 9 o'clock. There is no way under Heaven to change that by a motion. We can only do that by unanimous consent. And, as the distinguished majority leader has stated, any Senator can interpose that objection, and I would hope we would go on and complete action on the tax bill, give consent to the majority leader's request, come in on Monday at 11 o'clock and let us see what we can do.

I think we are going to be the object of much criticism by virtue of the fact that 100 men cannot decide, cannot agree on a time to meet whether it is going to be Saturday or whether it is going to be Monday.

Every person here is going to be inconvenienced one way or the other. So, for once, let us take the inconvenience and go with Monday. I hope that the majority leader will make his unanimous-consent request once more.

Mr. MANSFIELD. I will after yielding to the distinguished Senator from Kentucky who has been waiting so patiently.

Mr. HUDDLESTON. Mr. President, I am sure all of you have been inconvenienced, and I believe every Member of the Senate ought to have every opportunity to present an amendment to the bill he wants to present, and be given adequate time to make his case.

We are faced with a situation where the majority leader has already described it as a delaying and dilatory effort that apparently is going to be made on this very important piece of legislation.

Now, it does not really make any difference to me, and I have an interest in this bill, whether we come in Saturday or Monday, if we are going to do something about the bill when we come in.

Now, what I would like to know, Mr. Leader, we are here now and we are going to be here either Saturday or Monday because we all agreed it was of paramount importance that the Senate stay in session until we passed the tax bill and that any recess be delayed until that time.

My question is, What happens if next Wednesday we are still working on the farm bill and all of the trips that are scheduled to begin to start, are we going to continue to delay the recess until we complete the farm bill, or is the Senate going to be at the mercy of one Senator who wants to delay action on a particular section of the farm bill?

Mr. MANSFIELD. I think the Senate can render proper judgment at that time.

I do not know what it would be, but a proper judgment.

At this time, Mr. President, I would like to renew my request.

Mr. McCLURE. Mr. President, will the Senator withhold his request for just a moment?

Mr. MANSFIELD. I would like to get a decision, it has been objected to once, I would like to go ahead on the tax bill.

I am getting tired, others are getting tired. I would like to get home to see my wife, my daughter, my granddaughter, and go to my bed.

Mr. HUMPHREY. Mr. President——

Mr. McCLURE. I do appreciate the Senator yielding, I wonder if it might not be possible to accommodate the desires of the majority of the Senators if we could agree that the farm bill be debated, whatever amendments may be offered, either tomorrow or Monday, but that all votes on amendments and final passage of the farm bill be deferred until the time that the Senate is considering the conference report on the tax bill.

That would at least give every Senator here the opportunity to come in on one time, and one time alone, during this period of time on which to vote.

Mr. MANSFIELD. Well, the proposal is intriguing, but the point is, as I said before, we have the agricultural bill before us, or will have it later this morning. We do not know how long it is going to take to arrive at an agreement on the tax conference.

I think it would be great if we could tie the two together, but I think we are jumping ahead of ourselves in trying to be definite in that respect at this time.

Mr. McCLURE. Will the Senator yield further?

It would be my suggestion that we ask unanimous consent that the farm bill be considered either on Saturday or on Monday, and I have no preference as to which, with the agreement that no votes on the amendments or the final passage of that would be in order until the time that the Senate considers the final passage of the conference report on the tax bill.

That way, all Senators would be required to be here for only one period of time so far as the votes on both measures are concerned.

Mr. MANSFIELD. Again, the suggesting is intriguing, but we would be spinning our wheels as far as the agricultural bill was concerned and I do not think it would be the right way to approach this legislation, even though if both could be considered it would save us a lot of time and energy and allow many of us to avoid the debate and to do other things we might have on our mind.

So at this time, Mr. President, I renew my request for——

Mr. HUMPHREY. Mr. Leader, this will just take 1 minute.

May I say, everybody is confused tonight. They have had appointments and have had to change schedules. I was going to take my grandson to the circus, but I should have brought him to the Senate. [Laughter.]

Maybe it would have been a little more fun.

I just hope we will agree with what the leader has asked for. If we do this on Monday, we will have the bill before us, we will have the report before us, and we can analyze this legislation, it is not that complicated, really, to get over.

Frankly, I do not mind, I am a night man myself, my father told me to stay out of bed, people die there. [Laughter.]

I felt it was sort of a good idea to stay awake. [Laughter.]

So if my good friend from Connecticut, my good friend from Idaho, or anywhere else, remove their objection, comes Monday it will be a beautiful day. In Minnesota the snow is melting, and next Monday the sun will be shining in Washington. Let us all pray for a happy Monday and get the farm bill under way.

In the meantime, I will come over here and give affectionate greetings to my friend from Utah, we will not worry about a cigarette, a cigar, or tobacco, we will get on agriculture.

So, come on fellows——

The PRESIDING OFFICER. Is there objection?

Mr. BROCK. Object.

Mr. MANSFIELD. Mr. President, I guess we will have to come in at 9 o'clock this morning.

I am sorry we could not work out an agreement.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MANSFIELD. Now, Mr. President, I wonder if it would be possible in view of the objection made by the Senator from Illinois if we might have a limit then on all amendments from now on so we can reach a conclusion on this bill.

Mr. LONG. Mr. President, I ask unanimous consent that debate on all further amendments be limited to 10 minutes to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, and I will not object, I just want to make one comment on that suggestion of the distinguished Senator, and those who want to vote sometime.

This Senate had a tax package before it with the introduction of the amendment of Mr. BIDEN and Mr. BUMPERS this afternoon. Some 10 hours ago we started to discuss taxes and unanimous consents. We spent the whole afternoon on everything but the actual bill. I can appreciate wanting to go ahead and limit debate right now, but I think that would have been a far more appropriate motion had it been made on Monday.

I am not going to ask for a rollcall on my amendment. I do not intend to presume on the time of the Members. But I think it is a sad commentary that when we have legislation before us that, in fact, we only spend 10 hours of the time debating the subject matter before us.

We have discussed everything else under the sun and I think the unanimous-consent request for the time limitation comes after everybody has had his crack at this thing and, actually, now we are on the only amendments that have any real bearing on the subject matter before the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland.

Mr. MATHIAS. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk proceeded to read the amendment.

Mr. MATHIAS. Mr. President, 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:

On page 42, line 23, strike the period and insert ", except as provided in subsection (g),".

After line 23, add a new subsection (g) as follows, and renumber the succeeding subsections accordingly.

"(g) REBATE RECAPTURE FOR TWO-EARNER COUPLES.—In the case of taxpayers who file a joint return under subsection 6013, if each spouse has earned income, and the lower income is either (a) $2,000 or (b) 10 percent of the total of the earned income of the two spouses, whichever is less, there may be computed a tax credit as follows:

(1) There shall first be computed the rebate which would have been due to each spouse if each had been entitled to file a return as a single taxpayer;

(2) The amount of the rebate otherwise due under this section shall be subtracted from the sum of the two rebates calculated under paragraph (1) above.

The amount computed under paragraph (2) may be applied by the said spouses as a credit against the Federal income taxes payable by such spouses on their income for 1975, if they file a single return jointly under section 6013, with respect to such income, or a proportionate share of said amount apportioned accordingly to the adjusted gross income attributable to each spouse, may be applied as a credit by each of said taxpayers who may file separately with regard to 1975 income.

The PRESIDING OFFICER. The Senate will give attention to the Senator from Maryland, the Senators will take their seats.

Mr. MATHIAS. Mr. President, I will try to be even briefer in my presentation of this amendment than I was with the last in the hope that I will be more successful.

I was consulting with one of our very distinguished Members, the Senator from Nebraska, about this amendment earlier and he said, "Oh, this amendment should be called the holy matrimony amendment."

In fact, it is the holy matrimony amendment because its sole purpose is to give to a sober, serious, decent, low-income married couple, both of whom are working, the same tax treatment that we give to a couple of unmarried swingers who are living together but reporting separately.

It simply tries to give some equity to a married couple with respect to the rebate which the Senate and the House have now both agreed should be a part of this tax program.

My amendment would make the rebate or refund mechanism provided in the

House bill, and maintained in the current text, more equitable and more consonant with fundamental American values and beliefs.

The rebate mechanism as passed by the House and as presently before us discriminates invidiously and substantially against any wage earner who happens to be married to another wage-earner. I have provided charts to all my colleagues which demonstrate the extent of this discrimination, and which clearly show that the discrimination is most severe against the lowest income married working couples.

The rebate mechanism thus has three serious faults.

First, it discriminates against taxpayers who need help the most—the low income married couple in which both spouses already work and which is very hard hit by inflation and threatened by rising unemployment.

Second, the rebate mechanism as reported undermines the institution of marriage which is fundamental to our social system. The rebate mechanism, and the tax code generally, provide significant financial incentives to individuals to postpone marriage or to speed divorce. It encourages our young people to live together without the benefit of matrimony and without the serious reflection and recognition of mutual responsibility that is encompassed within the framework provided by the marriage ceremony.

Third, the rebate mechanism as it stands before us is an indirect, somewhat subtle, but very serious discrimination against working women in America. For good reasons or bad, in most American households in which both spouses work, the woman is regarded as the second wage earner and the husband as the principal earner.

The tax code, by combining the incomes of both spouses, today taxes the second income at a higher rate than the first income. This is documented by articles and charts which I have provided to all my colleagues. Therefore, in most households we are in effect taxing the woman who works at a higher rate than the man. The rebate mechanism further discriminates against two-earner families and is yet another slap in the face to women who work, and a further incentive for them to drop out of the labor force and conform to the social role which makes them financially dependent on a man.

The issue is one of equity, fairness and principle. I urge my colleagues to support my amendment.

My amendment states that if two spouses both have earned income, and if they would receive a higher rebate were they to file tax returns as unmarried individuals rather than as a married couple, then the rebate they lose this year because they are married can be recaptured next year as a tax credit against their 1975 income.

The amendment is thus structured so that it does not in any way delay the mailing of rebate checks this year. It will not impede the flow of refunds which is needed to stimulate the economy.

But the amendment does insure that the rebate mechanism treats individuals with similar incomes fairly.

Now, I agree that the committee will raise the objection that this amendment is going to cost a lot of money, and they may say it will cost as much as $3 billion.

They may be right. I suspect that they cannot say that with any certainty, but I can say with certainty that it will not cost a penny this year.

It provides for a tax credit against the 1975 income of that working couple which will be reported against their 1975 income and reported next year so that it does not affect the deficit which has been talked about so much as a part of these proceedings.

What we are seeking here——

The PRESIDING OFFICER. The Senate will be in order so we can proceed rapidly. The Senate will be in order.

Mr. MATHIAS. What we are seeking here is what the Senator from Nebraska so aptly said earlier is justice. We are seeking equity. We are simply trying to make a fair rebate of tax moneys to those who are married and those who are unmarried. That is all it does.

The details are, I think, simple. The committee, because of the differences between the House and Senate versions of the rebate, would have ample opportunity to make whatever adjustments might be required as part of the conference.

I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, this amendment would increase the tax cut by $3 billion. This is what is known as the double rebate. It would permit a couple each to compute what their taxes would be as individuals and then to add the two together.

The bill is already subject, as I said with regard to the Kennedy amendment, to the charge that it does too much for families compared to individuals as it stands now.

The Senator says that most of this tax loss would not occur in this year, and that is correct. Some of it would occur in this year. But, Mr. President, his amendment is also subject to the argument that it may very well be that by the time the additional $3 billion tax loss hits us the stimulative effect of the bill might have gotten the economy moving so you did not need to give away the additional $3 billion. In my judgment, Mr. President, this amendment should not be agreed to. We should not have the double rebate for married couples because they are being treated more fairly than others are now. I move to table the amendment, Mr. President.

Mr. MATHIAS. Will the Senator withhold that for a moment? I want to advise the Senate that when I inquired of the Treasury as to the cost of this bill they advised me that it would be in the neighborhood of $1 billion and not $3 billion. I would like to ask the manager of the bill if he does not agree that whatever the sum is, it will not be reflected in the current year.

Mr. LONG. It will be larger next year. The estimate I have from the joint committee staff is the best estimate I can find, and I do not know of any other estimate to the contrary. The estimate for the revenue loss in this amendment is $3 billion, and we are being criticized for going as high as $30 billion the way it is now. I hope the amendment is not agreed to. I move to table the amendment.

Mr. MATHIAS. Because of the equity of this proposition, would the Senator assure us that sometime in the calendar year the committee would hold hearings on this subject?

Mr. LONG. If the Senator will withdraw the amendment, I will.

Mr. MATHIAS. If the Senator will give us that assurance, I will withdraw the amendment. I think it is an extremely important and equitable principle. If I have the assurance, I will withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The Senator from Connecticut.

AMENDMENT NO. 190, AS MODIFIED

Mr. WEICKER. I call up my amendment No. 190.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut proposes a new section. The amendment, as modified, is as follows:

At the end of the bill, add the following new section:

SEC. CREDIT OR EXCLUSION FROM GROSS INCOME FOR INTEREST ON SAVINGS IN RESIDENTIAL FINANCE INSTITUTIONS.

(a) CREDIT.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed), as amended by this Act, is amended by inserting after section 43 the following new section:

"SEC. 44. INTEREST ON SAVINGS IN RESIDENTIAL FINANCE INSTITUTIONS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount of interest received by the taxpayer from a qualified financial institution.

"(b) LIMITATION.—The credit allowed under subsection (a) for a taxable year shall not exceed $250 ($500 in the case of a joint return of tax under section 6013).

"(c) DEFINITION.—For purposes of this section—

"(1) FINANCIAL INSTITUTION.—The term 'financial institution' means:

"(A) a bank, as defined in section 581, and which provides mortgage financing for the purchase of residential housing,

"(B) a savings institution described in section 591, and which provides mortgage financing for the purchase of residential housing, and

"(C) a credit union, the accounts in which are insured under the Federal Credit Union Act or otherwise insured under State law, and which provides mortgage financing for the purchase of residential housing.

"(2) INTEREST RECEIVED.—The term 'interest received' means interest or dividends on savings deposits or withdrawable savings accounts received by, or credited to the account of, an individual.".

(b) EXCLUSION.—Part III of subchapter B of chapter 1 (relating to item specifically excluded from gross income) is amended—

(1) by redesignating section 124 as 125, and

(2) by inserting after section 123 the following new section:

"SEC. 124. INTEREST ON SAVINGS IN RESIDENTIAL FINANCE INSTITUTIONS.

"(a) GENERAL RULE.—In the case of an individual, gross income does not include any amount of interest received by, or credited to the account of, a taxpayer from a financial institution during the taxable year.

"(b) LIMITATION.—The exclusion allowed under subsection (a) for any taxable year shall not exceed $1,000 ($2,000 in the case of a joint return of tax under section 6013).

"(c) ELECTION TO TAKE CREDIT IN LIEU OF EXCLUSION.—This section does not apply in the case of a taxpayer who, for the taxable year, elects to take the credit against tax allowed by section 44 (relating to interest on savings). Such election shall be made in the manner and at the time prescribed by regulations by the Secretary or his delegate.

"(d) DEFINITION.—For purposes of this section—

"(1) FINANCIAL INSTITUTION.—The term 'financial institution' means:

"(A) a bank, as defined in section 581, and which provides mortgage financing for the purchase of residential housing,

"(B) a savings institution described in section 591, and which provides mortgage financing for the purchase of residential housing, and

"(C) a credit union, the accounts in which are insured under the Federal Credit Union Act or otherwise insured under State law, and which provides mortgage financing for the purchase of residential housing.

(c) EFFECTIVE DATE.—The amendments made by this section apply to interest received by the taxpayer under December 31, 1974.

Mr. WEICKER. Mr. President, as I indicated before, I do not intend to presume on the part of my colleagues by asking for a vote on this amendment. I will just make a few comments in about 2 minutes' time.

As I have indicated, I think it is a shame that when we had the economic problems of this country before us we chose to take an entire week and discuss a myriad of other matters which did not so much pertain to the economy but as to certain philosophical monuments of long standing and which have been present among us even before the present crisis.

I just do not see how we can resolve the economic crisis of this country unless some sacrifice is asked. We have engaged in the old politics by not asking any sacrifice but, rather, just handing out a platter of tax rebates and tax cuts, in no wise trying to set ourselves aright economically. I can understand tax cuts and tax reform as a necessary stimulus for the economy and for getting jobs for those who are unemployed. Tax rebates is a sugar-coated lollypop which can only worsen the crisis.

Now, Mr. President, insofar as I will not make it a part of this package but will hope that it would be part of a tax reform package coming later, I lay before you the idea that if you want to stimulate the housing industry you are going about it the wrong way. Never mind the rebate, and I do not care whether it is new or old housing.

The problem is not the availability of those to build houses; the problem is not the vacancies which exist in new or old housing. The problem is money. Even though the interest rates have been going down, just as soon as the Federal Government steps into the borrowing market those rates are going to go soaring again. Some people are going to be unable to buy housing.

The amendment which I propose, which I will not present to a vote tonight, is to give tax-free status to interest on savings accounts. In effect, you are taking money from the private sector and putting it into the private sector and making it available to the housing market. That will not be subject to the borrowings of the Federal Government. It will not cost the taxpayers anything, and it will supply the necessary impetus for construction and the ripple effect that it has jobwise.

Mr. President, in view of the fact that apparently we are not interested in the economic problems but merely want to rush through something whereby everybody can claim an element of authorship in something which, believe me, will straighten out nothing but only compound the problems not only of the country but of the President and, indeed, of the Congress, I will withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. BROOKE. Will the Senator yield?

Mr. WEICKER. I yield.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BROOKE. I certainly respect the Senator from Connecticut and what he is trying to do or would have tried to do with this amendment, but I just want to point out to him that the banks are getting all the money they need today. The S. & L.'s have them, the savings banks have them. Even in the city of New Bedford, which has an unemployment rate today of 14.2, they are busting at the seams with money in the banks. So I think the money is there.

I think what we are really lacking in the country insofar as housing is concerned, and other things as well, is an uncertainty and a lack of confidence which we have to restore. Certainly, we need to do everything we can to stimulate and to encourage people to buy housing—as the Senator said, to buy either existing housing or new housing, hopefully, so that we can get the construction industry back at work.

How do we do that? I think we have to do it first of all because the people need something to put down on that house. If they have some money in the savings bank and they want to buy a house, they may not have quite enough to put down for the purchase of that house.

If we could give them an incentive for building that house or buying that house within the next 6 months or within the next year when we need it most, then we will get people to buy that house. But not because they cannot get money. Some months ago they could not get money. They could not get it at all. If they could get it, they were getting it at 10 percent and above. But now interest rates are coming down. We have many propositions to bring that interest rate down to even 6 percent. But I feel that even if we did that, we would still have a serious problem in getting housing starts today in this country.

I would just suggest to my distinguished colleague that, rather than giving a tax credit on savings accounts where there is already sufficient money, he might turn his attention and address his attention to the real problem. That is the downpayment a person needs in order to buy that house.

I am talking about the low- and middle-income person that would buy a house, say, from $10,000 to $15,000 in rural areas to $45,000 and no higher than $50,000 in urban areas.

Mr. WEICKER. I appreciate the comments of the distinguished Senator from Massachusetts. I know the interest he has in housing, and I respect the approach toward the problem. But I am not giving away any secrets. The banks are sitting there with a large amount of money on their hands. They are waiting for the borrowing to occur and the interest rates to go up. I think it is misleading—I do not mean that in a bad way, to impute that to the Senator from Massachusetts; but I say that for anybody to believe we are going to have 6- or 7-percent money out there, "It just ain't so." There has been no Federal borrowing of a substantial amount of late, and that is the reason.

Mr. BROOKE. I did not mean to say that I expected that the interest rates would go down to 6 percent on their own. I do expect that the interest rates might go down as low as 8 percent.

I am suggesting that even the distinguished chairman of the Committee on Banking, Housing and Urban Affairs has proposed legislation before our committee that would subsidize, so that you would get interest rates at 6 percent. That would be with a Government subsidy, of course. That is the only way we are going to get it at 6 percent.

I agree with the Senator that we should not mislead anybody that interest rates are automatically going to bottom out at 6 percent. It could get down to 8 percent, and it is down at the present time. I think HUD statistics will bear that out.

Mr. WEICKER. I thank the Senator.

I reiterate that it seems to me that Congress—and, I might add, the President of the United States—has not asked for any sacrifice in the area of energy. Until that sacrifice is requested, we are not going to solve the energy crisis. Therefore, we are not going to attack the principal cause of inflation. We in Congress have not asked for that sacrifice insofar as straightening the economic ship is concerned. We have sat here with a package of tax rebates and tax cuts that could only serve to weaken the economy further.

I think the time has come for a little straight talk, if not tonight. But sooner or later, we are going to be held accountable for our leadership. So far as I am concerned, that leadership has been nonexistent. Politics has been as usual. Therefore, I imagine that the recession will continue as usual, and the inflation as usual; and the energy crisis which

started in the fall of 1973—and nothing has been done on that—will continue as usual. It is a pessimistic note, but sooner or later we will put to our task, and maybe we will respond.

Mr. BUMPERS. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BUMPERS. Mr. President, I have an amendment at the desk which I am not going to present. I associate myself essentially with what has been said.

I was going to offer an amendment which would have deleted section 205 of title II of the act, which would give people up to 5 percent or $2,000 to build a house between now and January 1 of 1976.

I feel that the fastest way to stimulate the economy of this country is to stimulate the housing industry. Not only is it labor intensive, but also, you get a very tangible result in providing people with homes which they so desperately need.

I objected to this. I know that the Finance Committee pursued this proposal very carefully. I objected to it, and I am not going to present that objection, because I hope the conference committee will give it very serious thought and consideration. I think that to offer people $2,000 to build a house, one, will certainly absorb the housing inventory that exists in this country today. But it will not necessarily stimulate the construction of new homes.

Second, I think there are all kinds of potentials for abuse in such a program. The difficulties of administering such a program are going to make it counterproductive.

For example, a man who chose to build his own home and had it half completed on March 13 will have the opportunity of allocating that portion of his house which was built and completed after March 13, as opposed to that part which was built before March 13. That is the decision he will make in taking tax credit at the end of the year on his tax return.

Finally, it is open-ended. The committee put a billion-dollar price tag on this, but there is really no way of knowing. If it served the effect we would like it to serve, they would run as high as $1, $3, or even $4 billion. So we have no way of judging the effect it is going to have on the Treasury.

For all those reasons, and as strongly as I want to stimulate the housing industry, that part of the bill was objectionable to me. But in the interest of time and in the interest of what I know will be a productive conference committee, I will not present that amendment, in which the distinguished Senator from Colorado (Mr. GARY W. HART) joined me; and I should like to associate him with the remarks I have just made.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. LONG. Mr. President, I call up my amendment to eliminate the increase in the surtax exemption.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an amendment:

Page 85, lines 21–22, strike out "and Increase in Surtax Exemption".

Page 86, strike out line 21 through line 13 on page 87.

Page 88, strike out line 14 through line 23.

Mr. LONG. Mr. President, I have gained the impression from hearing Senators that they would like to reduce the amount of the so-called tax cut in this bill.

In my judgment, the area where there is the greatest overlap of tax advantage occurs in the name of small business. The Secretary of the Treasury testified that the provision that the House sent us to increase the surtax exemption from $25,000 to $50,000 could not be justified.

There was also an article in the Wall Street Journal pointing this out as a new tax loophole in the law.

We did increase the investment tax credit. These corporations get the investment tax credit of 12 percent. In addition, these corporations receive a tax-rate decrease which averages 15 percent. Their rate is reduced from 22 percent down to 18 percent. In addition, they get a doubling of the size of the surtax exemption from $25,000 to $50,000—another 38-percent tax cut. They get in total a triple break in the tax cut.

If you want to reduce something, these corporations, having benefited three different ways, should be satisfied to be benefited but two ways, and I urge that that provision be stricken from the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, I claim the time in opposition, and I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, we have heard a great deal about sudden amendments. This is a very sudden amendment, and it affects a very large segment of America; because, in number, about 85 percent of all American business is small business.

This has been one of the classic demands of the small businessman, who finds it very difficult to raise capital and therefore finds in this opportunity of a tax break on low earnings—this all relates to relatively low earnings for a business concern—the opportunity to accumulate some capital. I cannot tell, standing here at 10 minutes after 1 in the morning, whether Senator LONG is right or wrong. All that I know is that in most cases, there are two sides to every question.

Senator NELSON is the chairman of our committee. I am the ranking member of the Committee on Small Business. He has introduced a bill very recently, in which I have joined, a rather classic tax bill for small business, expressly seeking this kind of tax benefit for small business. Hence, Mr. President, I do not feel that I can just let the matter go unchallenged, with all my respect for Senator LONG, and I do not need to affirm that. He knows it very well.

I do not know what the Senator intends to do about pressing his amendment. I would suggest that as chairman of the Committee on Finance, he can get it considered any time. This is no big emergency matter. Just as he has urged many Members here not to press something that is a really major, serious question to many small business concerns and many individuals about which there may be two sides, I hope that he will not press this. If he does, and that is his privilege, I feel that we should have a rollcall, Mr. President, and I shall move to table it.

I realize that I am bucking very difficult odds with the chairman of the committee. But in all fairness and candor, to pull something like this out of the deck and put it up at this point, in my judgment, merits the very same argument that the chairman has made, not once but a number of times, this very night.

Mr. HASKELL. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. HASKELL. Will the Senator yield?

to speak in opposition to the Senator from Louisiana as chairman of the Committee on Finance. Basically, in the tax package, the relief for business is the investment credit, and basically, this goes to very large, capital-intensive, high-equipment-using businesses. Really, the relief for small businesses is two-fold: It is the raising of the exemption from 25 to 50, it is the lowering of the rate from 22 to 18.

The distinguished Senator from Louisiana would take a good part of that relief for small business away. I stand to be corrected on this by the Senator from Louisiana, but my recollection is that the $25,000 exemption has been there for approximately a generation and, therefore, is probably worth about one-half to one-fourth of what it was a generation ago. So I shall be compelled to oppose this.

I am not going to call for the yeas and nays. I shall ask for a division and I shall ask for somebody to get Senators from the cloakrooms so we can have a division on this.

Mr. JAVITS. Mr. President, I think I have the floor still on this, do I not?

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. JAVITS. Mr. President, I demand 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. ABOUREZK. Mr. President.

Mr. LONG. Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes.

Mr. LONG. Mr. President, I point out that there are more benefits for this small group in the House bill—it was the House bill that increased this tax exemption. There are more benefits for small businesses which have incorporated, as contrasted to small businesses operating as proprietorships and as partnerships. Then the Committee on Small Business came in with a whole package of additional benefits for small business, expanding the investment business, such as expanding the investment credit for used equipment and cutting the 22 percent tax rate. The whole package was added to the bill in the committee as well.

Mr. President, there is no group that gets as many benefits than those incorporated as small business. And increasing the surtax exemption does not help any but those incorporated small businesses that have taxable income over $25,000.

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Will the vote be a straight presentation or up and down on the amendment?

The PRESIDING OFFICER. The Chair is advised that at this point, the vote is on the amendment.

Mr. ABOUREZK. Mr. President, I want to ask unanimous consent again that all rollcall votes, up through final passage, be of 10 minutes' duration.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN), is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT), is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 17, nays 73, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—17

Byrd, Harry F., Jr.	Hartke	Ribicoff
Curtis	Johnston	Roth
Eastland	Long	Stennis
Fannin	Mansfield	Stone
Hansen	McClellan	Talmadge
	Pell	Tunney

NAYS—73

Abourezk	Garn	McIntyre
Allen	Glenn	Metcalf
Baker	Goldwater	Mondale
Bartlett	Gravel	Montoya
Bayh	Griffin	Morgan
Beall	Hart, Gary W.	Moss
Biden	Hart, Philip A.	Muskie
Brock	Haskell	Nelson
Brooke	Hatfield	Nunn
Buckley	Hathaway	Pastore
Bumpers	Helms	Pearson
Burdick	Hollings	Percy
Byrd, Robert C.	Hruska	Proxmire
Cannon	Huddleston	Randolph
Case	Humphrey	Schweiker
Chiles	Inouye	Scott, Hugh
Church	Jackson	Scott, William L.
Clark	Javits	Stafford
Cranston	Kennedy	Stevenson
Culver	Laxalt	Thurmond
Dole	Leahy	Tower
Domenici	Magnuson	Weicker
Eagleton	Mathias	Williams
Fong	McClure	
Ford	McGee	

NOT VOTING—9

Bellmon	Packwood	Symington
Bentsen	Sparkman	Taft
McGovern	Stevens	Young

So Mr. LONG's amendment was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, under the unanimous consent agreement previously attained, I have a right to send technical and conforming amendments to the desk. I send such amendments to the desk.

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes certain technical amendments.

Mr. LONG's amendments are as follows:

On page 61, between lines 11 and 12, insert the following:

On page 61, line 12, strike out "(2)" and insert "(3)".

On page 61, line 19, strike out "(3)" and insert "(4)".

On page 61, after line 24, insert the following:

SEC. 206. EFFECTIVE DATES.

(a) Sections 201 and 203.—The amendments made by section 201 and 203 apply to taxable years beginning after December 31, 1974, and before January 1, 1976.

(b) Section 202.—The amendments made by section 202 apply to taxable years beginning after December 31, 1974, and before January 1, 1977. For purposes of section 21 of the Internal Revenue Code of 1954, the amendments made by this section shall not be considered a change in the rate of tax.

(c) Section 204.—The amendments made by section 204 apply to wages paid after April 30, 1975.

The amendments were agreed to.

Mr. LONG. Mr. President, I believe that the RECORD should show that this is a tax cut bill of slightly less than $30 billion: $29.3 billion. I say that because the bill, after the controversy over tax reform, picks up a considerable amount of revenue in some respects while it provides tax cuts in others. I think the tax increases should be balanced against the tax cuts. So I think, on balance, this should be looked upon as a $29.3 billion tax cut bill, which is considerably below what I had predicted it would be when the measure was reported by the Committee on Finance, on the theory that the Senate would probably insist on adding more than that to this measure.

Mr. MUSKIE. Mr. President, the Senate this week has voted tax reductions in both this year and the next which will provide an immediate stimulus to a recession-ridden economy and additional incentives to help sustain long term growth. By putting almost $30 billion back into the economy, we can increase the purchasing power of our citizens and restore strength to the business community.

We have focused individual tax relief on the low- and middle-income wage earners who have the greatest need and will make the greatest use of this revenue.

We have directed tax relief to our Nation's business community—with emphasis on small businesses and the housing industry—which is intended to bring new growth and help hire new employees.

Finally, the Senate has closed a large loophole in the tax code which allowed excessive profits through use of the percentage depletion allowance on oil and gas and the handling of taxes on foreign income.

The proposal by the administration falls short of those goals. The President's proposal for an immediate rebate on Federal taxes is too small. His proposal would end with this calendar year, and the growth it might spark would tend to dwindle by the end of that period.

In 1974, this country experienced the largest annual decline in the gross national product since 1946. During 1975 it is expected that the gap between our potential and our actual gross national product could reach $200 billion. That would be the equivalent of $1,000 for every person in this country.

We all generally agree upon the economic goals for this year and the next. We must stop this economic decline and turn the recession around. We must reestablish orderly economic growth. And we must overcome the record-high 8.2 percent unemployment recorded in February—the highest in this country since 1941. Finally, we must bring down the intolerable rate of inflation.

The $29.3 billion dollar tax reduction measure approved by the U.S. Senate is a responsible approach. It will go far toward achieving those goals—to stimulate the economy and get it moving without inviting a new round of inflation. If it were not for the recession, we would have a surplus—not a deficit budget.

The choices before us were not easy. But it was important to assure that the reductions we approved would benefit the entire country—that it would act as a general stimulus without favoring any one segment of the economy and without pushing the country into any greater deficit than necessary.

Let us look at the solutions that we have agreed upon. We have provided $22.5 billion worth of tax relief to individuals. This will give the American people additional money to cope with the harsh impact of rising costs and to encourage them to start purchasing consumer goods again. These reductions will go in large part to low- and middle-income wage earners and to those of our citizens on the social security rolls who have been coping with escalating costs while they are bound by fixed sources of income.

For each person who paid Federal income taxes in 1974, the Senate measure would provide a 12 percent rebate of those taxes up to $240 per individual. This is the basic stimulus which our economy needs to help renew consumer purchasing and restore consumer confidence.

The Senate bill gives each taxpayer the option to elect taking a $200 credit on 1975 taxes instead of the $750 exemption. This would provide $6.1 billion in relief to low- and middle-income wage

earners. This is also important as a reform of our present tax structure as it provides more equitable tax relief for all those who have been limited to the $750 personal exemption.

That exemption has benefited the rich—as it is worth $525 to persons in a 70-percent tax bracket—while it has discriminated against the low- and middle-income wage earner—since it is worth only $125 to the individuals in the 14 percent tax bracket.

The Senate has provided another $1.7 billion in assistance to those workers with families who earn up to $4,000 in the form of a 10 percent reduction in the taxes they owe up to a maximum credit of $400. This is phased out between incomes of $4,000 and $8,000.

One of the first segments of the economy to stumble in the battle against inflation was the housing industry. In 1972, 2.4 million new houses were started. In 1973, the number had dropped to 2.1 million. In 1974, the drop was to 1.4 million, and by January of this year, it was anticipated that the annual rate of housing starts would be under 1 million. It is essential that we turn this industry around and provide a stimulus for Americans to again begin to purchase new homes. The Senate bill would allow individual taxpayers to reduce their taxes by 5 percent up to $2,000 of the cost of a new home purchased between March 13 and December 31 of this year.

For our older Americans and other citizens who must rely upon social security and railroad retirement payments, the Senate bill provides $100 to each recipient for a total of $3 billion to help them cope with inflationary costs which outstrip their fixed incomes.

We have provided $7 billion dollars to encourage a new cycle of business investment and activity. We hope the combined reductions will renew purchases of consumer goods, rejuvenate retail sales and industrial production and get more of our citizens back to work. And $1.9 billion of this reduction is directed at small businesses in the form of an increase in the surtax exemption—the 22 percent corporate rate would apply to the first $50,000 instead of the first $25,000 and the rate itself would be reduced to 18 percent.

In an effort to encourage businesses and utilities to invest in new facilities, the investment tax credit is increased to a permanent rate of 10 percent from the present 7 percent—4 percent for utilities. For a 2-year period, the taxpayers may claim up to a 12 percent investment tax credit.

If that credit is elected, an employer must contribute one-half of the additional 2 percent gained under this credit to an employee stock ownership plan. Finally, the Senate bill repeals the 10 percent manufacturers excise tax levied on new trucks and buses and the 8 percent manufacturers excise tax on truck parts. It is estimated that this will reduce costs on these items by an estimated $7 million in 1975.

Mr. President, when the Congress set about the task of stimulating economic recovery, our goal was to provide sufficient reductions in taxes for both individuals and businesses to combat the impact of the current recession.

It is inevitable in the consideration of tax legislation, that certain issues of tax reform are considered. On Thursday, the Senate adopted long-overdue reforms in the availability of the percentaged depletion allowance to the oil and gas industry—reforms which will provide additional revenues to the Federal Treasury at a time when that industry has experienced record windfall profits. This is a realistic reform which will help restore equity to our tax structure without appreciable impact on the development of new oil and gas resources.

This achievement is no substitute for long-range, comprehensive tax reform. I am preparing legislation to introduce again in this Congress which would propose reforms in the Internal Revenue Code and to restore the basic premise of our system of taxation—that taxes be measured by ability to pay and that citizens with equal resources make equal contributions to the costs of government.

In many fields of law, government and custom, we have made great strides toward carrying out the goal of the Declaration of Independence that all men are created equal. In other areas we have much progress to make. In the area of taxation we actually have moved away from the standard of equality we all have sought to achieve.

We started with the idea of collecting taxes in direct proportion to the ability to pay them. We have strayed from that path and it is time to go back to the precepts which guided us in the beginning.

I know that the distinguished chairman and the members of the Committee on Finance intend to give thorough consideration to this most important issue.

Most of us in the Senate who believe in the vital need for tax reform have withheld our proposals at this time so that we would not delay the need for immediate tax relief to all of our citizens. We believe that this is a responsible approach at this time and hope that comprehensive tax reform will be forthcoming in the very near future.

Mr. President, the economy needs a strong stimulus. I hope that the House and Senate conferees will agree upon the Senate bill which I believe is a responsible approach toward moving us out of a recession and into an economy of growth and renewed prosperity.

Mr. HANSEN. Mr. President, I rise to express my belief that the total revenue loss to the Treasury as a result of this bill is far too high. Mr. President, my concern is that this $29.3 billion bill will over-stimulate the economy and lead to an even higher round of inflation.

In the President's state of the Union message, he outlined a tax cut proposal. This proposal resulted in the administration's $16.3 billion tax bill. When that tax package emerged from the House, the $16.3 billion package had grown to $19.8 billion. The tax cut bill has now emerged from the Senate with a total revenue loss of $29.3 billion, a figure that is far too high. More importantly, the Senate bill will have a total tax cut/rebate stimulative effect of $33.1 billion. Mr. President, this amount of stimulation is far in excess of the amount recommended by the President, and, I submit, will overstimulate the economy, resulting in even higher inflation rates. A rise in the rate of inflation will surely consume the effect of the tax rebate in a further round of higher prices. This occurrence will not only leave the American people in no better shape than they presently find themselves, but will do irreparable damage to the Nation's financial ability to sustain itself.

Mr. President, on Monday of this week, Secretary Simon, in testimony before the Senate Budget Committee, indicated—

It is essential to understand that the forces of inflation are very largely to blame for the recession we are experiencing today. Both the housing industry and consumer spending, as I have noted, first tumbled under the pressures of rising prices. If we revive those pressures through excessive fiscal and monetary policies, there is a very real danger that we could enter a new and more vicious cycle of inflation and recession. Because of the continuing danger of inflation, we must carefully avoid the temptation of trying to return to full employment at breakneck speed. Instead, we must attack both the recession and inflation at the same time, and that requires a balanced, careful approach.

Mr. President, clearly an economic stimulus of $29.3 billion represents neither a balanced nor carefully conceived approach. I would hasten to indicate that we may buy our way back from the Nation's present unemployment problems only to find ourselves in a worse condition.

I wish to draw my colleagues' attention to an article that appeared in today's Washington Post. The article indicated that though Britain has the lowest rate of unemployment of any major developed country, it is the lone major industrial nation where inflation is worsening. The latest figures indicate that retail prices in Britain are 19.9 percent higher than a year ago, and the gap has been widening almost every month.

My concern, Mr. President, is that the United States may cure unemployment only at the expense of far worsening inflation. Such a course is far from being a balanced and carefully conceived approach to economic recovery, but rather, a step toward the ill-fated approach of the British.

Mr. President, an additional factor that concerns me is that this bill will significantly add to this Nation's growing deficit.

The Department of Treasury estimates are that the United States will experience deficits in excess of $45 billion and $80 billion for fiscal year 1975 and fiscal year 1976. Secretary Simon has indicated that he is fearful that the capital markets cannot meet such heavy federal demands for funds without producing seriously adverse economic consequences.

The Secretary has indicated that the danger of this extremely high Federal capital demand is twofold:

One possibility is that the excessive federal demands on the capital markets would set in motion a vicious competition between

the government and private borrowers for capital funds. Inevitably, mortgage borrowers and medium to lower-rated business borrowers would be crowded out of the marketplace. This could abort the expected economic recovery at an early stage and cause unemployment to rise again.

Another possibility would be for the Federal Reserve to accommodate the enormous borrowing requirements of the Federal Government, as well as private demands, by creating a more rapid growth in money and credit. This might postpone the adverse impact on the recovery for perhaps a year or two. But the consequences of such action would soon catch up with us in the form of a reaccelerated inflation followed by a new recession and higher unemployment.

Many of my colleagues have indicated that we do not need to worry about these problems because even though the deficit has grown, the economy has also substantially grown. They argue that big deficits can be easily accommodated by a big economy. I do not buy this.

Secretary Simon addressed this argument in his March 17 testimony before the Budget Committee:

In fiscal year 1975, a budget deficit of $45 billion will amount to about 3.1 percent of the Gross National Product, while in fiscal year 1976, an $80 billion deficit will come to about 5.0 percent. It is true that on some occasions in the past we have approached such deficit levels—at least the 1975 level. The times most often cited for comparison are fiscal years 1959 and 1968, in which the deficits reached 2.7 and 3.0 percent of the GNP respectively. But what is usually left unsaid in such comparisons is that the deficits associated with those periods were confined to a single fiscal year. In fiscal year 1960 and again in fiscal 1969, the budget returned to surplus. This time, however, we anticipate very large deficits not just for a single year but for three years in a row.

Moreover, even though the Nation's GNP has grown, there has not been a comparable rise in the Nation's formation of capital, and it is the lack of adequate capital formation that should be our true concern. Inadequate capital formation that has caused interest rates to skyrocket, investment in new production to decline and, accordingly, placing a higher and higher demand on the Nation's available production, resulting in higher and higher prices.

Mr. President, we cannot justify increased deficit spending based on increased GNP, even assuming that GNP increases keep up with deficit increases. We must look to see whether the financial market has sufficient capital to finance the growing Federal deficit and still leave room for private sector financing.

The long and short of all this is that we can no longer justify larger Federal deficits based on a larger GNP.

Mr. President, during the next year, local, State and Federal Government units will absorb 90 percent of all available capital. The result of this capital demand will leave the business community competing for the remaining 10 percent. This competition will lead to higher and higher interest rates and more inflation.

On this point I would like to direct my colleagues' attention to a recent editorial in the Wall Street Journal, and ask unanimous consent that it be included in the RECORD immediately following my remarks.

Mr. President, it is surely time for the Congress to recognize that it cannot spend this country into prosperity. It is for this reason that I cannot support this bill.

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

[From the Wall Street Journal, Mar. 13, 1975]

CROWDING OUT

Understanding the economy in 1975, unfortunately for those of us with enough on our minds already, requires an understanding of an esoteric economic debate over something called "crowding out."

Treasury Secretary Simon sounded the first guns in this debate by warning that financial markets cannot finance both the huge federal deficit and the needs of private borrowers. Some economists have described his fear as "hysterical." In a letter to The New York Times, six prestigious liberal economists said the problem would be handled through an "accounting identity." But in recent weeks, independent analyses have been conducted by Norman B. Ture, a Washington-based consulting economist, and Allan H. Meltzer of Carnegie-Mellon University. Each reports that, until he got the numbers down, he could not believe things are as bad as they are.

The crux of the matter is that when the federal government borrows to cover its deficits, it competes with private borrowers who need funds to invest in plant construction and housing. Both government and private needs must be met from the savings pool, which consists of business savings (profits plus depreciation and other "capital consumption allowances"), personal savings and inflows of foreign funds. Allowing for special factors and statistical error, the two totals will always be the same; this is the "accounting identity."

The problem is that if you plug some reasonable 1975 projections into this equation, it is very hard to get the totals to come out equal. This suggests that as the heavy government borrowings come on stream in the second half, the economy may well be in for some type of severe shock now only dimly foreseen. A typical projection, with calendar year 1974 as a base, would look something like this:

Billion dollars

1974

Invest.	+	Deficit	Eq.	Bus. Sav.	+	Per. Sav.	+	For. Inv.
208.9	+	5.9	Eq.	136.5	+	76.7	+	3.6

Total 214.8 Eq. total 216.8.

1975

205	+	70	Eq.	150	+	80	+	10

Total 275. Eq. 240.
Eq. means equals.

First, a word about the estimates. Private investment may fall off more rapidly, but so may corporate profits. Personal savings may be higher if the savings rate rises but will lower if personal income falls. The net inflow of foreign funds may increase, but the above estimate already provides a tripling in a year's time. The estimate of a $35 billion gap is essentially a conservative one, and the question is, how will this gap be closed?

Part of the gap—and in a sense the whole debate is over how much—will be filled by the Federal Reserve System's purchases of federal debt by in effect printing up new money. Over the course of a normal year, the Fed will buy federal securities, thus injecting reserves into the banking system and making the money supply grow. It's easy enough to calculate roughly the relationship between the Fed's purchases and money growth. At a 6% growth in the narrowly defined money supply, the Fed would buy about $7 billion in new federal debt. If the Fed closes the gap by buying the whole $35 billion, the money supply would grow by about 30% over a year's time.

Before we go one sentence further, let everyone understand that money growth anything like the latter figure will not only rekindle inflation, but will make interest rates go up, not down. As soon as lenders and borrowers see that kind of money growth coming, they will start to crank higher inflation estimates into their calculations. Mr. Ture expects the Fed to monetize the bulk of the deficit, for example, and talks in terms of a prime rate of 20% by the end of 1975.

If the Fed pursues reasonably moderate money growth, the deficits will still make interest rates rise, though not so astronomically. The normal operations of the market would balance the equation through higher interest rates, discouraging borrowing and encouraging savings and foreign inflows. But with a $35 billion gap to close, this implies interest rates that still might be high enough to cause severe problems.

A drop in business investment below $205 billion implies a much deeper economic decline than so far predicted. Even the pessimistic predictions of the Council of Economic Advisers looked for a small increase, not decrease, in private investment.

Alternatively, the $80 billion in personal savings is based on a savings rate of 7.9% of a disposable income of $1,049 billion. Over the last 25 years, the savings rate has ranged from 4.9% to 8.2%. To generate an extra $35 billion it would have to leap to an implausible 11%.

Finally, the interest rates necessary to force savings up and investment down by such an amount might themselves be high enough to prevent a recovery. The effect on the housing sector, in particular, is entirely predictable.

The long and short of the analysis is that somewhere between a federal deficit of $50 billion and a federal deficit of $80 billion the string snaps. To maintain the "accounting identity," you are all but forced to assume the economy will unwind in one way or another. You can make the same kind of analysis not through the National Income Accounts as above, but through a different "flow of funds" methodology. Salomon Brothers did this earlier in the year, coming to this conclusion:

"The consequences of a U.S. budget deficit substantially greater than the nearly $50 billion estimated by us for calendar 1975 should be clearly recognized. Such a deficit could be reasonably financed only if the economic contraction this year is much greater than we expect. Otherwise the budget deficit would either lead to a vicious struggle for funds between private borrowers and the government, or the Federal Reserve would have to supply funds without regard to its long-range responsibilities. In any event, a larger than expected deficit would threaten economic recovery, despite the best intentions of government, by crowding out medium to lower rated borrowers, many of whom are already in peril, and mortgage borrowers as well, thus aborting recovery in housing activity."

Last week Walter W. Heller, a valued member of our Board of Contributors, cited the Salomon Brothers analysis as reason not to worry about crowding out. But by now the Salomon Brothers analysts are well aware the deficit for calendar 1975 will be far above $50 billion. The St. Louis Fed puts the calendar year deficit at $62 billion merely on the basis of administration proposals, which included (on a fiscal year basis), $16 billion in expenditure reductions and a tax cut of only $16 billion.

But suppose for a minute that Mr. Heller

is right about 1975 and that the gap is filled by a happy combination of events. Suppose money growth is moderate, and the Fed takes up some debt. Falling inflation means lower interest rates, and suppose this effect is powerful enough that non-destructive rates can balance the supply and demand for funds. There still remain two problems.

One is simply that private borrowers will still be crowded out, that private investment will decline. In other words, because of the huge deficits, we have a lower rate of capital formation and thus slower economic growth in future years. Assuming that the deficits cannot be reduced, this is the smallest price we can possibly pay.

The final problem is 1976, or whenever recovery does get under way in earnest. At that point, the investment needs of business and housing will go up, not down. If the government is by then still running $70 billion deficits, this will call for an even more impossible-looking increase on the savings side of the ledger. At that point, high deficits will again threaten to abort the recovery. This destruction of capital formation, excessive monetization of debt and aborting of real growth is essentially what has already happened in Great Britain.

Yet Congress goes its happy way, adding to expenditures, increasing tax cuts, charting tax bills that discourage saving instead of encourage it, secure in the knowledge that there is a recession on, and in that case Dr. Keynes always assured them that budget deficits are a free lunch. Didn't he?

Mr. EAGLETON. Mr. President, reluctantly I shall vote in favor of the Senate tax bill, despite my strong reservations about its overall size. It is better than no bill at all. The economy is desperately in need of a stimulus and I do not believe we can wait much longer to take action.

My concern is that the bill goes too far and will lead to a Federal deficit that will not only rekindle inflation, but could interfere with economic recovery as well by siphoning needed credit from the private sector. This bill alone would drain $30 billion out of the Treasury even considering revenue gains from changes in percentage depletion and foreign tax credits. If we look beyond this legislation to consider the numerous spending bills we will be enacting to help the economy, it is not difficult to foresee a deficit anywhere from $70 to $100 billion.

I also have reservations about the composition of the tax cuts, because I do not think there is enough tax relief for middle-income working Americans.

Mr. President, I have at the desk an amendment to substitute the House-passed bill except for the depletion and tax credit sections. But I have not called it up because I do not believe it would pass or that the Senate wants to be further delayed in getting this bill into law. I sincerely hope, however, that Senate and House conferees will agree to a more reasonable overall figure and include in the final bill only those items which are truly necessary to bring about economic recovery.

Mr. THURMOND. Mr. President, I cannot in good conscience support this bill. The final cost of this bill to the U.S. Treasury will be about 30 billion dollars. This is entirely too large a figure. I would have been more than happy to support a bill which would have been in the $15 to $20 billion range.

This Congress cannot continue to display fiscal irresponsibility. The overall deficit of the Federal Government in fiscal year 1976, according to best estimates, may well be between 80 and 100 billion dollars. This is totally unacceptable. There is absolutely no way the economy can withstand a deficit of this size without serious consequences. These consequences are renewed inflation and further lessening of the value of the dollar.

Mr. President, to give the people of the United States a tax rebate, the U.S. Government must go into the money market and borrow additional money. Last year the Federal Government borrowed 62 percent of the available funds in the private capital market. If the Government continues to increase its borrowing, there will be fewer dollars available for the American businessmen and consumers to borrow. The interest rate, as a result, will rise to an unacceptable level. The economy cannot be revitalized when interest rates are high. High interest rates were a major cause of the current recession.

Mr. President, a major factor in any economic recovery is confidence—both consumer confidence and investor confidence. If investors and consumers do not have confidence that the Government is doing its best to see that the economy is sound and healthy, they will not invest and spend the amount of money necessary to get our economy rolling again. I do not think the American public will have any confidence in Congress if we contribute so greatly to our already enormous deficit.

We have no assurance that this Congress is going to cut expenditures and balance the budget. Without such assurance, the revenue loss, $30 billion, that will be created by this bill is totally out of line.

Mr. President, it has been said that it is political suicide to vote against this tax reduction legislation, but I say to you it is economic suicide to pass a bill which adds so greatly to our national deficit without corresponding cuts in expenditures.

Mr. President, this Congress should not practice deceit on the American taxpayer by giving him a tax rebate and tax cut with one hand and taking it away with the other by increasing inflation—inflation caused by the tremendous revenue loss that will occur if this bill is passed. We must be truthful with our constituents, and the truth is that this bill in its present form is not good for the American people nor the American economy.

Mr. MORGAN. Mr. President, I am voting no on the Tax Reduction Act of 1975 for the reasons substantially stated by me during the day while speaking on behalf of the Bumpers amendment. There are some provisions in the bill that I would favor if I could vote on such provisions separately. Unfortunately it is now all or nothing. At a time when predictions by the Senate Budget Committee are that a budget deficit of $80 to $120 billion is likely, I believe to vote for this bill would be irresponsible and indefensible. It would, I believe, fan the flames of inflation so that the result would be a net loss to all taxpayers.

Mr. STENNIS. Mr. President, the purposes behind the drive for the passage of this bill are laudable and naturally I would like to cast a vote that would decrease the tax burdens on an already overburdened people.

For several years now I have watched with concern and alarm the steadily mounting tide of inflation that has gradually but steadily overcome the people, and like a thief in the night, robbed them of the purchasing power of their dollar.

From fiscal year 1960 through fiscal year 1976—with fiscal year 1975 estimated at $34.7 billion and fiscal 1976 estimated at $80 billion—our deficits have totaled $242 billion. Several times in this period we have decreased taxes to help the economy. We have also devalued our dollar twice and I understand our dollar lost 6 cents in the world exchange market within the last few weeks.

All these moves have cost us greatly and still the economy, it is said, must have a huge tax reduction in order to move forward. I believe this large sum of $30 billion in tax reductions will give a relatively short lived boost to our economy. At the same time the $80 billion deficit will lay the ground work for another round of inflation that will grow and grow and become runaway inflation in a few shorts years. This will further decrease the buying power of the American dollar at home and abroad.

It is inflation that I fear and I am compelled to oppose such a large tax cut that will create this huge deficit and another round and wave of inflation. Rebates and tax cuts amidst such shaky fiscal affairs will make our people and their children, pay more later, with compound interest.

We must find a better way. I am willing to keep trying.

Mr. HANSEN. Mr. President, yesterday while the depletion allowance for oil and gas was being denied to all integrated oil companies, the Wall Street Journal was pointing to the possibility of the OPEC oil price cartel falling apart. But here on the floor of the Senate by a vote of 82 to 12, we were telling OPEC that they do not need to worry about the United States making any big push to lessen our dependency on foreign oil.

In denying depletion allowance to integrated oil companies, large and small alike, we were eliminating one of their main sources of capital for investment in exploration, development and production of new supplies of oil and gas.

And until someone is successful in repealing the law of supply and demand, and I would not be surprised at such an amendment to this tax reduction bill, the one hope we and the other 17 countries of the International Energy Agency have of breaking the OPEC price cartel is by lessening our dependence on OPEC oil.

Make no mistake about the effects of elimination of depletion allowance.

First we will see an increase in gasoline, fuel oil and all petroleum product prices. The amount taken away from the integrated oil companies will end up in the Treasury but it won't come out of oil company profits which are already de-

clining. It will come out of the pockets of those who buy gasoline to get to work and oil to heat their homes.

And the search for new supplies of oil and gas will be set back by the amount these companies lose in money paid into the Treasury that would have been reinvested in their search for new oil and gas supplies.

Listen to what the General Accounting Office says about the Federal Government's plan for accelerated leasing of offshore oil and gas resources.

It says that the Interior Department estimates "allow only a 1-year time lag between exploratory drilling and production."

GAO . . . found oil industry experts saying that a more realistic time lag between the start of exploratory drilling and production is three to eight years. If the lag were only three years, GAO said, oil production from the Atlantic in 1985 "would be about 126 million barrels, or 53 million barrels a year less than the Project Independence estimate."

So that offers some idea of the added delay of less investment in drilling which is the only conceivable result of the loss of depletion allowance, the industry's main source of reinvestment revenue, the purpose for which depletion allowance was intended and for which it has been used for all of the years since it was approved in its present form in 1926.

And, Mr. President, not all integrated oil companies qualify as majors. In fact many of the so-called majors came from small beginnings, some of them from the old wildcatters who risked all they had to get where they are. Many of them did not make it but the tax reformers never mention the many failures in this high risk industry.

One of the smaller integrated oil companies that has kept competition alive in the Rocky Mountain area is Husky Oil Co. It has three small refineries in Wyoming and Utah and retail in several other States.

It is no "oil giant" by any stretch of the imagination. But it will suffer from loss of depletion allowance just as the major companies.

Husky has been a well managed operation and has reinvested its profits and depletion allowance in developing its own reserves of oil. In fact, Husky was fortunate enough because of its efficiency and foresight to have more than the national average of its own supply of old or price controlled oil when the crude equalization program was established last year.

Under this ridiculous oil-sharing plan, Husky must buy the right to use its own oil to benefit some refiner who did not have enough and in some cases, none of its own oil.

Husky has already been penalized under that monstrosity of bureaucratic regulation which was a child of the Emergency Petroleum Allocation Act.

Let us hear, then, from Husky Oil Co. itself just how the further blow of loss of depletion allowance will effect them.

I quote from a letter I received today from Husky Oil Co. president, James E. Nielson:

HUSKY OIL CO.,
Washington, D.C., March 21, 1975.

Senator CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: Last evening, as the Senate was attacking the depletion allowance, a group of 24 companies representing the modest-sized oil companies was meeting to determine what might be done by way of compromise. It was agreed that Congress had heard from the smallest independents. The majors had been castigated unmercifully. The middle cut of companies represented around the table by and large had not been heard from, yet they are essential to keep competition alive. No Congressional hearings on depletion had been held. No testimony had been received from these companies representing about 20% of the domestic oil and gas production. The consensus was clear. If depletion is lost, exploration budgets will be cut. Fewer wells will be drilled. Secondary and tertiary recovery projects will be slowed, resulting in less domestic production than otherwise could be expected. On the other side, there will be more dependency on foreign overseas oil supply and price domination.

Husky's position in this dilemma is typical. One third of our exploration budget for 1975 is dependent upon the depletion allowance for capital. The high risks of wildcatting demand equally high potential rates of return to attract needed capital. Striking the depletion allowance removes one of the most important sources of such capital, which in the past has assured consumers of a plentiful supply at bargain prices. Reading today's mood of the Congress, because Husky has painstakingly built an integrated enterprise, furnishing thousands of jobs in the process, we are excluded from any benefits of the vestiges of depletion. What facts form the basis of such arbitrary decision-making? Is it that Congress wants more tax money or do they want more oil and gas? They can't have both. The present course is for less oil and gas, higher product prices. Make no mistake about it, this is the course, particularly in view of the proposals for windfall taxes, rollbacks and more price controls. If the public knew the facts, and we in the industry must bear much of the responsibility that they don't, we are convinced the public would demand more, not fewer, incentives to spur domestic production of oil and gas.

As we approach compromising depletion, we are loath to suggest anything that falls unevenly upon the industry. Each company is willing to be taxed on earnings, but deserves the full recovery of its capital by depletion. Nevertheless, in face of today's exigencies, we reluctantly petition the Congress to retain 22% depletion on the first 100,000 barrels per day of production, 11% on the second 100,000 barrels per day, with no depletion thereafter. While this proposal strikes down measurable incentives for the very largest firms, it will retain essential incentives necessary for energy growth and competitive viability. Even this proposal passes to future generations the brunt of a gross error.

Most sincerely,

JAMES E. NIELSON,
President.

Mr. President, Husky Oil would like to continue to expand and compete with the major oil companies. It had plans to participate in offshore drilling to help lessen our dependence on OPEC oil. But there may now be serious doubt that it will be able to.

Mr. President, so that all Senators may realize the importance of a continuation of the stepped-up pace of domestic oil and gas production to the Nation's security and the hope of breaking the OPEC cartel, I ask unanimous consent that the Wall Street Journal article "Impending Breakdown of OPEC Cartel" to be printed in the RECORD.

Mr. President, I also ask unanimous consent that an article in today's issue of the Washington Post, "Consumers Reach Oil Talks Approach" also be printed in the RECORD and another Washington Post article, "Offshore Drilling Pace Is Questioned."

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

[From the Wall Street Journal, Mar. 20, 1975]

IMPENDING BREAKDOWN OF OPEC CARTEL

(By Robert Z. Aliber)

The oil cartel is in the early stages of a breakdown. Crude petroleum prices are being lowered, both directly and indirectly, by individual producing countries seeking to increase their exports. In the next several months, the demand for OPEC-produced petroleum will decline sharply. The cartel will fall apart when its members prove unable to share the necessary production cuts.

For 15 months the demand for crude petroleum has been substantially smaller than the potential supply. Initially the embargo adopted during the Yom Kippur war forced consuming nations to adjust to contrived scarcity by queuing at gas pumps, lowering thermostats, and foregoing Sunday driving. Since the embargo was lifted, demand declined in the face of recessions in the United States, Western Europe and Japan.

Two mild winters in succession reduced heating demand. The 1975 autos consume substantially less gasoline than the late 1960s' models now being junked. OPEC exports have declined even more rapidly than the demand in the consuming countries, in part because a few countries, including Mexico and Malaysia, have increased their production and exports.

Current OPEC output is estimated at 26 million barrels a day, 11 million below its capacity. In the months ahead, the heating demand will decline further, offsetting the increased automobile use during warm weather. Deepening of the recession means industrial demand also should decline, at least until autumn.

For most of the last year, production of petroleum exceeded consumption, even as demand fell, while petroleum in storage increased, both in traditional forms like tank farms and in non-traditional ones like ocean tankers and gasoline stations. At current rates, there are now 100 days of consumption in storage. A large inventory is necessary to keep pipelines full, and a smaller additional inventory is a useful contingency reserve. Over the last year, inventories above these two requirements have increased by a third.

At $10 a barrel, these inventories are valued at $50 billion. Any fall in the market price means owners of petroleum will incur losses; if the price falls to $8 a barrel, they will be poorer by $10 billion. Despite their vested interest in maintaining the current price level, owners of inventories will begin to convert oil into money when they anticipate a price decline.

A decrease of petroleum in storage by one day's consumption over a month means OPEC production would fall by two million barrels a day. A reduction of the excess inventory by one-third over the next four months translates into a decline in OPEC exports of five million barrels a day. The more rapidly the price is expected to fall, the more rapidly inventories will be reduced, and the lower the demand for newly produced oil.

THE VALUE OF MONEY

As it becomes apparent that the price of crude petroleum will decline, some members of the cartel, especially the smaller producers, also will convert oil into money. In 1975, money in the bank will earn interest income at the rate of 6% or 8% a year. Oil held in the ground, in contrast, will have a negative rate of return, since the market price at the end of 1975 will be below the price at the end of 1974.

Individual OPEC countries will lean more heavily on the multinational oil companies to buy more oil, for oil not sold in 1975 and 1976 may not be sold until the distant future. The multinationals, however, will buy petroleum only if they can sell it, so they will play musical chairs with various supply sources, increasing their purchases from countries which offer discounts, rebates, and other concessions from the posted price. While individual OPEC countries can increase their exports, OPEC countries as a group cannot—at least not until a business upswing occurs.

As demand declines in the next six months, maintenance of the $10 price could require reduction of six million to eight million barrels a day in OPEC production. These cutbacks must somehow be distributed among OPEC members. A few countries already have reduced production substantially. Libya now produces less than 900,000 barrels a day, whereas its peak output exceeded two million. Similarly, Kuwait, which has a daily capacity of nearly four million barrels, has been producing two million barrels. Both countries appear reluctant to reduce their output further. The poor, heavily-populated countries like Indonesia and Nigeria are unlikely to make substantial cutbacks. Iraq has been loud in its support of OPEC, but its output in January exceeded the pre-embargo level.

Increasingly, maintenance of the current price will require larger cutbacks by Iran, Saudi Arabia and Venezuela. In January, the daily output of these three countries totaled 16 million barrels a day. Reduction in demand has already forced Iran to reduce its output by 10%, Venezuela by 20% and Saudi Arabia by 30%. These three countries might be required to cut back twice as much in the next few months to match even further reduction in demand.

Two sets of events, separately or in combination, may upset this scenario for the demise of the cartel. The estimated decline in petroleum demand during warmer weather, the impact of the recession and inventory reduction may be overstated. And the cartel may be effective in allocating reductions in output among its members. As long as the members were rich, such allocations were easy. But individual countries are not likely to abide by the commitments if they expect the price to fall. Cartels have their momentum; they work when their members believe they will work and fold when that belief is eroded.

The announcement from the recent meeting in Algiers that the OPEC producers would like to enter into long-term agreements about price and supply arrangements reflects their sensitivity to the weakness of their economic position. If the demand for petroleum proves unexpectedly strong, then they would break the agreements, as they have in the past. If the demand for petroleum proves as weak as they expect, they would count on the United States and other importing nations to abide by its commitments.

INCREASING TARIFF BARRIERS

The OPEC countries recognize that their ability to export petroleum will be increasingly constrained in the next few years as the energy markets in various industrial countries become increasingly segmented from the world market. The United States will apply tariffs or quotas to imports, much as in the 1960s, and the U.S. price will be substantially above the world price. Similarly, the British home market will be protected from low-cost Middle East imports so that North Sea producers will be able to recover the high costs of offshore drilling. In Continental Europe, and Japan, similar import-limiting measures will be adopted to reduce dependence on foreign sources of energy.

The growth of such barriers to imports will increasingly fence off OPEC supplies and the OPEC countries will find themselves with more oil than markets. At that stage, access to markets in the developed countries will be very valuable, and OPEC countries will compete aggressively for market shares.

For the next several months, the United States faces a policy dilemma. Is it worthwhile to adopt a $3 tariff on imported petroleum? Or set quotas to reduce imports by half-million barrels a day? Or impose a gasoline tax of 15 cents or 20 cents a gallon? Or adopt measures designed to increase domestic energy supplies? Should any of these policies be followed, given that the world price could fall sharply? Similarly, is it worthwhile for the United States to enter into long-term supply agreements with various oil exporters?

OPEC's ability to maintain the price over the next few months does not depend on whether the U.S. adopts import tariffs, quotas, gasoline taxes or domestic production subsidies. They will have only a modest impact in altering demand-supply relations in the near future. Instead, policy should focus on two other measures.:

The U.S. should indicate to selected oil-producing countries that they will be guaranteed favored access to the U.S. market in the next decade, provided they maintain their production in the next few months. In late 1972, Saudi Arabia's oil minister Ahmed Zaki Yamani suggested an assured access arrangement, but Washington should link any such assurances to minimum production guarantees.

Further, Washington might also encourage companies to reduce their petroleum in storage. It could nudge the price downward by buying oil for auction to distributors; the price decline, by indicating the vulnerability of the petroleum inventory, would induce owners to reduce their stocks. While the Treasury would incur a financial loss from this anti-stockpiling tactic, consumers would benefit from lower prices. More importantly, as owners of the inventory reduced their stocks, this would sharply increase pressures on the cartel, which also would result in lower prices to consumers.

[From the Washington Post, Mar. 21, 1975]

CONSUMERS REACH OIL TALKS APPROACH

(By Gilbert Sedbon)

PARIS, March 20.—The world's leading oil-consuming nations today reached agreement on a common approach for talks with oil producers beginning here on April 7, conference sources said.

The agreement came after difficulties had been overcome on American demands for the protection of investments in developing alternative energy sources.

The consumers—members of the 18-nation International Energy Agency, were reported to have decided on minimum prices for oil imports to protect their investments in new power resources, including nuclear and solar energy, against any sudden slump in oil prices.

American sources said there might be a price range at the beginning with members choosing prices within a range that best protected their investment.

"Ultimately, there will have to be a single price for all agency member states," one source said. "But no price range has as yet been fixed and neither do we know what the ultimate specific price will be."

The IEA members also discussed their general strategy when they meet the producing countries.

"We have discussed the timetable that would eventually lead to a full-scale producer-consumer conference later this year and also how best to protect our own interests," one source said.

The meeting here next month, which is being sponsored by France, is aimed at preparing for a comprehensive conference of oil producers and consumers some time this year.

Besides reaching agreement today on ways of protecting investments in nonoil energy sources, the IEA had previously agreed upon joint oil conservation measures and the establishment of a $25 billion "safety net" fund to help member countries with balance of payment problems caused by high oil prices.

[From the Washington Post, March 21, 1975]

OFFSHORE DRILLING PACE IS QUESTIONED

(By Douglas Watson)

The federal government's plan for accelerated leasing of offshore oil and gas resources is overly optimistic, a highly critical General Accounting Office report says.

It charges that the Interior Department's plan to lease 10 million acres of the outer continental shelf each year during this and the next four years was reached "without carefully analyzing and considering several factors and problems affecting the goal's soundness."

GAO added, however, that even if the goal of leasing 10 million offshore acres annually is reached, such a leasing pace won't meet the objectives of Project Independence toward making the nation self-sufficient in energy production.

"GAO's rough calculations show that from 15 to 28 million acres would have to be leased and drilled by 1985 to satisfy the Project Independence assumptions," according to the 40-page report.

For example, it says that Interior Department estimates "allow only a one-year time lag between exploratory drilling and production" of oil from the Atlantic continental shelf.

GAO, the investigatory arm of Congress, found oil industry experts saying that a more realistic time lag between the start of exploratory drilling and production is three to eight years. If the lag were only three years, GAO said, oil production from the Atlantic in 1985 "would be about 126 million barrels, or 53 million barrels a year less than the Project Independence estimate."

GAO's report calls on Interior Secretary Rogers C. B. Morton to "clearly define (offshore) leasing goals and specify how these goals will be met and how they relate to overall national energy goals."

It also urges the Interior Department to "reconsider the accelerated [offshore] leasing schedule in the light of government and industry capabilities and possible alternatives."

Rep. William S. Morehead (D-Pa.), chairman of a House Government Operations subcommittee on energy and natural resources, said yesterday his subcommittee will hold hearings on GAO's report, which Morehead said "seriously undermines the Interior Department's credibility."

"The government's tract selection and valuation practices are inadequate even at much slower leasing rates," GAO said. It claimed that in raising its offshore leasing goal from 1 million to 10 million acres annually, the government is proposing to lease almost as much of the continental shelf each year as it has over the past 20 years.

The report says that offshore oil and gas drilling will be slowed more than the govern-

ment has anticipated by shortages of essential equipment, material, and manpower.

SENATE FINANCE COMMITTEE TAKES ACTION TO HELP AMERICAN SMALL BUSINESSES

Mr. NELSON. Mr. President, as chairman of the Select Committee on Small Business, I wish to further advise this body on several decisions taken by the Committee on Finance on March 14, 1975, concerning the Nation's 12 million small businesses incident to its consideration of H.R. 2166, the tax reduction bill of 1975.

Many newspaper reports omitted descriptions of the small business provisions or were very sketchy, perhaps because these Committee actions occurred rather late on Friday afternoon. A brief explanation of these provisions and their significance might be helpful as the Senate proceeds with consideration of the tax reduction bill.

THIRD REPORT ON SMALL BUSINESS TAX SITUATION

This is actually the third in the series of reports to the Senate on current small business tax problems which flowed from public hearings that we conducted on February 4, 5 and 20.

On February 12, we presented a preliminary report to this body reflecting that inflation and recession had hit small businesses more quickly and with greater severity than larger business firms during 1974. Our evidence showed that costs had risen faster for small firms, profits had turned down before the general economy, interest rates for small business were higher, and equity financing had virtually come to a standstill during the past year. (CONG. REC. Feb. 12, p. 3039.)

On March 10, nine members of the Select Committee offered a legislative package of eight proposals addressed to these problems, for consideration in connection with the first-priority tax reduction bill. (CONG. REC. March 10, p. 5800.)

PROVISIONS APPROVED BY SENATE COMMITTEE ON FINANCE

We offered a number of these amendments in the Finance Committee on March 14, and the following provisions were accepted by that committee for inclusion in the Finance Committee version of the bill which will shortly be placed before the Senate.

One. Increase in accumulated earnings. The amount of permissible accumulated earnings, which would be free of a penalty tax under section 531 of the Internal Revenue Code, would be increased from $100,000 to $150,000.

We pointed out to the Finance Committee that this fixed-dollar provision has been in the law since 1958, and since then the Gross National Product deflator—the broadest measure of inflation—has increased 77.7 percent, and the deflator for fixed investment has increased 76 percent.

This provision will be extremely helpful to many firms such as homebuilders, whose activities are especially subject to economic cycles because of inflation and recession.

Second. Equivalent investment credit benefits for used machinery. In two related decisions, the Finance Committee agreed to remove the ceiling on the amount of previously used property which would be subject to the investment credit; and also provided for the carryovers from year to year of credits on used machinery which cannot be fully utilized in any particular year to the same extent as with new machinery. Together, these decisions would eliminate a discrimination in the Internal Revenue Code between new and used machinery, and should be most helpful to new and smaller businesses which find it increasingly difficult to afford brand new machinery at inflated prices.

The committee has also pointed out the advantages to both the economy and small business of such a provision, because used machinery is available immediately to be placed in productive service, while often a wait of 18 months to 2 years would be required before the delivery of a new machine.

Third. Reduction in corporate rates for smaller businesses. The Finance Committee discussed the reduction of rates according to a graduated scale and then agreed to a version of a Small Business Committee amendment increasing the corporate surtax to $60,000.

However, upon further discussion, the Committee voted to substitute for the additional surtax increase a shift of four percentage points from the normal tax rate to the surtax rate.

In other words, the normal tax rate which, under the House bill would apply to the first $50,000 of corporate income, would be reduced to 18% rather than the present 22%. The surtax rate would rise from ts present level of 26% to 30%.

IMPORTANCE OF COMMITTEE'S DECISIONS

In my view the Finance Committee action, particularly as combined with the action of the House of Representatives in raising the surtax exemption—from $25,000 to $50,000—promises substantial tax benefits for smaller and independent businesses for the first time since 1958.

PRACTICAL IMPACT ON SMALL COMPANIES

The effect on the pocketbooks of the smaller business community can be illustrated by the following table concerning the tax burden under existing law with that under the proposed Senate-House small business amendments:

Classifications	Small business tax burden under existing law		House-passed Bill		Proposed taxes under Senate-House small business amendments		Difference
	Percent	Amount	Percent	Amount	Percent	Amount	
Taxable income:							
0 to $25,000	22	$5,500	22	$5,500	18	$4,500	$1,000
$25,000 to $50,000	48	12,000	22	5,500	18	4,500	7,500
Total		17,500		11,000		9,000	[1] 8,500 [2] 2,000

[1] Difference between existing law and Senate bill

[2] Difference between Senate bill and House bill

Thus, the percentage of reduction for the lowest 91% of U.S. corporations—over 1.3 million companies—which earned less than $25,000, would be 18.18 per cent. The growing companies which earned between $25,000 and $50,000 would receive a reduction of 48.57 per cent. Additionally, corporations earning over $50,000 would experience a material reduction in their taxes based upon the proposed lower rate which would be imposed on their own income under $50,000.

These actions by the Senate and the House are very substantial steps in the right direction. Small business did not, of course, receive everything that it would have wished for. The Committee did not raise the surtax exemption to $100,000, as many small business organizations advocated. Nor was it possible to directly assist the noncorporate business sector, beyond augmenting the investment tax credit benefits which, we had discovered, are going to noncorporate business to the extent of about 18 per cent of the total.

We also learned, when the report of the bill was filed on March 17th (S. Rept. 94–36), that the rate shift was drafted to apply for one year only. I have introduced, with Senator BROCK, Amendment No. 260 in an attempt to do something about this.

However, the Senate-House amendments have at least three distinct advantages over the program advanced by the Treasury Department and the administration.

EFFECTS ARE LESS CONCENTRATED

The first is that they are less concentrated as to their effects. The Treasury-administration proposals would have given no relief whatever to the 91 per cent of corporations earning less than $25,000; and would have concentrated about 50 per cent of those benefits on the largest 350 corporations and 74 per cent of those benefits on the 50,000 largest corpoations.

In a decisive break with this approach, the Senate and House have proposed to spread the available tax benefits in a much more balanced manner to the business community, with the result that the competition will not be undermined, and the free enterprise system will be encouraged to work.

GREATER FLEXIBILITY IN CONGRESSIONAL APPROACH

Second, the Senate-House approach promises greater flexibility. The administration targeted its 1975 investment credit proposal solely on the purchase of machinery. The congressional approach would free more capital for

putting people to work, improving their training, building working capital, financing intangible assets—such as accounts receivable and inventory—increasing advertising, or whatever policies resourceful smaller and independent firms feel are necessary to revive consumer interest and improve the tone of the marketplace.

BENEFITS MORE DIRECTLY FELT

Third, the Congressional approach is much more direct. The Administration appeared to be proposing a classic trickle-down system where large amounts of benefits would go to a relatively few large business firms, with the possibility that increasing general business activity might bring eventual benefits to smaller firms.

The congressional proposal would place a substantial share of the benefits directly in the hands of medium-sized and smaller businesses in every corner of the country, in every community, business district, shopping center, crossroads, and farm area.

The small business community accounts for about 99 percent of the Nation's 12 million enterprises; between 52 percent and 53 percent of all U.S. jobs; and one-third of the GNP. They are dispersed through the country. I feel that spreading the benefits of the business tax cut in this manner is a much sounder approach to help pull the country out of its recession without worsening inflation. Traditionally, small business is the best source of innovation and economic growth.

If we provide a climate for the good health and expansion of existing small firms and the founding of new firms, this sector of our economy will provide millions of new jobs—precisely what we need most to get out of the economic doldrums.

ROLE OF SMALL BUSINESS ORGANIZATIONS

It is my view that these congressional actions came largely as a result of well-informed and effective efforts by smaller business organizations throughout the country to make their needs and problems known to us, and in gathering together to support practicable solutions. In this regard, I ask unanimous consent that a letter from 19 business organizations be printed in the RECORD following my remarks, as an illustration of the views of a broad representative sample of the small business community.

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

(See exhibit 1.)

CONCLUSION

Mr. NELSON. Mr. President, the tax needs of smaller firms in this time of recession and inflation are apparent. I hope the Senate and the House will speedily approve these important small business provisions as part of the Tax Reduction Act of 1975 and enact this vital bill into law.

EXHIBIT 1

NATIONAL SMALL BUSINESS ASSOCIATION,
Washington, D.C., March 12, 1975.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: We urge you most strongly to support S. 1119, introduced by Senator Nelson and others in the mark-up sessions of the Senate Finance Committee on the Emergency Tax Reduction Bill. We commend it to you because it will help the Senate to meet one of the three yardsticks with which we believe the Nation's small businessmen will measure the value of the legislative end-product.

First, they will be concerned with how quickly, surely and directly recession-ending jobs will be created in the independent sector of the economy, instead of only in Government or big business. That is why we have urged the consideration of a small business job creation tax credit. Unlike everything else in the bill, this would NOT be based on a guess about how consumers or investors would respond to an influx of cash. This would have no cost except to the extent that jobs were really created.

Second, they will be concerned with how fairly the business benefits of the measure are divided between big business on the one hand and small business on the other. We hope you will specifically ask for a computation of what share of the business benefit package is going to big companies as against small ones. We believe the Committee's goal should be to provide at least 50 percent of the business benefit to small business which provides 50 percent of the Nation's jobs; to do anything less is to distort the economy still further with a subsidy to economic concentration. We hope the Committee will include in its Report to the Senate a clear comparison of its product with that of the House on this point. It should be noted that the House Committee's Report alleged that 60 percent of the benefit of one of its provisions would go to businesses with less than $100,000 in pre-tax income. But it did not provide a comparison of big and small business benefit for all of the business tax benefit provisions. Our best estimate, and we urge you to ask the staff of the Joint Committee for a definitive estimate, is that at least 75 percent to 80 percent will go to big business.

Third, small business will be concerned with how many kinds of small companies will be enabled to contribute to, and participate in, national recovery by the Emergency Tax Bill's provisions. Since the preparation of our own testimony, (which we have enclosed for your convenience) Senator Nelson and others have introduced S. 1119. We commend it to you most strongly since two-thirds of its benefits as we understand it, will go to small business, and since it extends some relief to many more millions of small firms than does the House bill.

We know from discussions with Committee Members on both sides that there is a sentiment for improving the measure in the direction suggested here. We appreciate fully the tremendous time pressures on the Committee. But we are confident that you will be able to protect the legitimate interests of millions of small businesses despite those pressures.

Sincerely,

MILTON D. STEWART,
President.

We have been authorized to advise you that the following groups join in supporting S. 1119 and the general views expressed here:

National Small Business Association.
National Association of Black Manufacturers.
National Home Furnishing Association.
National Retail Hardware Association.
Retail Jewelers of America.
National Association of Music Merchants.
Retail Floorcovering Institute.
Photo Marketing Association.
Menswear Retailers of America.
National Association of Small Business Investment Companies.
National Parking Association.
National Office Products Association.
Associated Builders and Contractors, Inc.
Council of Smaller Enterprises, Cleveland, Ohio.
Smaller Manufacturers Council, Pittsburgh, Pa.
Smaller Business Association of New England.
National Business League.
National Oil Jobbers Council.
Independent Business Association of Wisconsin.

IRRESPONSIBLE TAX LEGISLATION

Mr. ROTH. Mr. President, I am a strong supporter of the idea that a tax cut is the best way to stimulate our economy and to reduce unemployment. I am also a strong supporter of the concept of a quick, equitable, one-shot rebate of tax liability as an antirecession measure. This type of legislation would provide an immediate stimulus to the economy, increase consumer purchasing power, and put people back to work again. It has the additional benefit of being temporary, as opposed to increased Federal spending on programs which, once they are started, can never be turned off.

But for the last few days, the Senate has gone on a completely irresponsible spending binge, voting for every single amendment that was politically appealing without stopping to determine the economic impact or cost. First the Finance Committee and then the Senate changed a $16 billion antirecession tax bill into a $31 billion antipoverty Easter Basket.

For this reason, I cannot support the Senate tax bill in its present form. Although there are many good features in the bill, provisions which I strongly support, the overall revenue total of the bill is much too high.

The primary purpose of this legislation is to stimulate the economy, but in order to be beneficial, it must be kept within a reasonable limit. The recession we are now experiencing was caused by the high rates of inflation the past two years, and we run the serious risk of rekindling an even higher rate of inflation. The Federal budget deficits are now projected to be $45 billion in fiscal 1975 and over $80 billion in fiscal 1976. In the two months since the President submitted his budget estimates, the moratorium on new Federal spending has been violated, with $10 billion added to this year's deficit and $30 billion added to the fiscal 1976 deficit.

This tax legislation is supposed to improve consumer confidence in the state of the economy, but consumer confidence cannot be improved if the U.S. Government is on the brink of bankruptcy.

I also had hopes that the tax cut legislation would be equitable, providing a sufficient amount of tax relief to the millions of moderate- and middle-income taxpayers who pay most of our taxes. But while there has been some improvement in the amount of middle-income tax relief, these people, who many economists believe are the ones which will spend the rebates on consumer goods, are still getting short-changed by the bill. In addition, the negative income tax features of the bill are actually welfare reform measures, and this is neither the time nor the place for fundamental welfare reform. Nor is it the time to act on such diverse tax re-

form amendments as those adopted by the Senate today applying to solar heat and baby sitters. In order to get the economy moving again, we must place more money into the hands of the people who will spend it on consumer goods. This in turn will get the factories working again and put the unemployed back to work.

I intend to vote against this Senate bill because it is too costly and because it is biased against the middle-income taxpayers. I hope that my vote will send a message to the House and Senate Conference Committee that the final tax cut bill should be cut back to a reasonable level. I continue to believe that a tax cut is the best way to stimulate the economy, but it must be done without putting an unbearable strain on our already massive budget deficits.

My final vote on the tax cut legislation will thus depend on the size and the scope of the legislation that is approved by the House-Senate Conference Committee.

Mr. BARTLETT. Mr. President, I regret very much the recent action of the Senate with regard to oil tax legislation. The legislation is punitive because it concerns only the oil industry, and, in my opinion, is shortsighted. It is essential for this Nation and the world that sufficient capital be available for investment in the search for and development of energy resources, particularly oil and gas. The reasons for this are very capably explained in a recent publication titled, "How Much Oil—How Much Investment" of the Energy Economics Division of the Chase Manhattan Bank.

All Senators could benefit by reading this article and I ask unanimous consent that it be printed into the RECORD.

There are a number of figures in this publication which cannot be reproduced in the RECORD. Any interested person can obtain a complete copy from the Washington, D.C. office of the Chase Manhattan Bank or from the bank's energy economics division in New York City.

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

(The charts referred to herein cannot be printed in the RECORD.)

HOW MUCH OIL—HOW MUCH INVESTMENT

A SPECIAL PETROLEUM REPORT

Energy and business

Try to think of a business activity—any kind at all—that does not depend in some way upon energy. None will come to mind because the satisfaction of all needs for goods and services requires the use of energy in some form, to some degree, at some stage. Indeed, as much as 70 percent of the overall utilization of primary energy in the United States is for business related purposes. And, in many other countries the proportion is even higher.

A fully adequate supply of energy, therefore, is vitally important to both the economic and social well-being of nations everywhere throughout the world. Within the past year, that fact became painfully known to a vast number of people who had previously taken the availability of energy for granted. Abruptly, they were jolted out of their complacency wher they discovered they could not have all the energy they wanted when they wanted it.

Investment, supply, and shortage

Although public awareness has come only recently, the energy shortage actually did not evolve suddenly. Studies conducted by this Bank as long as twenty years ago indicated clearly that an energy shortage in the United States was eventually in prospect if corrective forces were not brought into play. There was no basis at that time for doubting the existence of sufficient energy resources to be developed—the potential actually was enormous. But there was mounting evidence of underinvestment. And there is, of course, a natural relationship between the supply of any form of energy and the investment made to provide that supply. The future supply of energy cannot possibly be adequate unless a sufficient investment is made well in advance of actual needs. By the late 1950's, it was obvious that investment was not keeping pace with expanding energy needs. And it has continued to lag ever since.

Although the relationship between investment and the supply of energy is an elementary principle that applies to any and all sources of primary energy, it is nevertheless one that is not well understood. In fact, the lack of understanding was responsible for the incredibly unenlightened regulation and many other political actions about the world that had the two-pronged effect of preventing the generation of sufficient capital funds and discouraging the investment of money that actually was available. And the current energy shortage is the consequence. Yet, even today, after so much damage has been done, there is still a widespread failure to recognize the relationship between investment and supply. Instead, two distinctly different attitudes generally prevail. Many apparently continue to believe they can somehow again have enough energy without paying all the associated costs. Others, obviously, are resigned to the prospect of a permanent shortage and see conservation as the only avenue of partial relief. Neither attitude is realistic, of course. The world still does not lack basic energy resources remaining to be developed. And it is conceivable that eventually there can again be enough to serve all its needs—but only if the necessary investment is made first. If it is not, a permanent shortage will indeed be the certain outcome.

But a permanent shortage would be intolerable—it would unleash a flood of additional problems. Several interrelated factors would be involved. For a long time, the use of energy in the United States has remained constant relative to the gross national product, as shown in Figure 1. The amount of employment, however, has declined relative to gross national product, and the use of energy has risen in relation to employment as a result of technological progress. It is mathematically certain that the nation's labor force will continue to grow for many years to come, as indicated in Figure 2. But, if the future expansion of the gross national product were to be restrained by a lack of energy, the level of productive employment would not rise as fast as the labor force. Conceivably, it might not rise at all and unemployment with all its attendant problems could reach record proportions within a decade.

To varying degrees, other nations would experience similar difficulties. Without enough energy, developing nations could not attain the economic and social goals they so desperately need and developed nations could go into a phase of decline. Clearly, the world cannot afford a permanent energy shortage. The economic and social costs of that condition would far outweigh the capital and other financial costs of providing enough. Therefore, a maximum effort to provide enough must be made.

How much energy?

But how much energy will the world require in the years ahead? Forecasts that seemed realistic as recently as a year and a half ago are no longer valid. Because of the changed circumstances brought about by the latest crisis in the Middle East, a new assessment is necessary. For most of the past, energy costs have been exceedingly low and there was not a broad-based incentive to avoid waste or achieve more efficient utilization. But now that energy costs are substantially higher, that incentive exists to a greater degree. As a consequence, the world's future needs for energy are likely to be somewhat less than the amount previously in prospect. How much less is a matter of conjecture. There is not yet a reliable basis for estimating the waste that can be eliminated or the additional efficiency that can be achieved. The accumulation of sound evidence over a period of several years will be necessary before truly meaningful measurements will be possible. Some reductions in energy use have already occurred. For the most part, they are those that required a minimum of effort and cost. Potential savings that can be achieved only by spending large amounts of money are likely to come much more slowly, if at all. The process could be accelerated with tax incentives, but government appears reluctant to accept reduced tax revenue.

Historically, forecasts of future energy needs have proven grossly conservative, as illustrated in Figure 3. And the very poorest forecasting has been done during abnormal or transitional periods. For example, a highly qualified organization predicted in 1933 that the demand for oil would reach 2.9 million barrels per day by 1960. The actual demand in that year, however, was 10.1 million barrels per day—more than treble the predicted amount. Other forecasts made at that time missed the mark by a similar margin. A detailed analysis of these earlier efforts reveals a common fault: nearly all of the basic assumptions utilized in the forecasting process proved to be very wrong. To understand why, the conditions of that period should be recalled. The forecasts were made when the depression of the 1930's was at its worst and the prevailing attitudes were generally pessimistic. Indeed, there were some who thought the nation would never overcome its economic difficulties just as there are some now who believe the energy shortage will be a permanent problem and enforced conservation is the only source of relief available. There is a strong tendency on the part of professional forecasters and instant experts alike to project the present and the recent past. The faulty forecasts of the 1930's clearly reflect that tendency.

And there is now the grave danger that the same kind of errors may be committed again. Current conditions are by no means normal and neither are prevailing attitudes. Forecasts made in such an atmosphere can once more be way off the mark if they are not conducted with utmost care and objectivity. There are disturbing signs of too much reliance upon untried theories, particularly in respect to radical schemes to curb energy use. Demonstrated needs and proven facts tend to be ignored. And, obviously, there is a great deal of wishful thinking. If government and business plans are based and implemented upon ultra-conservative forecasts of future energy needs, the stage will surely be set for progressively worsening shortages in the years ahead. From the standpoint of the future well-being of all nations, it would be far better if forecasts proved to be too optimistic rather than too pessimistic. The

problems associated with oversupply would not be nearly as great as those caused by too little supply.

In 1955, there were 2.7 billion people in the world—all with growing needs for goods and services. By 1970, another billion people had been added to the world's population and they too all had needs for goods and services. In the process of satisfying these expanding needs, economic activity increased throughout the world and progressively more energy was required to fuel that growth. Between 1955 and 1970 the worldwide demand for energy grew at an average annual rate of about 5 percent. As revealed in Figure 4, demographic authorities expect the world's population will rise by 1.3 billion between 1970 and 1985 to reach a total of 5 billion. Based upon the needs of these additional people plus the expanding needs of all the rest of the world's population, we had concluded in studies completed in mid-1973 that the worldwide demand for energy in the 1970–1985 period would continue to grow at an annual rate of approximately 5 percent.

Since then, however, we have reassessed the world's energy requirements in the light of the changed circumstances and we now think demand will grow at a lower annual rate of 4.2 percent. Admittedly, the revised forecast reflects more speculation than usual because of the inability to measure adequately the effects of reduced waste and more efficient utilization. The lower rate of growth represents our best judgment as of now. Hopefully, it will not prove too conservative, as so many earlier forecasts have.

The Markets

For analytical purposes, we have divided the world into seven geographical regions. The amount of energy used in 1970 and expected requirements by 1985 are shown for each of these regions in Figure 5. Although North America is likely to be the scene of the largest volumetric growth, the other regions are all expected to experience faster rates of growth. As Figure 4 shows, much of the world's population growth between 1970 and 1985 will occur in the less developed countries. And these, of course, are the countries with the greatest needs for economic and social gains—needs for more goods and services. If these needs are to be satisfied, the per capita consumption of energy in the less-developed countries must rise dramatically. And it must go up substantially in the developed countries too, because a significant portion of their energy use will be for the purpose of producing goods for export to other parts of the world, including the less-developed nations.

The Sources

At present, the world depends largely upon five sources of primary energy. They are oil, natural gas, coal, water, and nuclear. Eventually, other more exotic sources may be utilized but no significant development is in prospect within the time frame under consideration here. Revealed in Figure 6 is the amount of each used in 1970 and the expected requirements by 1985. As indicated, oil is the single largest source. It satisfied 46 percent of the world's energy needs in 1970 and is likely to be required for an even larger proportion by 1985. Of the total growth of worldwide energy needs between 1970 and 1985, oil alone is expected to be called upon to accommodate more than half. Oil's dominant position reflects its form value. Being a liquid, it is more versatile and can be applied more effectively to a broader range of uses than the other sources. And in some parts of the world oil is more readily available, both in a physical and economic sense.

Whether or not the world's indicated future needs for energy can be fully satisfied will depend, of course, upon the adequacy of capital investment. That, in turn, will hinge upon the ability of the energy industries to generate sufficient financial resources. The primary purpose of this report is to provide information relating to the financial needs. It is not practical, however, to do this for all of the energy industries at once. Therefore, the balance of this report is devoted to the needs of the petroleum industry and the financial requirements of other energy industries will be discussed in subsequent releases.

Because of the superior form value of oil, the worldwide demand for it has grown rapidly. For the fifteen years ranging from 1955 to 1970, demand increased at an average annual rate of approximately 7.5 percent, as shown in Figure 7. Obviously, such a strong rate of growth could not be expected to continue indefinitely. And detailed studies completed in mid-1973 indicated a lower average annual growth of 5.5 percent was a reasonable prospect for the 1970–1985 period. But now, because of the higher cost of oil, consumers can be expected to make a greater effort to limit their consumption and a revised estimate has therefore become necessary. And our latest studies indicate a still lower growth of about 4.5 percent for the fifteen-year period. That, however, is an average rate for all of the period and, since demand actually grew at a higher rate of 7 percent during the first three years, the estimated rate for the remainder of the period—1973 to 1985—is no more than 4 percent. Significantly, that is little more than half the rate of growth prevailing from 1955 up to as recently as 1973.

How the worldwide needs for oil are likely to expand geographically is illustrated in Figure 8. Even though the rate of growth in prospect is much slower than in the past, the requirements for oil in all seven of the world's subdivisions nevertheless will become very much larger by 1985. The relative size and prospective growth of these individual markets is particularly noteworthy because of their influence on investment policy. Three basic factors—geologic prospects, size and location of markets, and political circumstances—largely determine where the petroleum industry's capital investment occurs. History has amply demonstrated that capital will take flight if one or more of these factors becomes unfavorable. On the other hand, capital will be attracted if these conditions become more favorable in one region relative to the others.

Although North America is the single largest market for oil, it accounts for no more than one-third of the worldwide consumption. And it is expected to be the scene of only one-fourth of the worldwide market expansion between 1970 and 1985. Obviously, much of the petroleum industry's financial resources therefore will be generated outside North America and investment policy will be influenced accordingly.

In the 1955-1970 period—when demand was growing at a 7.5 percent annual rate—the world consumed a total of 153 billion barrels of oil. Despite the slower growth of 4.5 percent expected in the following fifteen years, the accumulated consumption nevertheless will amount to 375 billion barrels—nearly two and a half times more than in the 1955-1970 period. Even if demand failed to grow at all after 1973, the consumption in the 1970-1985 period would still total 310 billion barrels—more than twice as much as in the preceding fifteen years. That highly significant fact is illustrated in Figure 9.

The Underground Inventories

Clearly, the world's future needs for oil will be enormous. And the petroleum industry must make a gigantic effort if those needs are to be satisfied. In any business activity involving products, inventories must grow in realistic proportion to the expansion of market demand. And inventories also should be strategically located throughout the market territory. In respect to oil, however, neither requirement has been met. Proved reserves—oil that has actually been found and developed—are really in the nature of underground inventories. Reported additions to the world's proved reserves have not kept adequate pace with market growth for a long time. Nor are the reserves well located relative to market needs. As revealed in Figure 10, there were 575 billion barrels of oil in a proved reserve status in 1970. As much as 67 percent of those reserves were concentrated in the Middle East and Africa—a region that constituted only 4 percent of the worldwide market. And fully two-thirds of all the proved reserves in existence in 1970 will be required to satisfy the world's indicated needs in the following fifteen years.

Obviously, the situation is precarious and demands a maximum corrective effort. There is the need to accelerate the search for more reserves. And the search should be conducted with the objective of achieving a better geographical distribution of the world's reserves. To meet minimum standards relative to indicated market needs, the world's proved reserves of oil should total at least 800 billion barrels by 1985. That is 225 billion barrels—or nearly 40 percent—more than in 1970. And to provide the better distribution and reduced vulnerability so urgently needed much of the increase should occur in regions of the world other than the Middle East and Africa. Between 1970 and 1985, the reserves located in those other regions should be more than doubled, if possible.

If the petroleum industry is to satisfy market needs of 375 billion barrels and also build up the world's reserves by 225 billion barrels, it must find and develop a total of 600 billion barrels of new oil between 1970 and 1985. As figure 11 reveals, that is nearly 50 percent more oil than was actually found and developed in the preceding fifteen years. Also indicated is the larger proportion of reserves that need to be found in regions other than the Middle East and Africa. Of the 415 billion barrels actually found and developed throughout the world in the preceding fifteen years, only 106 billion were discovered outside the Middle East and Africa. Three and a half times that much should be found in the 1970–1985 period if a better geographical distribution is to be achieved.

Even though the Middle East and Africa possessed two-thirds of the world's proved reserves in 1970 and most likely will still have well over half by 1985, other regions are likely to produce more oil nevertheless. As illustrated in Figure 12, the combined production of other countries in the 1970–1985 period is expected to exceed that of the Middle East and African nations by fully one-third.

Anyone thoroughly familiar with the history of the petroleum industry knows that most of the petroleum found thus far was discovered in areas that were once considered either barren or beyond reach. Almost from the beginning there have been continuous predictions that the earth's supply of oil would soon be exhausted. Even though most of the earlier predictions were made by qualified authorities, they nevertheless proved faulty because they were based upon insufficient geologic knowledge and a severely restricted ability to conduct the search for petroleum. With the passage of time, however, knowledge of the earth's geology has increased progressively and so has man's ability to hunt for petroleum. There is no logical basis for thinking such progress has come to an end. Given a sufficient incentive, man will doubtless continue to add to his geologic knowledge and improve his ability to conduct an ever-expanding search. Indeed, because of existing circumstances, the pace of technological progress may actually quicken. Some of the potential techniques now being considered sound like science fiction. But, so did today's widely used methods not long ago. There is much evidence to

prove that technological progress can change the seemingly impossible to reality.

How much petroleum remains to be found will never be known without a truly exhaustive search. And, in view of the vital importance of energy, the world cannot afford not to make that search. The effort must go on until there is positive assurance that the over-all economic costs of continuing the search exceed those of providing alternate forms of energy. Investing money in the search for petroleum will not guarantee success. But the failure to make that investment will indeed guarantee that no petroleum will be found. And we should be mindful that undiscovered petroleum is of no real value—neither to this nor any future generation. We cannot save what has never been found.

All those costs

For several decades, this Bank has conducted continuing studies with the objective of measuring the capital and exploratory costs of carrying on the search for petroleum. Such measurements are not particularly valid for individual companies nor for time periods as brief as one or two years. But for the petroleum industry as a whole over longer time spans there is a demonstrated consistent relationship between the financial input and the amount of petroleum found and developed. And that relationship in combination with other factors provides a meaningful indication of the future costs of finding enough petroleum to satisfy the world's requirements.

Our studies indicate the petroleum industry will need to invest at least 400 billion dollars for capital and exploratory purposes if it hopes to find 600 billion barrels of oil between 1970 and 1985. As Figure 13 reveals, that is more than two and a half times the actual investment for such purposes in the preceding fifteen years. In addition, another investment of 370 billion dollars will be required for other essential purposes—refineries and other processing facilities, tankers, pipelines, the vast market distribution system, and the costly equipment needed to achieve and maintain environmental standards. Figure 13 shows that the investment required for such purposes will also be much greater than in the preceding fifteen years. Amounting to 770 billion dollars, the total capital and exploratory investment required is nearly three times more than the actual investment of 275 billion dollars in the preceding fifteen years.

In addition, the petroleum industry has other financial needs that must also be met if it is to function in a viable fashion. There are additional investments and advances to be made. Shareholders must be paid for the use of the funds they have made available. Debt must be repaid. And, as the magnitude of its operations increases, there must be additions to working capital. For all these additional purposes, the industry is likely to require more than 400 billion dollars in the 1970–1985 period. The relative size of the industry's various financial needs is shown in Figure 14. Totaling 1.2 trillion dollars, they are more than treble the 375 billion dollars actually used in the preceding fifteen years.

Where will the money come from?

How the petroleum industry will satisfy its needs for such an enormous sum of money is by no means a simple matter. Part may be obtained from external sources, but the major portion must be generated internally. The financial needs for petroleum operations within the Communist countries are estimated to amount to 225 billion dollars and the money is likely to be supplied by their own treasuries. Although the industry will probably seek to borrow as much as possible in the capital markets, the relatively high degree of risk associated with its activities will limit the amount. It seems likely that 240 billion dollars may represent the maximum. Provisions for capital recovery, such as depreciation, depletion, and other write-offs constitute another source of funds. If these provisions are not changed by governmental actions, they are expected to provide 260 billion dollars. The remaining 460 billion dollars—nearly 40 percent of the industry's total financial needs—must be obtained from profits. The relative size of these potential sources of funds is also illustrated in Figure 14.

The enormous burden of inflation

In the hard light of reality, however, these sources are all likely to be called upon to provide a great deal more money. The various financial needs discussed above were measured in 1970 dollars and it is not realistic to think in such terms. Inflationary forces cannot be ignored. There is little likelihood that inflation can be brought under effective and lasting control until governments about the world recognize and eliminate their own powerful contributions to inflation. And to expect that to happen flies in the face of political reality. It is, therefore, prudent to assume continuing inflation. But how much? That, of course, is a matter of conjecture. And being unable to predict future inflation with meaningful accuracy, we have therefore measured the potential impact in terms of 5, 10, and 15 percent annual rates.

That impact is illustrated in Figure 15. With 5 percent inflation, the petroleum industry's financial needs would be increased from 1.2 trillion dollars to 1.6 trillion. With 10 percent, they would be raised to 2.2 trillion. And with 15 percent, they would be nearly trebled at 3.1 trillion dollars. We have encountered no informed belief that worldwide inflation can be reduced to a rate as low as 5 percent. The opinion that it will average within the so-called double digit range is much more general and, therefore, we think it is prudent to measure the industry's financial needs in terms of at least 10 percent inflation.

As Figure 16 indicates, all of the industry's financial needs would be nearly doubled if the world does experience 10 percent inflation. The requirements for capital and exploratory purposes would rise from 770 billion dollars to more than 1.4 trillion. And the various other essential needs together would be increased from 415 billion dollars to 760 billion. When the financial needs for the 1970–1985 period were measured in 1970 dollars, the task of raising the required funds appeared formidable indeed. But, when the potential inflationary impact is added, that task becomes enormously more difficult. And, under some circumstances, it could prove impossible.

As Figure 17 reveals, the industry would require a great deal more money from all potential sources as a result of inflation. The Communist nations would not be immune, and their treasuries would have to provide nearly twice as much. The industry's demand upon the capital markets could be expected to rise from 240 billion dollars to 420 billion. Its dependence upon capital recovery would increase from 260 billion dollars to 490 billion. And the amount of profits required would expand from 460 billion dollars to 845 billion.

But it is conceivable that the industry may be unable to draw upon these sources to the full extent necessary. The capital markets, which will be experiencing a demand for funds from the rest of the worldwide economy as well, may not be able to respond sufficiently. And governments, failing to recognize the vital role played by capital recovery, might act to take away or reduce some of the provisions that permit that important process to function. In that event, additional profits would be required to make up the difference, of course. But governments might also act to restrain the growth of profits. If limitations were imposed upon either capital recovery or profits or both, the industry's access to the capital markets would also be limited as a consequence. Obviously, the industry's ability to repay borrowed capital depends upon the adequacy of its cash flow which is determined by capital recovery and profits.

The behavior of government

Frequently in the past, representatives of government and the news media have called for the elimination or reduction of some of the provisions for capital recovery. Until recently, however, profits went virtually unnoticed. The lack of attention reflected the fact that the industry's profits were extremely modest for a fifteen-year period prior to 1973 and therefore were not noteworthy. But profits have become a major issue as a result of the large-scale increases achieved in 1973 and 1974. All over the world the news media and governments have focused much attention on the size of the profit gains and thereby fostered widespread adverse public opinion. The public has been led to believe that the profits were grossly excessive and that viewpoint obviously exists extensively within the ranks of government too. As a result, there have been many demands that restraints of various forms be imposed on the industry's profits.

These demands are a manifestation of the continuing failure to understand the relationship between investment and the supply of energy. As emphasized earlier, there cannot possibly be enough energy of any kind without adequate investment. And investment cannot be adequate without sufficient profits. But profits are labeled excessive and restraints are proposed without apparent consideration of the need for profits as a source of investment funds. As indicated earlier, the industry will need at least 845 billion dollars of profits between 1970 and 1985 if the world experiences a 10 percent rate of inflation. But in the first four years of that period the industry generated no more than 60 billion dollars of profits—only 7 percent of the required amount. Even in the highly unlikely event of no further inflation, the 60 billion dollars would represent but 13 percent of the industry's total needs for the fifteen year period. Figure 18 illustrates the huge additional amount that must be generated over the remaining eleven years. Under the circumstances, how can the industry's profits possibly be considered excessive?

Indeed, is it even realistic to think that the industry will be able to generate all the money it will need in the years ahead? The answer to that question depends upon the future actions of government. Obviously, if governments continue to ignore the financial realities involved and act in various ways to inhibit the process of capital formation, the industry will not be able to make the investment required to provide an adequate supply of petroleum. There are no possible financial short cuts—all the costs associated with providing enough must be paid. The potential for having enough petroleum in the future is promising. But the realization of that potential requires much greater enlightenment than exists at present. More cooperation between governments and the petroleum industry and also between the governments of the world will be needed. And there must be a truly meaningful, nonpolitical sense of purpose. Clearly, the potential can never be realized by simply hoping to muddle through as usual.

Mr. BUCKLEY. Mr. President, the tax bill presently being considered by the Congress of the United States is a mindless disaster. It will not significantly speed recovery. Rather, it will contribute significantly to a credit crunch in 1976,

lay the foundation for another boom and bust with inflation by 1977, and in the process will discriminate against many of the very families most hard pressed by the recent inflation and increases in energy prices. I would dearly like to be able to support a $30 billion, or even $50 billion, tax cut; but, I cannot support an irresponsible measure which this tax bill has become. An economically sound case can be made for the rebate from 1974 taxes, a case can be made for a modest reduction for 1975, and a case can be made to provide businesses and corporations a cut in the precent surcharge rate. But a case cannot be made for all of them.

There are today very few Americans who do not have some understanding that we are in trouble economically. We are just coming off a shocking inflation which peaked in 1974 at an annualized rate of more than 15 percent. We now have 8.2 percent unemployment. In some key industries the rate is twice that amount. Projections for the fiscal deficit for the year ending June 1975, are approaching $50 billion. The deficit projection for the next fiscal year is now more than $70 billion, and could very well be substantially higher than that.

What the Congress does with this tax bill will play an important part in determining whether we can get out of our present economic difficulties and restore conditions of economic stability in the years ahead. Given the way the Congress is responding, it is not at all certain that we will. We must face facts and possible consequences. The time for unrestrained optimism, so much a part of the American psychology, is over. The time for unrestrained response to short-term problems is over. Unless we put our economic house in order now we will be assigning ourselves to an economic stagnation similar to the conditions which presently grip the United Kingdom. It wasn't too long ago that their situation was very strong. Now after many years of unsound economic policies they are in deep trouble.

In one of the most powerful books written in the 20th century, Prof. Richard Weaver reminded us that ideas, indeed, do have consequences. So do tax bills and economic policies. What the Congress does on taxes will have consequences, but I am afraid that the consideration of this legislation has been keynoted by the lack of consideration for them.

The economic idea being relied upon to justify the proposed $30-plus billion tax cut is that the Nation needs additional fiscal stimulus. That idea rests upon the notion that there is a fundamental relationship between Government deficits and future economic growth. Unfortunately, the fact of the matter is that there is no such direct relationship. In the whole of the postwar period the evidence clearly indicates that it is the money supply which is controlling. In Prof. Paul Samuelson's words, "money matters." This is crucially important because if fiscal stimulus goes beyond the ability of the economy to accommodate prudent monetization of the stimulus, then one of two economic consequences will result: inflation or Government spending at the expense of private, job-producing investment. It will probably be our bad fortune that in this rush to realize our political objectives, the Congress will achieve both consequences.

The tax bill specifically will add almost $10 billion in debt to the fiscal year 1975 deficit of an estimated $35 billion. This is accomplished by rebating 1974 taxes, in the form of a lump-sum payment near the end of this fiscal year—June 30, 1975. In addition, the Senate would cut personal and business taxes for fiscal year 1976 by more than $20 billion. This action increases the deficit from the President's estimated $55 billion to upwards of $75 billion for fiscal 1976 alone. It is assumed by the Congress that this additional debt will do something for the economy. I am afraid we will be doing something to the economy instead.

Unless the Congress and the President are prepared to unleash on the Nation another and even more severe inflation over the course of the next 36 months, then the whole of the tax cut amount will have to come back to Government from private citizens—taxpayers—in the form of Treasury borrowings. There is no possibility that the Federal Reserve can monetize a $75 billion Federal Government deficit without creating a inflation of 3 percent or more. At the very outside, we can expect an accomodating policy which would monetize no more than $25 to $30 billion. Such an accomodation would require a 10 percent increase in the money supply. What should be crystal clear to all the Members of the Congress is that economists are quite uncertain what the particular consequences might be. Such an increase in the money supply is usually followed by a wave of inflation. It is not only possible but probable to calculate that a portion, even a substantial portion, of the increases in the money supply which go beyond the capacity of the economy to expand will produce only an increase in prices, not sustained economic growth.

Unfortunately, the problems do not stop there. Even with such a heavy monetization, the Federal intrusion into the Nation's capital markets will be aggravated by the whole amount of the 1975 tax cut. Just how is it then that it can be said that the tax bill will be stimulative. The truth is it will not be. The reality is that the increases in spending when combined with the decline in fiscal year 1976 revenues due to this tax bill will reduce the capital available to industry, especially the housing industry, while making it more expensive.

The real key to a sustained recovery is wealth-producing investment in sufficient amounts in the form of new plant and new construction. With this tax bill we most assuredly will cause an increase in interest rates, making private investment more costly and, therefore, at least somewhat less likely.

Moreover to the extent there is any crowding out, which I personally feel will occur within the next year to 18 months, this bill, and others, will make it that much more difficult for the recession-ending investment to take place.

As to the income tax credit of up to $2,000 to purchasers of new homes, let us hope the Congress is not deluding itself that such a credit will have a substantial impact on new housing starts of 1975. Leadtimes to construction are quite long and getting longer. The construction time itself is often up to 6 months. How then does anyone really expect that a credit available during calendar year 1975, made law in March or April of that year will have much, if any impact, on investment behavior. To be sure it will aid in the sale of houses presently inventoried. But that's happening anyway. The point is that the idea is not sound and will primarily inure to the benefit of those already planning new housing purchases in 1975. But more importantly, the idea that short-term radical responses to severe problems offer us sound solutions is dangerous. Manipulation of incentives, such as this, invariably create unstable market distortions and often produce effects which are totally unintended. The only sound solution is a long-term solution. To suggest otherwise, except in very rare cases, is very bad public policy.

Present estimated housing starts are running at an annual rate substantially below 1 million. The housing industry has a capacity for more than double that rate. To utilize that capacity it will require substantially more than $30 billion in investment resources. But as the capital market figures come into focus, as we get close to 1976 it is very possible that the "crowding out" factor will be realized and could amount to as much as $30 billion. In other words, the very resources which we are now depending upon to get us out of the recession are coming under attack by virtue of this tax transfer bill.

If what this bill is, is nothing more than a transfer of burden, then it is essential that we determine who benefits and consequently who is assigned additional burden, which includes all those ignored by the legislation. And this is a crucially important point: the 1976 tax cut is, unfortunately, a cruel hoax on millions of American taxpayers. Whether referring to the House-passed version of H.R. 2166 or the version reported by the Senate Finance Committee, no other term can adequately describe the bill.

First, let us look at the figures in the House-passed bill. More than 10 million taxpayers with incomes under $20,000 per year would receive absolutely no tax relief, under the best of circumstances and assumptions. More likely, the number of taxpayers that would be totally ignored is around 20 million taxpayers, again whose incomes are under $20,000. In addition, only a very few of the more than 4.3 million whose income are between $20,000 and $30,000 will get any relief whatsoever. I wish, however, to point out that these figures understate the inequities because these latest income figures are themselves 3 years old. Given the rapid inflation of 1973–74 the numbers being ignored are substantially higher because the tax tables provide no adjustment for the inflation distortion.

In other words, as many as 24 million middle-class Americans, who have been led to believe that they will get some permanent tax relief are being shut out

under the House bill. Interestingly, the groups of taxpayers most likely to be excluded because of the formula relied upon are homeowners, the generous and most incredibly of all, the sick.

The Senate bill is only slightly better, in theory. By relying upon a tax credit alternative to the personal exemption, families with incomes over $10,000 but less than $16,000 will get something. What they will get is interestingly, not detailed in the Senate Finance Committee report, but you can be sure that it will be less than $50 for the whole of 1975. The changes made in the tax tables will give a family whose income is $8,000 a tax reduction of $40 for the year. Using the same analysis of the Senate bill that was employed against the House bill, more than 20 million taxpayers will get no tax relief and 20 million more will get so little as to make the bill, as I said, a cruel hoax on millions of middle class Americans.

This discriminatory treatment is highlighted when one takes into account the two major rationales for the legislation. The first, recession, was dealt with above on an aggregate basis. Individually, the foundation of the American economy is the middle class, as worker, saver, and consumer. If he is lucky he will get $25 in a 1975 tax cut. Perhaps the supporters of this legislation figure that he will buy a new Ford with that kind of money. Let us hope so; but let us be realistic and ask, what are the chances?

The idea that all benefits of Government policy whether those benefits come in the form of new Government spending or tax breaks should be drafted so as to exclude the American middle class is as mindless as it is misguided equity. The middle class cannot and should not be ignored or shunted aside by the ideology of redistributionism. As an antirecession measure take as a whole the tax bill is economically dangerous and threatens to wreak havoc with our economy over the last half of this decade and beyond.

The second reason offered for the tax reduction is to provide relief from inflation, especially as it has caused higher taxes to individuals and corporations. It is true that if you had an income of under $20,000 in 1974 the rebate would work to substantially correct for the higher taxes paid due to the inflation. Unfortunately, the Senate failed to make this adjustment permanent when it voted to table my amendment to tie the income tax to the Cost of Living Index. Hopefully the Congress will in the near future index the income tax so that any future inflation will not also work to increase the heavy tax burden of all working Americans; especially those with low to middle incomes. But given the failure of my indexing amendment there is no protection against the effects of inflation on its rates in future years. Surely, the $25 or so tax cut will more than be returned to the Government as the cost-of-living wage increases pushes these taxpayers into higher tax brackets.

Further, it is contended that the tax cut is needed to offset the impact of increases in the cost of energy which have already occurred. But the fact is the suburbanite who has borne the heaviest burden in energy cost increases is shut out entirely by the House of Representatives and almost as completely by the Senate. Mr. President, I feel fully justified describing this tax bill as a cruel hoax.

Sadly I must conclude that the Congress and the administration have learned nothing from the inflation of 1973–74 and the consequent recession of 1974–75. It is clear to me that while the American worker suffers through recession and inflation his Government is off on a lark pursuing wrong-headed economic theories which have driven this country into a deepening inflation-recession cycle. I would hope that the increasingly clear threat to our future economic well-being causes the President to reassess his position on this legislation. He should veto it and tell the American people why. Americans are a tough lot. They will listen; and when told the truth will respond.

SENATE STAND ON DEPLETION IN CONFERENCE

Mr. DOLE. Mr. President, the 2,000-barrel of crude oil, or 12 million crude feet of natural gas, exemption from the depletion allowance repeal is vitally important to maintaining a high level of energy exploration and production. It is also vital to keeping a competitive element in the oil industry. I strongly urge those Members of the Senate participating in the joint conference committee on this bill to stand fast on the Senate exemption.

Those Senators who supported the 2,000-barrel and 12,000-billion-cubic-feet exemption are to be commended for their wisdom in identifying the particular importance of independent producers. The exemption provided in this legislation will be relevant to the vast majority of independent producers in Kansas and other States. The exemption from the depletion allowance repeal will permit most of these small producers to remain in production, giving us the additional oil and gas that we so greatly need at this time. It will also encourage most of the independents who do the vast bulk of exploration in this country to continue their drilling programs. That is why I urge the Senate conferees on this measure to work hard to retain the Senate language in the conference committee.

PROVISION STILL HAS PROBLEMS

Although I supported the 2,000-barrel exemption and the amendment containing that exemption by the Senator from South Carolina (Mr. HOLLINGS), I believe the amendment still contains difficulties for independent oil producers in Kansas and other States.

Probably the most difficult problem is a matter I called attention to earlier in this debate. That is the further restriction of depletion to not more than 50 percent of gross taxable income. This provision is counterproductive to the plowback provision that is intended to expand production. That is because the 50-percent limitation means a producer could actually lose part of his tax benefits under depletion allowance if he drills new wells.

So I am very hopeful that the conferees will be able to work out a way to resolve the counterproductive result of the 50-percent limitation in order that we will see an expansion of exploration and development as the plowback provision was intended to achieve.

Second, the limitation of 2,000 barrels excludes many independents larger than that level of production. Many independent producers between 2,000 and 3,000 barrels per day of production have been among the most active producers in exploration and expansion programs. By dropping that category of independents from the exemption, we are adding another disincentive for them to maintain their high level of exploration and development.

Third, the exemption requires producers to plow back income into exploration and development programs in order to use the depletion allowance. The plowback requirement of this amendment has a particular difficulty, because it states that equipment used in expansion and and development programs must be new equipment.

The problem is simply that independents, whom this amendment is supposed to help, are greatly limited in obtaining new equipment. Probably every Senator and Congressman with independent producers in his State has been contacted by oil men about the extreme difficulty in obtaining oil field equipment.

In fact, the shortage of oil field equipment has been so severe that, in the 93d Congress, the Senate adopted an amendment by the junior Senator from Kansas that prohibited export of oil field equipment to nations that embargoed oil shipments to the United States.

But the shortage of oil field equipment continues.

The result has been that independent producers have been forced to take casing and other oil well equipment from old wells and put it to use again in new wells.

So the plowback language requiring new equipment may in effect prevent independent producers from receiving the incentive we are trying to give them.

In addition, there are many small producers especially with stripper wells who have no drilling and exploration capacity. The plowback requirement would be impossible for this category of producers to use. Since they would be barred from the depletion allowance, those producers with stripper wells, or using secondary or tertiary recovery techniques with high costs or production, will probably be forced to cap their wells. The result is a lower level of production of the petroleum we so vitally need at this time.

So even while I support the 2,000 exemption to the depletion allowance repeal, I have difficulties with it.

I believe that the matter needs to be further discussed in hearings in the Senate Finance Committee and hope that those considerations may be taken up at a later date when the committee takes up other energy tax proposals that have been made.

FURTHER CONSIDERATION NEEDED

Mr. President, every State has some mineral production and I would hope that every Senator would take note of

the precedent the depletion repeal has set. As the distinguished majority leader stated earlier this week, there is a total of 108 other minerals that receive depletion allowance. Petroleum alone has been discriminated as the one mineral to lose depletion allowance.

The roots of percentage depletion go back a long way. After World War I, we woke up to find ourselves facing a serious petroleum shortage. Beginning with action in 1918, the Congress took action that culminated in the Mineral Depletion Act of 1926. At that time, depletion was assigned a rate of 27.5 percent, because of the highest risk in exploration and the greatest need for additional production being in petroleum. The high risk and great need for petroleum production continue to exist today. In view of these considerations, I hope the Congress will take a serious look at all factors affecting exploration and development and production of our energy resources. This will come naturally when the House Ways and Means and the Senate Finance Committee complete consideration of energy tax proposals that have been made.

EXEMPTION IS VITAL

But the passage of the 2,000-barrel exemption by the Senate is an important factor to keep our energy production growing. Those who voted for the 2,000-barrel exemption voted to keep the competition and exploration provided by independents.

Without the depletion allowance, many small independents will be forced out of business. Their equipment and operations will be bought out by large companies. So that would mean the big companies would get bigger. Many of my constituents in Kansas have already expressed their concern to me about the need for competition in the oil industry. So I believe it is vital that the Senate conferees stand firm on the 2,000-barrel exemption in order to keep as much competition in the industry as possible.

Mr. President, I have here a letter from a financial adviser to a potential oil industry investor. This letter gives a vivid description of what happens when depletion allowance is repealed.

As indicated in this letter, many oil drilling programs become unprofitable when the depletion allowance is repealed. In the words of this adviser, "the investment potential deteriorates dramatically."

During this time, when we are trying desperately to expand our oil production, it is apparent from this communication that, by repealing depletion allowance, we will in fact reduce expansion. We will especially reduce the drilling programs of the independents in Kansas and other States that do the vast majority of drilling in this country if the 2,000-barrel exemption is not kept in this bill.

This letter also indicates the result we can expect if depletion allowance is repealed for independents. Two alternative results are likely. First, the price of oil and gas could rise. Second, the structure of drilling programs could change.

The first alternative, as every Member of the Senate knows, is one we do not need at this time. High fuel prices are already a tremendous burden for the American public. I do not think we want to force fuel prices higher.

Regarding the second alternative, the changes in drilling program structure would be determined precisely only after market dislocations would run their course. I believe the primary change in the structure of drilling programs would be that major companies would be able to buy out the operations of independents. That is because independent drillers would no longer be able to make a living by drilling a limited number of wells, and major oil companies would take over those operations so that drilling programs operated at a large scale would be able to operate without the tax incentive of depletion.

There has been a great deal said in the Senate about the lack of competition in the oil industry. I share that concern and believe that we should not force a lower level of competition by repealing depletion, especially for independents, at this point.

Mr. President, I commend this letter to the attention of my colleagues. I hope every Senator will take note of it and the warning it gives of the dramatic detriment that will result from repealing depletion allowance for independent oil producers.

I ask unanimous consent that the letter be printed at this point in the RECORD.

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

BAILARD, BIEHL & KAISER, INC.,
March 12, 1975.

Mr. J. PAUL JENNINGS,
Kedco Management Corp.
Wichita, Kans.

DEAR PAUL: I apologize for my tardiness in getting back to you after our meeting in January. As my following comments will indicate, however, I've had some research to complete before I could decide what my next move would be this year in oil and gas.

I have just completed a two-month-long review of the potential returns on investment available from fifteen different 1975 oil and gas programs. This analysis was done assuming both the continuation and the elimination of the percentage depletion allowance. With the allowance, all fifteen structures offer a reasonable potential for investment return to limited partners. When the depletion allowance is eliminated from the analysis, however, the investment potential deteriorates dramatically. In fact, only three programs of the original fifteen still have the prospect of a reasonable return.

Obviously the percentage depletion allowance currently contributes a substantial portion to oil and gas investments' potential. Therefore, I have decided to defer any program recommendations for this year until the fate of this tax advantage is known. Assuming the depletion allowance is eliminated (the probabilities of which seem quite high), I can envision two occurrences which could restore the lost potential to oil and gas investments.

1. The price of oil and gas can rise enough to offset the return lost to increased taxes.

2. The structures of drilling programs can change to compensate for the loss of the depletion allowance.

Needless to say, this has been a very difficult and disappointing decision for me to make. However, I can not continue to recommend a high risk (both economically and politically) investment opportunity if there is a real possibility of diminished potential return. I hope you will respect this decision from my point of view as an investment counselor and not perceive it as a criticism of your program or oil and gas programs in general. In my mind, this particular problem can be attributed to Congress' inability to understand the need to provide sufficient economic incentive to ensure capital investment in oil and gas exploration and development.

If you would like to discuss this with me further, please feel free to call.

Sincerely,

THOMAS E. BAILARD.

Mr. DOLE. So I am hopeful that the Finance Committee and the Congress can later consider all factors affecting energy production. We need to reduce the uncertainties that are keeping the industry from investing in further production at this time.

The first step of that will be for the Senate conferees to stand firm on the Senate 2,000-barrel exemption. I strongly urge them to do that.

UNFAIR DISCRIMINATION AGAINST MARRIED COUPLES

Mr. GOLDWATER. Mr. President, I rise to protest an unfair discrimination made by the pending Tax Reduction Act against 47 million married couples. In this age of increasing permissiveness and weakening moral fabric, I am shocked to observe that the U.S. Congress is about to go on record with passage of a tax measure that rewards living out of wedlock and penalizes married life.

Mr. President, I am referring to section 101 of the bill which provides for a refund of 1974 individual income taxes. Under the provision adopted yesterday on the Senate floor, the general rule is that each individual taxpayer will receive a rebate of twelve percent of his or her tax liability for 1974. This refund will vary from a low of $120 to a high of $240, depending on the taxpayer's total tax bill.

The proposal is being publicized in the media as a refund to each individual taxpayer, but a close reading of the bill reveals that for purposes of the refund married couples are being discriminated against.

According to the Senate committee report, single persons are entitled to the full refund. Heads of households are entitled to the full refund. Surviving spouses are entitled to the full refund. However, married taxpayers are not.

The committee report at page 26 states:

> Where married taxpayers file a joint return for 1974, the amount of the refund is determined by reference to the joint income tax liability and adjusted gross income figures *as if the spouses were one individual* (emphasis added).

What if married taxpayers file separate returns, each having personal earnings? Their tax refund will be cut in half. They each will be treated as only half-of-a-person.

The committee report explains very clearly that in the case of a married couple filing separate returns "the minimum and maximum refunds are cut in half with respect to each spouse."

Mr. President, this practices is downright unfair to married couples. Moreover, it is not even justified in the Committee report. We are given no ex-

planation of why the bill discriminates against persons solely because they are married.

Is this a portent of things to come? Are married couples next to be treated as if they are one individual for purposes of claiming the personal exemption?

Mr. President, I know section 101 provides a refund only for one year and is not made a permanent feature of the tax structure. However, I find it a bad precedent and fear that it reflects a growing attitude of disregard for the sanctity of married life.

As an example of how the provision will work, I will offer the case of a man and wife who each are making adjusted gross incomes of $12,500. If these two people were single, their separate tax refunds would be $240 under the proposed law, a total of $480.

But because the two income earners are married, their total refund based on a joint return, will be $180, instead of $480. Not only will their refund be cut in half because they are married, but also they will haven fallen victim to a more severe income limitation applicable to married couples.

Even if the couple filed his and her separate returns, the maximum refund to which each would be entitled is $78, a total of only $156 per couple. This result occurs because married taxpayers who file separate returns are entitled under section 101 to a maximum refund of $120, subject to further reduction by reason of his or her adjusted gross income.

Mr. President, any tax formula which gives a refund of over $300 more to two single persons who may be living together out of wedlock, than to a married couple living next door, each with the same combined income, is arbitrary, unfair, and immoral. I believe the bill should be sent back to committee for reconsideration of this aspect.

Mr. President, I ask unanimous consent that two tables presenting the current projected estimate of the total number of returns to be filed by married taxpayers for 1974 be printed in the RECORD.

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

TABLE 1.—*Number of married couples filing Joint returns for 1974*

Adjusted gross income:	*No of joint returns*
Under $5,000	5,023,000
$5,000 to $10,000	10,248,000
$10,000 to $15,000	12,496,000
$15,000 to $20,000	9,702,000
$20,000 and over	8,252,000
Total	45,721,000

TABLE 2.—*Number of married persons filing separate returns for 1974*

Under $5,000	1,059,000
$5,000 to $10,000	908,000
$10,000 to $15,000	328,000
$15,000 to $20,000	57,000
$20,000 and over	20,000
Total	2,371,000

Mr. McGEE. Mr. President, my colleagues, I am sure, are aware of the sudden and heavy tax cost that will fall on oil companies which operate overseas as a result of action taken yesterday on this floor. This body needs to give consideration to them. There are a few smaller oil companies who are attempting to establish themselves in the foreign oil exploration and production area. These companies will provide much needed competition to those who are already well established in foreign production. Also, some of them have been successful in finding oil in non-OPEC countries which we all know is to this country's advantage.

Substantial investments overseas have already been made by them and substantially larger sums to complete their drilling and start production have been committed by them. The heavy tax cost of the amendments that have been and are being considered on this floor can delay or halt their foreign investments as they cannot quickly absorb the heavy tax cost.

Mr. President, yesterday the Senate granted relief to the independent domestic companies by excluding them partially from the repeal of the depletion allowance for tax purposes. I believe it behooves us also to grant some relief to the small oil companies who are trying to expand their overseas operations and provide much needed competition with the major oil companies.

I believe there is a reasonable difference between these companies that built up their established overseas position under the present tax laws and those that are attempting to establish themselves.

I have discussed this matter with my colleagues, including Senators LONG, HARTKE, HANSEN, and DOLE, all of whom will be serving on the conference committee, and they have assured me they are and will be aware of the problem.

Mr. DOLE. Mr. President, action we may take should not run the small companies out of the foreign oil business and ways to make it possible for them to stay in business should be found.

They have spent large sums of money already. Yet they are required to spend a great deal more at a time when the tax laws would be drastically changed for them. In short, they deserve some breathing room. I think it is very important that the smaller oil companies have time to establish themselves equally on the same basis as the larger oil companies have done under the present tax laws. These companies will contribute towards providing much needed competition.

The smaller companies can be defined and their problem, hopefully, can be given favorable consideration in the conference on this bill.

Mr. BELLMON. Mr. President, as the Senate continues debate on H.R. 2166, I feel it is timely to review a statement made several years ago by Charles E. Wilson, who was nominated by President Eisenhower to be Secretary of Defense.

Mr. Wilson stated that "what is good for the country is good for General Motors and vice versa." He was misquoted as having said only that what was good for General Motors was good for the country.

The latest figures released by the Federal Reserve Board show that the output of the Nation's factories, mines, and utilities dropped 3 percent in February after declining 3.6 percent in January and 3.1 percent in December. It is predicted that the real gross national product will drop at an annual rate of more than 10 percent in the current quarter. Indications are, however, that we have reason to be hopeful about the outlook of the economy during the next few months.

The most recent economic indicators, compared to those of last December, show consumer confidence rising, inflation rates declining, and new claims for unemployment-compensation benefits slowing down. It is not a coincidence that businessmen can also show a rise in the retail sales volume during the past few months, a decline in interest rates, and an increase in capital-spending plans. In January, business inventories dropped for the first time in more than 4 years. This sign indicates that business is reducing its stock and will begin to increase production.

Mr. President, an article in the Wall Street Journal December 18, 1974, by Vermont Royster makes several valid points concerning the relationship of the welfare of the business sector and the welfare of the Nation's economy as a whole. Because the editorial contains information which would be helpful in restoring our economic health, I ask unanimous consent that it be printed in the RECORD.

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

COMMON SENSE FOR UNCOMMON TIMES

(By Vermont Royster)

There was a lot of jeering back in 1953 when Charles E. Wilson, Eisenhower's nominee for Secretary of Defense, remarked that what was good for the country was good for General Motors, and vice versa.

The jeering was made worse because his remark itself got turned vice versa. He was widely quoted as having only said what was good for General Motors was good for the country, which sounded quite different. Altogether, the poor chap got pilloried as the very caricature of the Wicked Big Businessman who would put corporate welfare ahead of the national welfare.

Well, I suspect that hardly anyone today would scoff at Engine Charlie. Anyway, we are all learning that what's bad for the country is bad for General Motors—and even vice versa.

Right now hardly anyone can fail to see that the bad things that have been happening to the country—inflation and the oil shortage, for example—have been disastrous for Detroit. And just about everybody is beginning to notice that the bad things that are happening to Detroit—the sagging sales, the cut-back production—are in turn having very unhappy effects on the rest of the country.

The reason is that the auto industry interlocks with so much of our whole economy. Not only is the direct manufacture of automobiles itself a major enterprise in terms of capital and jobs, the industry also supports the thousands of dealers and gas stations scattered all over the country. It provides a market for hundreds of suppliers, from batteries to spark plugs, and is a major customer of many other large industries, notably steel, rubber and glass. It's been estimated that one out of every five industrial jobs in the country is related in some way to the auto industry.

That's why President Ford the other day had all those auto industry people at the

White House. They came with tears in their eyes from the auto companies and the unions and the ranks of the politicians, including the governor of Michigan.

Everybody was there because they recognized that the welfare of the country and the industry were intertwined. Clearly it was a belated acknowledgement that Engine Charlie had a point. What isn't so clear is that everybody really understands the point.

For of course the real point of Mr. Wilson's remark was that there is a direct relationship between the welfare of the nation's business enterprises, of which the auto industry is one among many, and the welfare of the country. That, in fact, the two are inseparable.

What Mr. Wilson was suggesting was that if the government encouraged economic policies that were good for the counrty they would benefit business in general, and his own in particular, and that if the government pursued policies good for business in general they would inevitably benefit the whole country.

And that is a proposition as likely to bring jeers now as it did then. For well over a generation the attitude of our governors has been that business was something apart from the national welfare. It might have to be tolerated but never encouraged. On the contrary, it must be held down, restrained, restricted, even punished, because the interests of business are antithetical to the interests of the people.

Thus our habit of dividing the economy into a public sector and a private sector. The private sector is bad because it is greedy profit-grubbing. The public sector is good because it provides for the welfare of the people.

Right now even the most obtuse politician can see how the plight of the auto business translates into long lines of the unemployed. But a Senator Jackson can still talk about the "obscene profits" of oil companies at a time when the real welfare of the people calls for untold billions of capital investment to find and deliver new oil resources. Just so at a time when the nation cries for new gas supplies the regulators choke them off because that would just help greedy business.

It never seems to occur to the railers against business that if new oil supplies aren't found, that if new natural gas supplies aren't piped to industry, the lines of the unemployed will grow even longer.

It ought to be clear to anybody that there is no such thing as a job in any industry unless there is first the capital to build the plant and provide the tools for the laborer to do his job. Yet for years our taxing policy has been designed to discourage capital formation. The basic corporate rate, state and federal, is close to 60% even before the providers of the captial are taxed again on any return they get for providing the capital.

Worse, by recognizing interest payments, as an expense but not dividends, our tax laws encourage the piling up of debt while discouraging entrepreneurial capital investment. And to add to that problem the government is the biggest borrower of all, borrowing billions for non-productive purposes and so driving up all interest rates.

The examples could be endlessly multiplied. Everywhere you turn our national policies are imbued with the idea that somehow what is restrictive on business is good for the country.

Now, of course, with business in sad estate, with company after company in financial distress, with unemployment lines lengthening everywhere, business is threatened with more controls while the government, understandably enough, talks of enlarging the public sector to provide relief for those thrown out of work by the maltreatment of the private sector. And who, pray, is to pay for it?

It's been a long time since any President dared say that the business of America is business. But maybe we'd better also stop jeering at Cal Coolidge.

Mr. LONG. As far as I am concerned, Mr. President, I am ready to vote on the bill.

Mr. JAVITS. Mr. President, will the Senator yield for just a comment?

Mr. CURTIS. The Senator can have third reading. I want 2 or 3 minutes.

Mr. LONG. Can we go to third reading and the Senator's——

Mr. JAVITS. I just want to make this comment. I want to say it has been a triumph of management to have brought the bill to where it is, and I congratulate the Senator and the staff for being so competent, and the minority manager as well.

Mr. LONG. I thank the Senator.

May I say with reference to the debate that occurred on the small business amendment, that amendment was at the desk prior to the time that cloture was invoked, and it was available to everyone, just as all other Senators' amendments that came in during that time were available to me, and if it caught the Senator from New York or anyone else by surprise, I am sorry. But the same thing happened with some of the amendments that I was confronted with today.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

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

The bill was read a third time.

Mr. MANSFIELD. Mr. President, will the Senator allow me to yield to the assistant majority briefly?

Mr. CURTIS. I yield to the assistant majority leader.

The PRESIDING OFFICER. The Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I have been authorized by the distinguished majority leader to make the following unanimous-consent request. It has been cleared with Mr. Moss, Mr. TALMADGE, Mr. DOLE, Mr. MCCLURE, Mr. GRIFFIN, Mr. BROCK, Mr. SCOTT and several other Senators, including Mr. HUDDLESTON, Mr. FORD and others.

The unanimous-consent request is as follows, and it is with the hope that the action on the farm bill would occur on the same day that action on the conference report on the tax bill would occur. However, we have no assurance as to when the conference report will be back in the Senate for action. But, by virtue of the fact that the other body is expected to go out for a few days on next Wednesday, it is hoped that a conference report would be back in the Senate by Wednesday.

The unanimous-consent request is as follows: That when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday, at which time there would be no business transacted that would require any rollcall votes. Perhaps unanimous-consent measures could be adopted; that when the Senate completes its business on Monday it stand in recess until the hour of 9 a.m. on Wednesday next;

Provided further that immediately after the two leaders or their designees have been recognized under the standing order, the Senate resume consideration of the farm bill with the following time agreement obtaining: That there be a 3-hour limitation for debate on the bill, the time to be divided equally between Mr. TALMADGE and Mr. DOLE; that time on any amendment be limited to 30 minutes; time on any debatable motion or appeal be limited to 20 minutes; that time on one amendment to be designated by Mr. Moss be limited to 2 hours, and that no nongermane amendments be in order; that a final vote occur at 5 p.m., waving paragraph 3 of rule XII, and that the agreement as to the division and control of time be in the usual form.

Mr. ROBERT C. BYRD subsequently said: Mr. President, in the unanimous-consent agreement I entered into earlier on the farm bill, I failed to include in the unanimous-consent agreement the request or the provision that no tabling motion would be in order on the amendment on which Mr. Moss is being given 2 hours.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. Is there objection?

Mr. TALMADGE. Mr. President, will the distinguished majority whip yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TALMADGE. I have no objection.

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

Mr. ROBERT C. BYRD. No, not yet.

Mr. MAGNUSON. The vote will occur the same day as the tax bill?

Mr. ROBERT C. BYRD. I said hopefully if the conference report comes back.

Mr. MAGNUSON. I want to remind the Senator the House is going out, and if we know the House, as most of us do, when they decide to go out on Wednesday, they go, so that is your last day. So if RUSSELL LONG has bad luck and he cannot get it ready, it will have to go over. But the Senator said hopefully.

Mr. ROBERT C. BYRD. Hopefully.

Mr. INOUYE. First of all, the conference report on the foreign aid bill is scheduled to be voted on in the House on Monday. When can I take it up in the Senate?

Mr. ROBERT C. BYRD. Under this agreement, the distinguished Senator could take up that conference report on Monday, with the understanding that there would be no rollcall votes occurring on Monday on that measure. If any were ordered, they would go over until Wednesday.

Mr. INOUYE. Could we have a voice vote?

Mr. ROBERT C. BYRD. Voice vote. But under the unanimous-consent request if there were any rollcall votes they would go over until Wednesday.

Mr. ALLEN. Mr. President, reserving

the right to object, and I do not intend to object——

Mr. CURTIS. The Chair had ruled once.

Mr. ALLEN. I merely wanted to make an inquiry. I shall not object. I wanted to ask a question, if it would be possible to have the vote occur not later than 5 o'clock so that we would not be bound to wait until 5 o'clock for the vote if we got through at 3 or 3:30.

Mr. ROBERT C. BYRD. That is agreeable with me. But the reason for setting it at 5 o'clock, making it a time certain, was to accommodate Senators who may be coming from distant points and who, perhaps, cannot get here before 5 o'clock.

Mr. ALLEN. There might be others who want to go to distant points.

(Laughter.)

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Members.

TAX REDUCTION ACT OF 1975

The Senate continued with the consideration of the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. While I shall not vote for this bill because I believe it adds too much to the deficit and also because there is a great part of it which is very bad tax law, I do want to thank—may I have order, Mr. President?

The PRESIDING OFFICER. Let the Senate be in order.

Mr. CURTIS. I do want to thank the distinguished chairman for his courtesies and to commend him on his management of the bill, and to thank the staff members, both majority and minority.

Mr. President, I shall not delay. I am just going to read a one-page letter that came into my hands today. I think it will be of interest to the Members. I hope it will have an effect upon the conferees. This dated March 21 and is as follows:

MARCH 21, 1975.

DEAR SENATOR: I have been reading the papers about the tax benefits that the Senate is voting for me, and I want to express my thanks to the Senate.

My wife and I are retired, and both of us are past sixty-five years of age. I am a primary beneficiary of Social Security. We have investment income of $20,000 a year, and I have been figuring up what you have done for us.

We have been living in a rented apartment all of our married lives, but this summer we are going to purchase a new condominium in Florida for $40,000.

Under existing law, our Social Security benefits are free from taxation. The tax, under existing law, on our $20,000 income amounts to $2,660.

According to the Senate Tax Reduction Bill, we will receive a tax rebate of $240. We will also receive $100 because I am a Social Security beneficiary. The provisions of the Senate Bill which gives us the right to a $200 credit in lieu of the personal exemption of $750 plus the rate reduction will reduce our taxes by $72. These provisions will save us $412 in taxes.

We are going to purchase a condominium in Florida this summer for $40,000 and thus get a $2,000 tax credit provided in this new law. This will make a total benefit to us of $2,412.

For 1975 this will mean that instead of having to pay our regular taxes of $2,660, we will only have to pay $558. Will you please convey our heartfelt thanks to those wonderful statesmen who have done this for us?

Sincerely yours,

U. R. DUNN.

All of these figures have been checked out, and they are absolutely accurate.

Mr. LONG. Mr. President, I am glad the Senator put that letter in the RECORD. It is good to know that somebody appreciates us. If everybody did what that gentleman was doing the recession would be over next week.

In my judgment, taxes are too high and should be reduced.

Mr. HARRY F. BYRD, JR. I would like to support the pending legislation. It would benefit the average family by about $5 per week. This reduction could be important to many families, and I would like to see it achieved.

Likewise, the legislation provides substantial and, in most cases, desirable tax benefits to businesses and corporations.

A good case can be made for a reduction in taxes to stimulate the economy in time of recession, provided—provided—excessive Government spending has been brought under control.

But such is not the case at the present time.

In fact, the situation is just the opposite.

What is being proposed is to reduce taxes by $30 billion and substantially increase spending with a resulting deficit for fiscal 1975–76 of about $125 billion.

This unbelievably high 2-year deficit comes on top of 14 years of accumulated deficits.

It is the accumulated deficits that fuel inflation and cause the Government to go into the money markets to such an extent that its impact on interest rates will be severe.

In recent weeks interest rates have tapered off. But with the tremendous deficits that are in prospect for the 1975–76 fiscal years, the Federal Government must go into money markets for unprecedented amounts.

Secretary of the Treasury Simon has confirmed to me that for fiscal year beginning July 1, the Federal Government will need 66 percent of all the lendable funds.

Indeed, the Treasury Secretary testified before the Finance Committee that for fiscal 1976 the Federal Government will borrow more money than the Federal Government, the State governments, the local governments and all private borrowers collectively have ever borrowed in any previous year.

On a net basis, Secretary Simon added, Federal Government demand will be larger than all demands totalled in any previous year.

With such heavy Federal deficits, and with the Federal Government standing at the head of the line in seeking loans, one does not need to be an economist to realize how severe will be the impact on interest rates and how little money will be left for the private sector which itself has huge capital needs.

The Federal deficits of the last several years played a major part in keeping money scarce and interest rates high.

To me a significant and alarming figure is that more than one-third of the Nation's total national debt of $600 billion as of July 1, 1976, will have been incurred during the 6 year period 1971–76.

Yes, more than one-third of the total debt will have been incurred in 6 years.

Washington's current economic program provides for Federal spending at the rate of almost $1 billion a day—with deficits of more than $1 billion a week.

It is in this context that a reduction in taxes is being proposed.

Having been in public office 27 years, I am not unaware that tax cut legislation is popular. But as popular as a tax cut may be, I have concluded that I must vote against it under existing conditions.

In voting against this legislation, I realize I am substituting my own judgment for that of the experts.

But my experience with the experts in Washington, D.C. is that they have been wrong more often than they have been right.

It was only 3 years ago that the same experts recommended reducing the 1972–73 taxes by $21 billion—along with an increase in Federal spending.

The reasons were precisely the same as the reasons now: To stimulate the economy, to reduce unemployment, to relieve the hardships imposed by inflation. We need bigger deficits, they said—and the Congress voted accordingly.

Yet, today, unemployment is substantially higher and inflation has doubled.

So what do they now propose? More of the same—except even greater deficits.

The prevailing Washington view is that if two pints of whiskey would not sober the alcoholic, six pints surely should do the job.

Undoubtedly, the huge deficits now proposed will stimulate the economy.

But these deficits, resulting from the $30 billion tax cut coupled with huge increases in Federal spending will, in my judgment, lay the foundation for greater difficulties in the future.

Is the Congress being fair with the American public to encourage the belief that excessive spending can continue indefinitely and no one need pay for it?

Unless one believes that Federal spending comes free—this tax cut is a sham.

Congress can legislate a reduction in direct taxes, but if the spending is not paid for by direct taxation it will be paid for by the hidden and cruel tax of inflation.

Reducing taxes while increasing spending is, I recognize, a bonanza for politicians.

But, in my judgment, it is a cruel hoax for the working people, the elderly, the vast majority of our citizens who have seen their income and savings eroded in

value while the cost of living soars ever higher.

What is needed to achieve true economic recovery, which then can lead to a true tax reduction, is to restore confidence—consumer confidence and business confidence.

Confidence is not likely to be restored by perpetuating unsound fiscal policies in Washington.

The public, I feel, realize there is something phony about reducing taxes by $30 billion and simultaneously increasing spending by $50 billion without paying the price of inflation.

It is my deep conviction that we will not get the cost of living under control until we get the cost of Government under control.

In the context of the Government's overall financial condition, I regard this $30 billion tax reduction bill as being highly irresponsible.

I shall vote against this bill.

Now, Mr. President, noting the arguments given by economists as to the reason for this legislation plus increased spending—namely, putting our lagging economy in the high growth path and diminish high unemployment, I invite attention to the fact that this was precisely the reasoning 3 years ago for the Tax Reduction Act of December 1971—again coupled with increased spending.

Since then unemployment has increased and inflation has doubled.

I ask unanimous consent to insert at this point page one of the Senate Finance Committee report on the Revenue Act of 1971, enacted in December 1971.

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

I. SUMMARY

As reported by the House, the Revenue Bill of 1971 was designed to provide a balanced program of tax reductions for individuals and tax incentives for business. As stated in the House report, this bill, in the form passed by the House, was designed to—

put our present lagging economy on the high growth path.

increase the number of jobs and diminish the high unemployment rate.

relieve the hardships imposed by inflation on those with modest incomes.

provide a rational system of tax incentives to aid in the modernization of our productive facilities.

increase our exports and improve our balance of payments.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

SEVERAL SENATORS. 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 clerk will call the roll.

The legislative clerk called the role.

Mr. MANSFIELD (after having voted in the negative). Mr. President, I have already voted in the negative. If the Senator from Missouri were here, he would vote no. If I were permitted to vote, I would vote aye. Therefore, I withhold my vote, but the negative vote still stands.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Alabama (Mr. SPARKMAN) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN), is absent on official business.

On this vote, the Senator from Texas (Mr. BENTSEN) is paired with the Senator from South Dakota (Mr. MCGOVERN).

If present and voting, the Senator from Texas would vote "yea" and the Senator from South Dakota would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. PACKWOOD), the Senator from Alaska (Mr. STEVENS) and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I further announce that the Senator from Ohio (Mr. TAFT), is absent due to illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 60, nays 29, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—60

Abourezk	Griffin	Metcalf
Bayh	Hart, Gary W.	Mondale
Beall	Hart, Philip A.	Montoya
Brooke	Hartke	Moss
Bumpers	Haskell	Muskie
Burdick	Hathaway	Nelson
Byrd, Robert C.	Hollings	Pastore
Cannon	Huddleston	Pearson
Case	Humphrey	Pell
Church	Inouye	Proxmire
Clark	Jackson	Randolph
Cranston	Javits	Ribicoff
Culver	Johnston	Schweiker
Dole	Kennedy	Scott, Hugh
Domenici	Leahy	Stafford
Eagleton	Long	Stevenson
Fong	Magnuson	Talmadge
Ford	Mathias	Tunney
Glenn	McGee	Weicker
Gravel	McIntyre	Williams

NAYS—29

Allen	Fannin	Nunn
Baker	Garn	Percy
Bartlett	Goldwater	Roth
Biden	Hansen	Scott, William L.
Brock	Hatfield	Stennis
Buckley	Helms	Stone
Byrd, Harry F., Jr.	Hruska	Thurmond
Chiles	Laxalt	Tower
Curtis	McClellan	
Eastland	McClure	
	Morgan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against

NOT VOTING—9

Bellmon	Packwood	Symington
Bentsen	Sparkman	Taft
McGovern	Stevens	Young

So the bill (H.R. 2166) was passed.

The title was amended as follows:

An act to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to provide a tax credit in lieu of the personal exemption deduction, to provide a credit for certain earned income, to increase the investment credit and the corporate surtax exemption, and for other purposes.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TALMADGE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR PRINTING OF H.R. 2166, WITH AMENDMENTS, AND AUTHORIZING THE SECRETARY OF THE SENATE TO TAKE CERTAIN ACTION

Mr. LONG. Mr. President, I ask unanimous consent that the bill—H.R. 2166—be printed with the amendments of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth. Designations, and cross-references thereto.

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

Mr. LONG. Mr. President, I move that the Presiding Officer appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. TALMADGE, Mr. HARTKE, Mr. RIBICOFF, Mr. HATHAWAY, Mr. HASKELL, Mr. CURTIS, Mr. FANNIN, Mr. HANSEN, and Mr. DOLE conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, the passage this morning of this tax bill adds another great achievement to an already long list of the distinguished Senator from Louisiana (Mr. LONG), chairman of the Finance Committee. This critically important measure has been passed by the Congress in record time and demonstrates a high sense of urgency of what is truly needed to stimulate the economic growth necessary to bring full employment.

This act was greatly improved by the Finance Committee and by the full Senate—it is far superior to what had been originally proposed. The shepherding of this measure through the Senate by the distinguished chairman of the Finance Committee (Mr. LONG) demonstrates again that there is no one in the Senate of greater legislative leadership, experience, and know-how than he. The leadership in the Senate and the Nation as a whole, owe him a great debt of gratitude. In addition, the leadership is appreciative of the cooperation it has received during the consideration of this act by the entire Senate and is proud of the sense of responsibility and urgency all have shown to the Nation's business.

Mr. ROTH. Mr. President, I urge that the House-Senate conference on the tax bill will be open to the public, press, and media.

The final decisions on what remains in this bill and what does not will be made in conference. These decisions are of great interest to all Americans because they will determine the size of the rebates, the nature of the incentives included to stimulate economic activity in general and the housing and automobile industries in particular, and the size and scope of the bill.

As the principal sponsor of Senate Resolution 11 to open conference committees to the public except when there are compelling reasons to the contrary, I am strongly committed to the public right to know. There are no compelling reasons why this legislation should not be considered in public. Both House and Senate have had open markup and

surely the final deliberations should also be open.

Although Senate Resolution 11 has not yet been acted upon by the Rules Committee, it has been endorsed by both the Republican and Democratic caucuses in the Senate. I commend the chairman of the Finance Committee for holding the Senate markup in public even though that is not now required by Senate rules. I hope that in keeping with the spirit of the caucus decisions, the conference also will be open to the public.

AUTHORIZATION FOR COMMITTEE PRINT

Mr. MANSFIELD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The clerk will state the concurrent resolution.

The legislative clerk read as follows:

S. CON. RES. 26

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Committee on Foreign Relations five thousand copies of the Committee Print entitled "China: A Quarter Century After the Founding of the People's Republic."

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

AUTHORIZATION FOR THE APPOINTMENT OF A SPECIAL SENATE DELEGATION TO VISIT CERTAIN EUROPEAN COUNTRIES

Mr. HUMPHREY. Mr. President, I send to the desk a resolution on behalf of myself and the Senator from Pennsylvania (Mr. HUGH SCOTT), and ask for its immediate consideration.

Mr. GRIFFIN. Will the Senator tell me what it is?

Mr. HUMPHREY. It has been cleared. It is a substitute resolution for the one which related to the trip to the Soviet Union.

The PRESIDING OFFICER (Mr. Stone). The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 118) to authorize the appointment of a special Senate delegation to visit certain European countries.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 118) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 118

Resolved, That the President of the Senate is authorized to appoint a special delegation of Members of the Senate to visit certain countries in Europe to conduct a study on the current status of the North Atlantic Alliance and to designate the co-chairmen of said delegation.

SEC. 2. (a) The expenses of the delegation, including staff members designated by the co-chairmen to assist said delegation, shall not exceed $25,000, and shall be paid from the contingent fund of the Senate upon vouchers approved by the co-chairmen of said delegation.

(b) The expenses of the delegation shall include such special expenses as the co-chairmen may deem appropriate, including reimbursements to any agency of the Government for (1) expenses incurred on behalf of the delegation, (2) compensation (including overtime) of employees officially detailed to the delegation, and (3) expenses incurred in connection with providing appropriate hospitality.

(c) The Secretary of the Senate is authorized to advance funds to the co-chairmen of the delegation in the same manner provided for committees of the Senate under the authority of Public Law 118, Eighty-first Congress, approved June 22, 1949.

The PRESIDING OFFICER. The Senator from West Virginia.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the executive calendar through Calendar Order No. 53.

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

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Harold R. Tyler, Jr., of New York, to be Deputy Attorney General.

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

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of John E. Reinhardt, of Maryland, a Foreign Service information officer of the class of Career Minister for Information, to be an Assistant Secretary of State.

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

U.S. ADVISORY COMMISSION ON INFORMATION

The second assistant legislative clerk read the nomination of John M. Shaheen, of Illinois, to be a member of the U.S. Advisory Commission on Information for a term expiring January 27, 1977.

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

Mr. GRIFFIN. Mr. President, I ask that the President of the United States be notified concerning the confirmation of the several nominations.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

AID FOR CAMBODIA

Mr. CRANSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. CRANSTON. I would like to ask the Senator the status of a report, if there is one, of the Foreign Relations Committee on the matter of supplemental funds for Cambodia.

Mr. ROBERT C. BYRD. Mr. President, I cannot answer the question that has been asked by the distinguished Senator. That measure is not on the calendar. Whether or not it has been ordered reported I am in no position to say. I can only say this, that under the unanimous-consent agreement any measure that is ready for action can be brought up on Monday next, with the caveat that roll-call votes could not occur thereon until Wednesday next.

Mr. CRANSTON. Is it in order to request that it not be dealt with by voice vote on Monday so that there can be an opportunity for consideration by the full membership on Wednesday?

Mr. ROBERT C. BYRD. The Senator can be assured that that matter will not be disposed of by voice vote, I would imagine on any day.

Mr. CRANSTON. I thank the Senator very much.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SERVICE OF SENATOR STONE AS PRESIDING OFFICER

Mr. ROBERT C. BYRD. Mr. President, I call attention to the fact that the distinguished Senator from Florida (Mr. STONE) has been presiding over this body now for nine continuous and consecutive hours. His tenure in the chair on this particular occasion began at 5 o'clock yesterday afternoon, and now it is 2 minutes past 2 a.m. on Saturday. That is a pretty long stint in the chair.

I am sure that other Senators would join me in saying that the Senator from Florida has presided over this body with a degree of skill, competence, effectiveness, and dignity that is "so rare as a day in June," and that he certainly has set a fine example of enforcing the rules that require that the Senate be in order.

The Senator from Florida has observed the rule that it is the duty of the Chair to enforce order in the Chamber and in the galleries, without a point of order being made by any Senator.

I personally congratulate him; and I would say that all Senators are in his debt, because somebody has to preside, and it is not an easy task. It is difficult to get Senators to take their turn in the Chair. But the Senator from Florida (Mr. STONE) has today taken on that labor and in so doing not only has done it well but also has relieved 98 other Senators of the opportunity—which they do not want—for that task.

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

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. Mr. President, I, too, commend the distinguished junior Senator from Florida (Mr. STONE) for his long and faithful service in the chair, for his near record, I understand, of length of service at one time in the chair. He has presided with great skill and ability and with a fidelity to the rules, and I would suggest that other presiding officers seek to emulate him.

So far as the Senator from Alabama is concerned, he would not mind seeing the distinguished Senator from Florida have permanent status as Presiding Officer in this Chamber.

[Laughter.]

The Senator from Alabama feels that if that were the case, any Senator would have no difficulty getting recognized at such times as he seeks recognition.

So I commend the distinguished Senator from Florida, also, for his fine service as Presiding Officer of the Senate.

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

Mr. ALLEN. I yield.

Mr. GRIFFIN. Mr. President, I do not know if I can agree with everything that has been said; but I certainly want to associate myself with almost everything that has been said. The only reason why I would not go on at great length with a comparable speech commending the Senator from Florida, beyond what has been said, is that I think he might like to get out of the chair.

[Laughter.]

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

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. Mr. President, I join in the accolades being bestowed upon the Senator from Florida. I just wonder, though, what he is going to do when the Senate has an executive session.

[Laughter.]

The PRESIDING OFFICER. The Chair is not going to answer that inquiry.

The Chair thanks the Senators for their very kind sentiments.

The Chair observes that the Chair is aware of the fact that this is not a record; that, instead, the record is well held—and probably permanently held—by the distinguished assistant majority leader, for more than 22 hours, on one yolk of an egg.

Mr. ROBERT C. BYRD. I thank the Senator.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business.

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

Is there morning business? If not, morning business is closed.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

ANNUAL REPORT OF THE NATIONAL SCIENCE BOARD—MESSAGE FROM THE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a message from the President of the United States transmitting the Sixth Annual Report of the National Science Board, which, together with the report, was referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

I am pleased to submit to the Congress the Sixth Annual Report of the National Science Board.

Our Nation's commitment to a strong program of scientific research is well-founded. Science has stretched the horizons of man by providing knowledge that enlarges our understanding of the universe and mankind. Scientific research has helped us solve a wide range of problems and provided the basis for expanding productivity, strengthening our economy and national security, and improving the quality of our lives.

There are many new challenges ahead, including mankind's growing power to affect the future and to modify—both intentionally and unintentionally—the basic conditions and quality of life. The National Science Board has made an important contribution by careful study of a number of the challenges that face our country and the world, including population growth, food supply, energy demands, mineral resource supply, weather and climate modification, and environmental change. The Board has recommended expanded research to help us prepare for these challenges.

Our strong national scientific research effort must be maintained with support from both the public and private sectors. During the current fiscal year, the Federal Government will spend $7.4 billion for the support of research. My 1976 budget asks the Congress to provide $8.2 billion—an increase of 10 percent. This increase, even though larger than that requested for many programs, will not permit support for all important research. For this reason, the National Science Board's report is especially significant. The recommendations of the distinguished scientists that make up the Board should be useful in identifying those areas of research that warrant the highest priority.

I am asking all Federal agencies to consider the Board's recommendations in developing their research programs. I also commend the report to the Congress and the American people.

GERALD R. FORD.

THE WHITE HOUSE, *March 21, 1975.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

LEGISLATIVE PROPOSALS BY THE PRESIDENT

A communication from the President of the United States transmitting the following proposed legislation:

A bill to limit to 5 percent cost-of-living adjustments under certain food assistance programs through June 30, 1976, and for other purposes; to the Committee on Agriculture and Forestry.

A bill to limit to 5 percent certain adjustments under the Food Stamp Act of 1964 through June 30, 1976; to the Committee on Agriculture and Forestry;

A bill to limit cost-of-living adjustments of annuities under the uniformed services tirement System for a specified period of time, and for other purposes; referred to the Committee on Armed Services;

A bill to limit cost-of-living adjustments of annuities under the Central Intelligence Agency Retirement Act of 1964 for certain employees, as amended, for a specified period of time, and for other purposes; to the Committee on Armed Services;

A bill to limit to 5 percent cost-of-living benefit increases under the old-age, survivors', and disability insurance and supplemental security income programs established by the Social Security Act through June 1976; to the Committee on Finance;

A bill to limit cost-of-living adjustments of annuities under the Foreign Service Retirement System for a specified preiod of time, and for other purposes; to the Committee on Foreign Relations;

A bill to limit Federal pay increases to 5 percent for a specified period of time, and for other purposes; to the Committee on Post Office and Civil Service;

A bill to limit cost-of-living adjustments of annuities under the Civil Service Retirement System for a specified period of time, and for other purposes; to the Committee on Post Office and Civil Service; and

A bill to limit cost-of-living increases under the Federal Employees' Compensation Act for a specified period of time, and for other purposes; to the Committee on Labor and Public Welfare.

REPORT OF THE ASSISTANT SECRETARY OF DEFENSE

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report of the design and construction supervision, inspection, and overhead fees charged by the construction agents to the military construction projects of the military departments and the Defense agencies (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE SECRETARY OF DEFENSE

A letter from the Secretary of Defense transmitting, pursuant to law, a report on the property records on fixed property, installations, and major equipment items, and stored supplies of the military departments (with an accompanying report); to the Committee on Armed Services.

REPORT OF THE FEDERAL RESERVE SYSTEM

A letter from the Chairman of the Board of Governors of the Federal Reserve System transmitting, pursuant to law, the annual report of the Board entitled "Monetary Policy and the U.S. Economy in 1974" (with an

accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Holiday Administration Overseas: Improvement Needed To Achieve More Equitable Treatment of Employees" (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE SOCIAL SECURITY ADMINISTRATION

A letter from the Secretary of Health, Education, and Welfare transmitting, pursuant to law, the annual report of the Social Security Administration for the fiscal year 1974 (with an accompanying report); to the Committee on Finance.

REPORT OF THE FOREIGN-TRADE ZONES BOARD

A letter from the Secretary of Commerce transmitting, pursuant to law, the annual report of the Foreign-Trade Zones Board for the fiscal year ending June 30, 1970 (with an accompanying report); to the Committee on Finance.

PROPOSED LEGISLATION BY THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director of the Administrative Office of the United States Courts transmitting a draft of proposed legislation to amend the Bankruptcy Act and the Civil Service Retirement law with respect to the tenure and retirement of referees; to the Committee on the Judiciary.

PROPOSED LEGISLATION BY THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

A letter from the Director of the Administrative Office of the United States Courts transmitting a draft of proposed legislation to increase the maximum compensation allowable to receivers and trustees (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE COMMISSION ON CIVIL RIGHTS

A letter from the Chairman and members of the Commission on Civil Rights transmitting, pursuant to law, a report evaluating the efforts to insure equal educational opportunity by three Federal agencies: the Department of Health, Education, and Welfare; the Internal Revenue Service, and the Veterans' Administration (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE FEDERAL MEDIATION AND CONCILIATION SERVICE

A letter from the National Director of the Federal Mediation and Conciliation Service transmitting, pursuant to law, a report of the Federal Mediation and Conciliation Service for the fiscal year 1974 (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to extend until July 31, 1975, the date for submission of the long-range projection for the provision of comprehensive services to handicapped individuals (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED REGULATIONS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Executive Secretary of the Department of Health, Education, and Welfare transmitting, pursuant to law, proposed regulations for a State dissemination grants program in the National Institute of Education (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED REGULATIONS OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Executive Secretary of the Department of Health, Education, and Welfare transmitting, pursuant to law, proposed amendments to the regulations governing the Library Services and Construction Act to reflect amendments made by Public Law 93-380 (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to extend the authorization of appropriations for the National Institute of Education (with accompanying papers); to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

A joint resolution of the Legislation of the Commonwealth of Virginia; to the Committee on Public Works:

"HOUSE JOINT RESOLUTION NO. 233

"Memorializing the Congress of the United States to amend the Clean Air Act in order to relieve the States and citizens thereof from unrealistic deadlines for reduced automobile emissions

"Whereas, the Clean Air Act requires that the national ambient air quality standards for carbon monoxide and photochemical oxidants be attained no later than nineteen hundred seventy-five; and

"Whereas, carbon monoxide and oxidants, originate primarily from automobiles; and

"Whereas, in order to attain such national standards, many metropolitan areas of our Nation, including our Nation's Capital and its surrounding suburbs in Virginia and Maryland, have relied in great measure upon the new automobile emission standards originally required in the Clean Air Act; and

"Whereas, Congress has already once deferred new automobile standards, and the President is now proposing the further deferral of those standards until nineteen hundred eighty-one, in order to encourage new designs and model changes which may yield major improvements in fuel economy and performance; and

"Whereas, the Environmental Protection Agency, on the basis of theoretical and questionable studies, is requiring the states and their citizens to bear the burden of making up any deficit in emission reduction which is due to the inadequacy of new automobile standards, which burden includes the imposition of inspection of emissions and retrofit air pollution devices, both being of theoretical efficacy and both being applicable to all automobiles in an affected air quality control region, irrespective of the fact that many of these automobiles never will take part in commuter traffic, which is the cause of our urban pollution problems; and

"Whereas, if new automobile standards are further deferred without any corresponding deferral of the appropriate national air quality standards, the Environmental Protection Agency will impose additional burdens of unproven efficacy upon the states and their citizens in order to meet the attainment date in nineteen hundred seventy-seven; and

"Whereas, all burdens will impose a great expense of money and time upon citizens, especially in the case of retrofit devices for older cars, which are generally owned by those least able to afford such modifications; and

"Whereas, both State and personal financial resources have deteriorated because of an unprecedented combination of inflation and recession, unknown at the time the ambitious commitments of the Clean Air Act were made in nineteen hundred seventy; and

"Whereas, it is fundamentally unfair and unreasonable to shift the burden from new car manufacturers to the states and citizens, in these times of economic peril; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the Congress of the United States is respectfully memorialized to amend, at the earliest date, the Clean Air Act, so as to provide a moratorium on the implementation of measures designed to reduce emissions from automobiles presently in use, so long as new automobile standards may be deferred.

"Resolved further, That the Congress of the United States is respectfully requested to repeal the sections of the Clean Air Act that provide for punitive measures against State and local officials.

"Resolved finally, That the Clerk of the House is directed to send copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and the members of the delegation to the Congress of the United States of this Commonwealth in order that they may be apprised of the sense of the Virginia General Assembly."

A resolution of the General Court of the Commonwealth of Massachusetts; to the Committee on the Judiciary:

"Resolution of the Commonwealth of Massachusetts

"Resolutions memorializing the Congress of the United States to enforce legislation prohibiting the employment of aliens entering the United States illegally

"Whereas, The current standard of living employment opportunities of domestic workers is undermined by the employment of aliens who enter the United States illegally; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to exercise its powers to inforcing the existing laws which prohibit the employment of aliens who enter the United States illegally; and be it further

"Resolved, That the General Court of Massachusetts respectfully urges the Senate of the United States to enact H.R. 982; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from the Commonwealth."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. TALMADGE, from the Committee on Agriculture and Forestry, with amendments:

H.R. 4296. A bill to adjust target prices, loan and purchase levels on the 1975 crops of upland cotton, corn, wheat, and soybeans, to provide price support for milk at 80 per centum of parity with quarterly adjustments for the period ending March 31, 1976 (Rept. No. 94-53).

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

S. 663. A bill to provide additional military assistance authorizations for Cambodia for the fiscal year 1975, and for other purposes (Rept. No. 94-54).

By Mr. PASTORE, from the Committee on Commerce, with amendments:

S. 893. A bill to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes (Rept. No. 94–55). (Referred to the Committee on Appropriations).

Mr. PASTORE. Mr. President, I submit a report on S. 893, from the Committee on Commerce, with reference to the long-range funding for public broadcasting. Inasmuch as this also involves an appropriation, I ask by unanimous consent the bill be referred to the Committee on Appropriations.

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

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

S. 1307. A bill to amend the McIntyre-Stennis Act of 1962 to promote forestry research at private University Forestry Schools (Rept. No. 94–56).

Mr. HELMS. Mr. President, Mr. EASTLAND being chairman of the Subcommittee on Environment, Soil Conservation and Forestry of the Committee on Agriculture and Forestry was directed to report this legislation. However, he has delegated that responsibility to me, as ranking minority member of the subcommittee, to report an original bill to amend the McIntyre-Stennis Act of 1962. Chairman TALMADGE of the committee concurs with that delegation, and I am pleased to submit the report at this time.

REPORT ON LEGISLATIVE AND REVIEW ACTIVITIES—REPORT OF A COMMITTEE (REPT. NO. 94–52)

Mr. McGEE. Mr. President, pursuant to the requirements of section 136(b) of the Legislative Reorganization Act of 1946, I hereby submit to the Senate in behalf of the Committee on Post Office and Civil Service the report on the committee's activities during the 93d Congress. I ask unanimous consent that the Senate order the report on the legislative and review activities of the Committee on Post Office and Civil Service to be printed.

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

CHANGE OF REFERENCE—S. 1251

Mr. ROBERT C. BYRD. I ask unanimous consent that S. 1251 be discharged from the Committee on Government Operations and be referred to the Committee on the Judiciary, and if and when reported from that committee, it be referred to the Committee on Foreign Relations.

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

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. PHILIP A. HART (for himself and Mr. HUGH SCOTT):

S. 1279. A bill to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years and to make permanent the ban against certain prerequisites to voting. Referred to the Committee on the Judiciary.

By Mr. TUNNEY:

S. 1280. A bill to authorize the President to appoint Capt. Ferdinand Mendenhall, U.S. Navy Reserve Retired, to the grade of rear admiral on the Reserves Retired list. Referred to the Committee on Armed Services.

By Mr. PROXMIRE:

S. 1281. A bill to improve public understanding of the role of depository institutions in home financing. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. CRANSTON, Mr. HATHAWAY, Mr. PELL, Mr. RANDOLPH, and Mr. STAFFORD):

S. 1282. A bill to amend the Public Health Service Act to provide for a National Center for Clinical Pharmacology, to provide support for the study of clinical pharmacology and clinical pharmacy, and to provide for review of drug prescribing; and to amend the Federal Food, Drug, and Cosmetic Act to provide for additional regulation of drug promotions, to provide for recordkeeping and reporting for all drugs, to provide for certification of programs respecting manufacturers' representatives, to provide for the submission of data relating to therapeutic equivalence of drugs, to provide for the certification of certain drugs, to provide for a national drug compendium, to provide additional drug information to consumers, to establish a code system for the identification of all drugs and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. BURDICK (by request):

S. 1283. A bill to improve judicial machinery by further defining the jurisdiction of U.S. magistrates, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. PHILIP A. HART (for himself and Mr. HUGH SCOTT):

S. 1284. A bill to improve and facilitate the expeditious and effective enforcement of the antitrust laws. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. McGEE, and Mr. MONDALE):

S. 1285. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries. Referred to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs, jointly, by unanimous consent.

By Mr. BEALL:

S. 1286. A bill to amend title II of the Social Security Act to increase to $5,100 the annual amount which individuals may earn without suffering deductions from benefits on account of excess earnings. Referred to the Committee on Finance.

By Mr. TOWER (for himself and Mr. MONTOYA):

S. 1287. A bill to extend part J of the Vocational Education Act of 1963 relating to bilingual vocational training. Referred to the Committee on Labor and Public Welfare.

By Mr. GARY H. HART (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. HATFIELD, Mr. PHILIP A. HART, Mr. KENNEDY, Mr. LEAHY, Mr. McGOVERN, Mr. MONDALE, Mr. MANSFIELD, Mr. NELSON, and Mr. PROXMIRE):

S. 1288. A bill to prohibit the expenditure of funds for the development and procurement of any lethal chemical weapons after the date of enactment of this act, and for other purposes. Referred to the Committee on Armed Services.

By Mr. KENNEDY (for himself, Mr. STAFFORD, Mr. RIBICOFF, Mr. PERCY, and Mr. CLARK):

S. 1289. A bill to amend chapter 5, subchapter II of title 5, United States Code, to provide for improved administrative procedures. Referred to the Committee on the Judiciary.

By Mr. NELSON (for himself and Mr. Mr. JAVITS):

S. 1290. A bill to reorganize the Clemency Board, the Department of Defense, the Department of Justice and the Department of Transportation to provide fair and efficient consideraton of all individuals eligible for amnesty relating to military service in the war in Southeast Asia, and for other purposes. Referred to the Committee on Government Operations.

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

S. 1291. A bill to establish a National Commission on Economic Growth and Stability to identify major changes and long-term trends in the economy of the United States and to propose public policies responsive to such changes and trends. Referred to the Committee on Banking, Housing and Urban Affairs.

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

S. 1292. A bill to provide for the management, protection, and development of the national resource lands, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

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

S. 1293. A bill to establish the Charles M. Russell National Wildlife Range, the Charles Sheldon National Wildlife Range, and the Kofa National Wildlife Range as part of the National Wildlife Refuge System, and for other purposes. Referred to the Committee on Commerce.

By Mr. METCALF (for himself, Mr. MANSFIELD, Mr. ALLEN, Mr. HOLLINGS, Mr. THURMOND, Mr. BURDICK, and Mr. McCLURE):

S. 1294. A bill to provide additional funds to the States for carrying out wildlife restoration projects and programs, and for other purposes. Referred to the Committee on Commerce.

By Mr. ROTH:

S. 1295. A bill to limit the jurisdiction of the Supreme Court of the United States and any such inferior court as ordained and established by the Congress of the United States to enter any judgment, decree or order, denying or restricting, as unconstitutional, the exercise of free religious expression or the saying of voluntary prayer in any public school or other public building. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT:

S. 1296. A bill to provide cabinet-level status to the Administrator of Veterans' Affairs. Referred to the Committee on Post Office and Civil Service.

By Mr. MORGAN:

S. 1297. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for an improved method of selection of the State planning agency, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BELLMON:

S. 1298. A bill to amend the Interstate Commerce Act. Referred to the Committee on Commerce.

By Mr. CHURCH (for himself, Mr. JACKSON, and Mr. FANNIN) (by request):

S. 1299. A bill to amend the Water Resources Planning Act to revise the membership of the Water Resources Council. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 1300. A bill to revise title 23 of the United States Code, relating to highways, terminate the Highway Trust Fund, and amend the Urban Mass Transportation Act of 1964 in order to improve transportation. Referred to the Committee on Public Works.

By Mr. CHURCH (for himself, Mr. JACKSON, and Mr. FANNIN) (by request):

S. 1301. A bill to promote a more comprehensive national program of water resources research and technology development to reorganize certain functions in the Department of the Interior, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. KENNEDY, Mr. HARTKE, Mr. MCGEE, Mr. SCHWEIKER, Mr. MCGOVERN, Mr. HUMPHREY, Mr. METCALF, Mr. HATHAWAY, Mr. PELL, Mr. EAGLETON, Mr. RIBICOFF, Mr. TUNNEY, Mr. JACKSON, Mr. ABOUREZK, Mr. STAFFORD, Mr. GRAVEL, Mr. STEVENSON, Mr. MONDALE, Mr. PHILIP, A. HART, Mr. MUSKIE, Mr. GARY W. HART, Mr. MANSFIELD, Mr. BAYH, Mr. CASE, Mr. NELSON, Mr. CHURCH, Mr. CRANSTON, Mr. JAVITS, Mr. BROOKE, Mr. CLARK, Mr. BENTSEN, Mr. MAGNUSON, Mr. MOSS, Mr. GLENN, Mr. HASKELL, Mr. BUMPERS, Mr. MONTOYA, and Mr. BIDEN):

S. 1302. A bill to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. INOUYE (forhimself, Mr. PEARSON, Mr. ALLEN, Mr. BAYH, Mr. HUDDLESTON, Mr. METCALF, and Mr. STONE):

S. 1303. A bill to regulate the foreign commerce of the United States by providing means to assure full disclosure of significant foreign investment in the United States, and for other purposes. Referred, by unanimous consent, to the Committee on Commerce; and, if and when reported from that committee, to the Committee on Banking, Housing and Urban Affairs.

By Mr. BIDEN:

S. 1304. A bill to amend the Social Security Act to provide for immediate care services under titles XIV and XIX of such act. Referred to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. MCGOVERN, and Mr. CASE):

S. 1305. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to prohibit the disposition of food to foreign countries under such act in any fiscal year unless the Secretary of Agriculture determines and certifies that all domestic feeding programs will be adequately provided with appropriate foods in such fiscal year. Referred to the Committee on Agriculture and Forestry.

By Mr. BARTLETT (for himself, Mr. MCCLELLAN, Mr. CLARK, Mr. CULVER, Mr. DOLE, Mr. JOHNSTON, Mr. GARY W. HART, Mr. BUMPERS, Mr. HUMPHREY, Mr. LONG, Mr. TOWER, Mr. DOMENICI, and Mr. HRUSKA, and Mr. MONDALE):

S. 1306. A bill to authorize the Secretary of Transportation to make a loan of $100,000,000 to the Chicago, Rock Island, and Pacific Railroad Co. Referred to the Committee on Commerce.

By Mr. HELMS:

S. 1307. An original bill to amend the McIntyre-Stennis Act of 1962 to promote forestry research at private University Forestry Schools. Placed on calendar.

By Mr. ROTH:

S.J. Res. 64. A joint resolution proposing an amendment to the Constitution. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 1281. A bill to improve public understanding of the role of depository institutions in home financing. Referred to the Committee on Banking, Housing and Urban Affairs.

HOME MORTGAGE DISCLOSURE ACT OF 1975

Mr. PROXMIRE. Mr. President, today I am introducing the Home Mortgage Disclosure Act of 1975. This bill would require lending institutions to disclose to the public where they are obtaining their deposits and where they are making mortgage loans. The problem which this legislation addresses is one of the central problems of our time—the decay of America's great cities. Good housing policy is as much a matter of adequately maintaining the Nation's existing housing stock as building more houses.

But America's great metropolitan areas are in the peculiar position of having to build more and more new subdivisions on farm land 50 miles from the center of cities while public policy permits urban neighborhoods to decay.

The irony is that in many of our older cities, including Washington, Baltimore, Philadelphia, Milwaukee, and Chicago, there are hundreds of thousands of solidly built, older houses that could not be duplicated today except at a considerable cost. Saving and upgrading these houses requires a reliable source of credit to finance home improvements and to enable new families to own and occupy these homes.

Unfortunately, many lending institutions deny credit to these older urban neighborhoods especially when money is tight. People of all ethnic backgrounds suffer. Some institutions may shy away from black neighborhoods or neighborhoods that are changing from white to black. Some institutions may red-line older white ethnic neighborhoods. Some institutions may supply a disproportionate amount of credit to real estate speculators at the expense of owner occupants.

Here is how the redlining process often works. A prospective home buyer will approach a lending institution for a mortgage loan. His credit rating can be excellent, and the house can be in sound condition. But some lenders will reject the application because they don't like the neighborhood, and steer the buyer to the suburbs.

The bank will say that the area is a "declining neighborhood." Of course, that description by the bank turns into a self-fulfilling prophecy, because more than any other factor, denial of mortgage credit to homebuyers by lenders causes the neighborhood to decline. If, on the other hand, mortgages were available and homeowners continued to predominate in the community, the neighborhood would not decline.

Lenders, more than anybody else, have the power to determine which communities decline and which stabilize or revive. Unfortunately, in many areas the very lenders who deny credit to home buyers in older urban neighborhoods, will lend money in the very same neighborhood, sometimes on the very same house, to speculators or to absentee landlords. And that really makes the neighborhood decline. We permit all kinds of tax breaks for home ownership on the theory that pride of ownership creates stable neighborhoods, promotes proper maintenance of housing, and maintains property values. But that premise goes down the drain—and so do some fine old communities—when lenders decide a neighborhood is a poor risk.

In Milwuakee, for example, a report by the Housing Committee of the Westside Coalition found that several lending institutions would not even consider making loans in certain neighborhoods. the report indicated that these lenders often did not bother to inquire about the income or credit rating of the prospective borrower. According to the report, these lenders turned the inquiry down flatly on the basis of the neighborhood. Other lenders reportedly demanded shorter terms for payback and higher downpayment requirements. Then some of these same lenders turned around and lent mortgage money on these same presumably unmortgagable properties to absentee owners, according to the survey.

In Chicago, a broad coalition of citizens representing diverse racial and cultural backgrounds are negotiating with local lenders to keep mortgage money available in the city's middle class neighborhoods. Recently, Mayor Richard Daley, whose own neighborhood is red lined by many lenders, said that he shared the group's objectives, and he endorsed a city ordinance against redlining. The Chicago Housing Training and Information Center, which is headed by Mrs. Gail Cincotta, is hosting a national housing conference next month, and the subject will be redlining.

In Baltimore, a study by the city's department of housing and community development found that "the primary obstacle" to continued home ownership in the city was neighborhood discrimination by lenders. And here in the District of Columbia, preliminary data indicates that some lenders have virtually redlined the entire city, and other lenders are reluctant to loan money east of Rock Creek Park unless the buyer is a real estate professional.

There is a special irony involved when lending institutions begin restricting credit in an urban neighborhood. Some of these lending institutions draw much of their capital from small savers who live in these communities. The deposit window is always open, but the loan window is often closed. Or if it is open, it is open only if you can make a higher than usual down payment and settle for a shorter loan. No wonder people move to the suburbs.

Well, what is the remedy? I do not want to set up yet another bureaucracy to tell banks and savings and loan associations where to lend their money. I think a much better approach is to rely on the informed judgment of the residents of these communities where already many local citizens' groups have organized antiredlining campaigns, and to let the free market do the rest.

Knowledgeable citizens are likely to favor banks and savings and loan associations which do not discriminate against their communities. This is already happening in Chicago, Milwaukee, and other cities. In fact, in some areas, so-called green-lining campaigns have

been launched, to persuade banks to make every effort not to siphon funds out of these neighborhoods, but to give preference to their primary service areas.

As I have said, Mr. President, I am not proposing a complicated regulatory scheme that tells a bank or a savings and loan how to do its business. I am proposing a simple disclosure law, that would give local citizens the right to know where their neighborhood banks or savings and loan associations were making their mortgage loans, and I would expect an informed citizenry to do the rest.

There is no invasion of privacy problem here, because this information is already public. Anybody with a little sophistication can go to the county courthouse and look up who holds the mortgage on every house in the city.

But these deed records will not reveal the pattern of loans by each institution unless a citizen has either a computer and the patience to wade through all of the files.

There is no need to require lending institutions to send all of this material to Washington. All I am proposing is a requirement for each local institution to have available a public record file that would disclose by zip code, the number and dollar amount of mortgage loans, whether they were conventional or FHA or VA, and whether they went to an owner-occupier or an absentee landlord. The names would not be disclosed, even though that information is already public record. The file would also disclose by zip code the number and aggregate dollar amount of savings accounts.

In this way, savers and potential homeowners could intelligently decide which institution deserved their business. The bill would not require banks to invest their money in older urban neighborhoods, but it would enable these neighborhoods to exercise their sizable consumers power to reward institutions that rewarded them. Through the effect of full disclosure, it would induce lending institutions to begin contributing to the process of urban rehabilitation rather than urban decay.

Mr. President, I anticipate that the Senate Banking Committee will be holding hearings on the Mortgage Disclosure Act next month. I ask unanimous consent that 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. 1281

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 Home Mortgage Disclosure Act of 1975.

FINDING AND PURPOSE

SEC. 2. (a) The Congress finds and declares that depository institutions have sometimes failed to provide adequate home financing on a nondiscriminatory basis for all neighborhoods within the communities and neighborhoods from which those institutions receive deposits.

(b) The purpose of this Act is to provide the citizens and public officials of the United States with sufficient information to enable them to determine which depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "mortgage loan" means a federally related mortgage loan as defined under section 3 of the Real Estate Settlement Procedures Act of 1974;

(2) the term "depository institution" means a person who is in the business of making federally related mortgage loans;

(3) the term "savings account" means any deposit or account, other than a demand deposit, received or held by a depository institution; and

(4) the term "Board" means the Board of Governors of the Federal Reserve System.

MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE

SEC. 4. (a)(1) Each depository institution shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at each office of that institution the following information:

(A) The number and total dollar amount of mortgage loans made by that institution which were outstanding as of the close of the last fiscal year of that institution.

(B) The number and total dollar amount of mortgage loans made by that institution during such year.

(C) The number and total dollar amount of savings accounts held by that institution as of the close of such year.

(D) The number of savings accounts opened during such year and the total dollar amount in such accounts at the close of such year.

(2) In the case of a 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, 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 United States Postal Service zip code, for borrowers under mortgage loans secured by property located within the standard metropolitan area, and for savings account holders whose addresses, as furnished to such institution, are within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1), by county, for all such mortgage loans which are secured by property located outside the standard metropolitan statistical area or for savings account holders whose addresses, as so furnished, are located outside the standard metropolitan statistical area.

(3) In the case of a depository institution which has no home or branch office located within a standard metropolitan statistical area, as defined by the Office of Management and Budget, 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 United States Postal Service zip code, for borrowers under mortgage loans secured by property located within the State in which the institution is located, and for account holders whose addresses, as furnished to such institution, are within that State.

(B) The number and dollar amount for each item referred to in paragraph (1), by State for all such mortgage loans which are secured by property located outside the State in which such institution is located or for savings account holders whose addresses, as so furnished, are located outside the State.

(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; and

(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.

ENFORCEMENT

SEC. 5. (a) The Board shall prescribe such regulations as may be necessary to carry out the purposes of this Act. 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 or proper.

(b) Compliance with the requirements imposed under this Act 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), 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.

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal 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 Act 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 Act, any other authority conferred on it by law.

(d) Except to the extent that enforcement of the requirements imposed under this Act is specifically committed to some other Government agency under subsection (b), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this Act shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this Act, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

(e) The authority of the Board to issue regulations under this Act does not impair the authority of any other agency designated

in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this Act.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. CRANSTON, Mr. HATHAWAY, Mr. PELL, Mr. RANDOLPH, and Mr. STAFFORD):

S. 1282. A bill to amend the Public Health Service Act to provide for a National Center for Clinical Pharmacology, to provide support for the study of clinical pharmacology and clinical pharmacy, and to provide for review of drug prescribing; and to amend the Federal Food, Drug, and Cosmetic Act to provide for additional regulation of drug promotions, to provide for recordkeeping and reporting for all drugs, to provide for certification of programs respecting manufacturers' representatives, to provide for the submission of data relating to therapeutic equivalence of drugs, to provide for the certification of certain drugs, to provide for a national drug compendium, to provide additional drug information to consumers, to establish a code system for the identification of all drugs and for other purposes. Referred to the Committee on Labor and Public Welfare.

DRUG UTILIZATION IMPROVEMENT ACT

Mr. KENNEDY. Mr. President, I am pleased to introduce on behalf of myself and Senators JAVITS, CRANSTON, HATHAWAY, PELL, RANDOLPH, and STAFFORD, the Drug Utilization and Improvement Act of 1975.

It is more than 10 years since the Congress enacted the landmark Kefauver-Harris drug amendments which gave the Food and Drug Administration the authority to require proof of safety and effectiveness of prescription drugs before they are marketed. That landmark legislation has had a profound impact on our medical care system. It has significantly affected the practices of the pharmaceutical industry impacting on their advertising, marketing and promotional activities as well as on the process of new drug research and development. There is no question that the standards imposed by that legislation have made the United States preeminent in the world with respect to the safety and effectiveness of its pharmaceutical products.

All legislation deserves periodic review and evaluation. For the past year the Senate Health Subcommittee has been conducting a series of investigative and legislative hearings into the pharmaceutical industry. These hearings continue at the present time and are intended to focus on the whole range of pharmaceutical industry activities and problems.

The first phase of this subcommittee inquiry focused on the advertising, marketing and promotional practices of the pharmaceutical industry. That phase was completed last year and S. 3441 was introduced toward the end of the 93d Congress. There was not enough time left in the session, however, for the Committee to thoroughly review and evaluate that legislation. I am, therefore, reintroducing it today and pledge that prompt action on this and other drug legislation pending before the Health Subcommittee will be forthcoming in this session of Congress.

Much has been said and written about the problems identified by the Health Subcommittee during the hearings on advertising, marketing and promotional practices of the pharmaceutical industry. Full legislative hearings were held on the specifics on S. 3441 and on S. 966. As was the case with medical device legislation, it is my intention to move directly to subcommittee markup of these pieces of legislation, at which time the committee will consider the numerous suggestions which have been made respecting amendments to the bill. S. 3441 is identical in every way to the measure that was introduced before the committee last year with the exception of technical and conforming changes respecting the life of the bill.

The problems identified in that legislation continue to be pressing medical problems today and deserve prompt attention.

The National Center for Clinical Pharmacology established in title I of the bill is designed to fill a vast informational void with regard to prescribing practices and their consequences to patients. The committee heard frightening testimony with regard to the incidence and consequences of adverse drug reactions in the United States. It is clear that thousands of Americans needlessly die each year from adverse drug reactions. Estimates before the Committee range betwen 30,000 and 120,000. Estimates in a Pfizer sponsored study on adverse drug reactions placed the figures somewhat lower at 14,000 deaths—still a highly significant and highly worrisome figure. I don't think anybody knows what the accurate figure is. What we need and need badly is information. What the National Center for Clinical Pharmacology is going to do is provide that information. In addition, it is going to assist in educating doctors to be better trained in the use of drugs and to be in the best possible position to minimize those drug problems that are caused by physician error or ignorance.

Hardly a month goes by without a significant new development indicating that the misuse of prescription drugs is a serious American health problem. It is a problem not only measured in terms of lives but in terms of dollars as well. Testimony before the committee indicated that as much as $2 billion a year may be spent on treating hospitalized patients who suffer from adverse drug reactions. We have seen most recently where many experts feel that the oral anti-diabetic agents may be responsible for thousands of premature deaths in this country among our diabetic population.

It is time we found out the precise dimensions of the problem. It is time we found out how drugs are used in this country. It is time we improved the physician's education about the use of drugs in the United States.

Title I of this legislation also requires that the Secretary of the Department of Health, Education, and Welfare develop a drug experience assessment report each year, which shall for the first time force the Government to take an active role in the effort to control improper prescribing of drugs. The legislation authorizes the Secretary to experiment with different mechanisms that may or may not prove useful in controlling appropriate prescribing on a national basis.

The purpose of title I is to improve the education of each member of the health care team about the use of drugs; to collect reliable national data on the way drugs are used and on the extent of the problems caused by drug misuse; to develop mechanisms to monitor the ongoing use of drugs; and to improve the use of those drugs.

The Senate Health Subcommittee hearings last year on the promotional practices of the pharmaceutical industry uncovered some significant abuses. Many of these abuses have been acknowledged by the industry itself and to its credit many voluntary steps have been taken to correct the situation. I believe these voluntary steps are too little and too late. This legislation would prohibit the giving of any gift product, premium, prize, or other thing of value to a physician or pharmacist by the drug companies. This kind of promotional activity can have no purpose other than the improper influence of physician prescribing habits.

The size of a premium or gift should have no relevance to the physician's decision as to which drug to prescribe.

Testimony before the committee indicated that over 2 billion free samples were given out in 1973. The purpose of this gigantic giveaway was to influence physician prescribing practices. These samples were then misused by both physicians and pharmacists in too many instances. This legislation would prohibit the unsolicited distribution of samples and require that sampling be limited to the fulfillment of written requests by physicians. Physicians will still be able to get samples, but they will have to request a specific number and will have to outline the intended use of the drug. Only a few uses will justify the receipt of samples. These include clinical research and the treatment of medically indigent patients.

Some of the greatest abuses in the area of pharmaceutical promotion center around the role of industry detail men. Convincing testimony presented before the committee indicating that detail men emphasized the positive features of drugs and minimized side effects; spent a limited amount of time with each physician; and rarely offered comparative prescribing information. This legislation would require that all industry detail men undergo a period of approved training followed by a registration procedure. It also requires that each encounter between a detail man and physician consist in part of the presentation of a card by the detail men to the physician summarizing the uses of the drug under discussion, the contraindications, the side effects, the warnings and cautions. Also required is a signed statement by the practitioner that he has received this information as part of the detail men's presentation.

The purpose of this section is to curb the abuses in the promotional practices

of the pharmaceutical industry. The basis for the physician's decision to prescribe a drug should be scientific. The physician should have access to relevant data and comparative prescribing information. He should not make his decision on the basis of modern advertising techniques. The purpose of title II of this legislation is to reduce his exposure to such techniques and to substitute for it, to the maximum possible extent, a substantive presentation of valid comparative scientific information.

Along these lines the legislation also provides for the development of the National Drug Compendium. Such a compendium is intended to be a comprehensive reference document for all physicians, containing all the pertinent information on any particular drug, comparative prescribing information and price information. I believe that such a compendium would fill the very real informational void into which the questionable pharmaceutical industry advertising, marketing and promotional practices currently expand.

The major features of this legislation are summarized in the appendix to this statement. And I ask unanimous consent that the full text of that appendix be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KENNEDY. Mr. President, the subcommittee's inquiry into the pharmaceutical industry does not end with the subject matter covered in this legislation. This legislation merely reflects the record developed as part of the look into the advertising, marketing, and promotional practices of the industry. The subcommittee is now focusing on the process of new drug research and development. It is looking at the role of the Food and Drug Administration in regulating that process. Part of that effort involves an evaluation of the 1962 drug amendments.

The subcommittee recognizes the need to assure a productive research component in the pharmaceutical industry. It also recognizes the equal need of assuring that drug products be shown to be safe and effective before being marketed. It is the interrelationship of these two concerns and their effects on one another on which the subcommittee is now focusing. I expect additional legislation to be forthcoming as this phase goes forward.

Mr. President, I believe the Health Subcommittee has established a comprehensive record demonstrating the need for the legislation which I am introducing today. I know that my colleagues share my commitment that this legislation will receive prompt and thorough attention.

[EXHIBIT 1]

TITLE I

This title establishes a National Center for Clinical Pharmacology which will be located in the Secretary's Office and will:

(a) Provide support for the teaching of clinical pharmacology to all health science students.

(b) Provide support for continuing education of health professionals in clinical pharmacology.

(c) Support the training of specialists in clinical pharmacology and clinical pharmacy.

(d) Collect drug experience data including information on adverse drug reactions, their extent, causes, etc.

(e) A comprehensive study, including pilot projects, of alternatives designed to improve the use of prescription drugs, including pilot projects, as necessary, in: drug utilization review; the development of a national formulary; the development of new ways of *detailing* drugs by individuals not affiliated with manufacturers; etc.

(f) A study of the feasibility and effect of developing a system of controls over prescription drugs—to see if some drugs should be restricted to hospital use or specialist use, etc.

(g) The development of a drug safety assurance plan to reduce improper prescribing—to be updated annually.

(h) The mandating of drug utilization review for all health care delivery funded under this Act.

(i) Costs of Title I:

Fiscal year 1976, $11 million.

Fiscal year 1977, $16 million.

TITLE II—PROMOTIONAL PRACTICES

(a) Bans gifts, products, premiums, prizes, or other things of value to practitioners and pharmacists.

(b) Allows for educational material to be distributed.

(c) Bans samples except upon written request of practitioner licensed to prescribe drugs. Requires the practitioner to identify the reason for samples. Only two reasons are permissible—for indigent patients and for clinical research. Requires practitioners and companies to keep records of each sample.

(d) Bans prescription surveys.

(e) Bans reminder advertisements with exceptions for catalogs, price lists, etc.

(f) Requires detailmen to *complete* training course offered in schools of pharmacy, medicine, or other approved health science schools. Content of courses must be approved by FDA. Requires detailmen to deliver a card to physician on each encounter which summarizes indications, contraindications, side effects, warnings and cautions.

TITLE III—DRUG QUALITY

(a) Requires companies to furnish proof of therapeutic equivalence (including bioequivalence and bioavailability).

(b) Gives Secretary's authority to require batch testing of any drug when necessary to protect the public health and safety.

(c) Expands Secretary's authority to require recordkeeping.

TITLE IV—NATIONAL DRUG COMPENDIUM

(a) Requires the Secretary to prepare and publish a compendium of all approved drugs, and price information.

(b) Requires arrangement of drugs by therapeutic classification and other classifications as determined by the Secretary.

(c) To be sent free to all practitioners. Supported with Federal funds.

TITLE V—CONSUMER DRUG INFORMATION

(a) Requires established (generic) name on all labels.

(b) Establishes a uniform code or system of coding to identify manufacturer, identity of the drug, identity of final package, dosage form and strength and number of units in the container.

(c) Requires pharmacies to post prescription drug prices as determined in regulations by the Secretary.

Mr. HATHAWAY. Mr. President, I am pleased to join with the Senator from Massachusetts, Mr. KENNEDY, in sponsoring the proposed Drug Utilization Improvement Act. I am in support of the bill's provisions dealing with continuing education of health professionals in clinical pharmacology; I support the sections of the bill banning certain promotional practices, and the provisions on drug quality and a compendium of drugs. However, I wish to state for the record that I have reservations regarding provisions in title V requiring price posting of prescription drugs. This provision has caused a great deal of concern within the Maine Pharmaceutical Association, particularly among pharmacists in the more rural areas of the State. Therefore, if further study of the possible impact of this section warrants it, I will offer modifications to this section as the Labor and Public Welfare Committee considers this bill.

Mr. JAVITS. Mr. President, I am pleased to join in introducing with Senator KENNEDY and Senators STAFFORD, CRANSTON, PELL, HATHAWAY, and RANDOLPH the Drug Utilization and Improvement Act of 1975.

The bill is identical to the measure we introduced in the 93d Congress upon which there have been extensive hearings.

The bill does not incorporate any of the legislative recommendations made to the committee during the hearing process. However, this is not intended to indicate that any or all of such recommendations have been rejected. Rather, I join in introducing the bill to highlight the need for the Labor and Public Welfare Committee, of which I am ranking minority member, to consider promptly such legislative recommendations together with the provisions of the bill.

Whatever the incidence of adverse drug reactions in the United States one thing is certain, the current estimates of the magnitude and cost of the adverse drug reaction problem are derived from an inappropriate data base and no statistically valid estimates can be obtained from such information. Thus, it is clear that there is an urgent need for a National Center for Clinical Pharmacology as established by title I of the bill.

The purpose of title I is to improve the education of each member of the health care team about the use of drugs; to collect reliable national data on the way drugs are used and on the extent of the problems caused by drug misuse; to develop mechanisms to monitor the ongoing use of drugs; and to improve to the maximum extent feasible the use of such drugs.

Title II of the bill seeks to curb the abuses in the promotional practices with respect to drug sales and prescribing—well documented by the hearing record. The physician's decision to prescribe a drug should be based on scientific evidence, with access to all relevant data and comparative prescribing information. The provisions of title II seek to reduce exposure to improper marketing techniques and to substitute in lieu thereof, to the maximum possible extent, a substantive presentation of valid, comparative, scientific information.

By Mr. BURDICK (by request):

S. 1283. A bill to improve judicial machinery by further defining the jurisdiction of U.S. magistrates and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I am today introducing at the request of the Judicial Conference of the United States, S. 1283, a bill to improve judicial machinery by further defining the jurisdiction of U.S. magistrates.

When the Congress enacted the Magistrates Act in 1967, it created a system of full-time and part-time judicial officers who would perform various judicial duties under the supervision of the district courts in order to assist the judges of these courts in handling an ever-increasing caseload.

In the last Congress, the Judiciary Subcommittee on Improvements in Judicial Machinery, held 17 days of hearings, during which extensive inquiry was made into the caseload of Federal district courts. During these hearings the chief judges of 44 of the Federal judicial districts personally appeared and testified before the subcommittee. The vast majority of the chief judges who testified stated that the magistrates were of assistance to the court in handling certain preliminary matters in both civil and criminal cases, and were of greatest assistance in handling petitions for the issuance of a writ of habeas corpus made by both, State and Federal prisoners in an effort to obtain a collateral review of the original conviction. A few of the districts courts which had not made extensive use of the services of the magistrates were encouraged to do so as a means of freeing time of district court judges to preside at trials of other cases.

In several of the districts, the majority of the judges of the court authorized magistrates to hold evidentiary hearings in habeas corpus cases and to submit to a judge of the court recommended findings of fact and conclusions of law dispositive of the petition for a writ of habeas corpus. The recommendations of the magistrate would be reviewed by the judge who would then exercise the ultimate authority to issue an appropriate order.

However, on June 26, 1974, in the case of *Wingo v. Wedding*, 418 U.S. 461, the Supreme Court of the United States interpreted section 636(b) of title 28 of the U.S. Code, as authorizing the magistrate to make merely a "preliminary review" of a prisoner petition and expressly held that the statutory language did not express any intent by Congress that the magistrate be authorized to hold an evidentiary hearing in a habeas corpus proceeding.

In a dissenting opinion, the Chief Justice and Justice White dissented on the basis that section 636(b) "should be interpreted to permit magistrates to conduct evidentiary hearings in Federal habeas corpus cases," since such an interpretation would serve the principal objectives of the Magistrates Act. The dissenting opinion concluded with the following statement:

In any event, now that the Court has construed the Magistrates Act contrary to a clear legislative intent, it is for the Congress to act to restate its intentions if its declared objectives are to be carried out.

Mr. President, the bill which I am introducing would accomplish this suggestion that the Magistrate Act be amended so as to authorize these judicial officers to conduct evidentiary hearings and to determine certain preliminary motions in civil and criminal cases, subject to ultimate review by a district judge. There can be no question, in the light of the testimony received by the judiciary subcommittee, that the 94 district courts are in great need of this type of assistance from the magistrates. The U.S. magistrates when properly used to perform the duties authorized by the Congress have proven to be a valuable part of, and adjunct to, our judicial system. I believe that this legislation should be given prompt action by the Congress.

By Mr. PHILIP A. HART (for himself and Mr. HUGH SCOTT):

S. 1284. A bill to improve and facilitate the expenditious and effective enforcement of the antitrust laws. Referred to the Committee on the Judiciary.

Mr. PHILIP A. HART. Mr. President, over the past 186 years, the document protecting our personal freedoms—the Constitution—has acquired 25 amendments. In 85 years the laws protecting our economic freedom—the antitrust laws—have been augmented really only five times.

A persuasive argument could be made that some attention should be paid to bringing the antitrust laws up to date. That argument has been made by the Attorney General's Task Force Report in 1955; by the Neal Task Force under President Johnson; and by the Stigler Task Force under President Nixon. And that argument has been made over recent years before the Senate Antitrust and Monopoly Subcommittee. And, at times we have considered various bills which would have updated the laws in a piecemeal fashion.

For many reasons—the times, the pressure of other interests, or something—the bills have met with varying degrees of success. Some passed one House. Some were killed by vote. Some never got to a vote.

But today there is a new interest in the antitrust laws. Pressured by inflation and recession together, the administration, the Department of Justice, and many outstanding Members of Congress have turned to the antitrust laws as—if not the savior—at least as a warrior in the battle.

In my opinion—and admitting my own prejudice—I think this is a wise move. But there is no question that, if we expect the antitrust laws to carry our banner into battle, we had best inspect their equipment to make sure it is in the best order.

Unfortunately, I do not believe it is.

Therefore, the distinguished minority leader (Mr. HUGH SCOTT), and I today introduce the Antitrust Improvements Act of 1975 which we think would apply the spit and polish to put the laws in order.

Mr. President, I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks. Let me highlight some of the parts here.

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

Mr. PHILIP A. HART. Title I, the preamble, reiterates this Nation's dedication to free, competitive enterprise as the best way to protect social, political, and economic freedom and to produce the best buys at the best prices.

Title II amends the Antitrust Civil Process Act. Ninety percent of this title was incorporated in a bill submitted by the administration during the second session of last Congress. Basically, it would allow the Department of Justice to issue antitrust civil process to individuals as well as corporations and to third parties. Also, currently the Antitrust Division is handicapped because it cannot obtain the information necessary to evaluate a merger in advance of the merger taking place. The present authorization for civil investigative demands allows their issuance only when a violation of law may have been committed. Obviously, when a merger is announced and not yet consummated—even if it would violate the antitrust laws—no violation has yet occurred. Therefore, we would amend the law in order to allow the Department to obtain in advance of a merger full information on which to decide if the merger should be challenged.

It also permits the taking of depositions and written interrogatories as well as documentary evidence. Mr. President, I ask unanimous consent that the text of the April 4, 1974, letter from the Attorney General to the Vice President be printed in full in the RECORD at the conclusion of my remarks.

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

Mr. PHILIP A. HART. Title III amends the Federal Trade Commission Act to provide increased penalties for not obeying FTC special orders or subpenas. In 1914—when establishing the Federal Trade Commission—Congress set the penalty at $100 a day. It has not been changed since. This title would set the penalty at not more than $5,000 nor less than $1,000 per day. Title III also codifies case law respecting enforceability and enjoining of Commission compulsory process and the accumulation of civil penalties for failure to comply with such process.

Title IV is the parens patriae section. This permits State attorneys general to file antitrust actions and to collect treble damages on behalf of the citizens of their States. A similar bill has been introduced on the House side and has been the subject of hearings. The provision authorizing the Attorney General to file such an action when a State attorney general does not, precipitated substantial debate in the House hearings. The provision is included in this bill in the hope of eliciting further comment on the issue before making a final judgment of its merits. Particular comment also is invited on the notice and opting out provisions of the title.

Title V requires the Federal Trade Commission to broaden and keep in force its premerger notification reporting re-

quirement. A 30-day notice period to the Commission and the Department of Justice is required. Giant corporations—those with assets or sales of more than $100 million—are required to wait 60 days when planning to merge with or acquire a corporation with assets of $10 million or more. If an antitrust action challenging the legality of the proposed merger or acqusition is brought during this 60-day period by the Government, the Government is authorized to block the merger until its legality is determined by the courts. These concepts were proposed in Congress in the mid-1950's. In fact, a similar bill passed the House in 1956 and was reported by the Senate Antitrust and Monopoly Subcommittee but failed to clear the Senate Judiciary Committee.

Mr. President, currently $1 out of every $4 consumers spend goes to buy products produced by a concentrated industry. Much of this concentration developed not from hardnose competition but from gobbling up a competitor rather than going out and establishing new competition. The Government simply has inadequate tools to deal with mergers before they are consummated.

Until recently, the only method the Antitrust Division and Federal Trade Commission had to be aware of pending mergers or acquisitions was to read the general and trade press.

In other words, if the Wall Street Journal missed one, so well may the Federal Trade Commission and the Antitrust Division. Under FTC's recently required merger notification provisions, it now receives certain information from merging companies having combined sales or assets of at least $250 million. But, little can be done to prevent illegal mergers even upon learning of them.

Anyone who has looked at the problems in undoing a merger knows that, if the merger is not to be allowed, all—the country and the companies—would be much better off if it is never born.

Title VI would clarify the status of the nolo contendere plea relative to a private antitrust suit. As we all know, a plea of *nolo* contendere in a criminal action makes the defendant liable to all punishment that would befall him if he pleaded guilty—including a jail term. However, traditionally, a nolo plea in antitrust has bought escape from one thing: use as prima facie evidence in private treble damage suits that a crime had been committed. This bill would end that discrimination.

Title VII is a miscellaneous section which does basically three things: First, the reach of the Clayton Act is extended to activities in or affecting commerce, just as the Congress broadened the reach of the Federal Trade Commission Act last year; second, expedited procedures, special masters, and economic and other experts are provided for complex antitrust cases; and third, authority and sanctions to deal with situations involving the refusal of foreign corporations to comply with United States court orders are vested in the Judiciary.

Mr. President, it is my intention to move to hearings on this bill in the Antitrust and Monopoly Subcommittee as soon as possible—hopefully in the next 2 months.

The changes are important. I think they are needed. And over the past 20 years, most have been discussed in great depth. Extensive hearings would not be necessary for Congress to work its will on this bill.

The aforementioned article follows:

S. 1284

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

SHORT TITLE

SEC. 101. This Act may be cited as the "Antitrust Improvements Act of 1975".

TITLE I—DECLARATION OF POLICY

SEC. 102. (a) FINDINGS.—The Congress finds and declares that—

(1) this Nation is founded upon and committed to a private enterprise system and a free market economy, in the belief that competition spurs innovation, promotes productivity, prevents the undue concentration of economic, social, and political power, and preserves a democratic society;

(2) the decline of competition in industries in which oligopoly or monopoly power exists, and the decline of competition caused by State and Federal regulatory policies, have contributed significantly to unemployment, inflation, inefficiency, underutilization of economic capacity, a reduction in exports, and an adverse effect on the balance of payments;

(3) diminished competition and increased concentration in the marketplace have been important factors in the ineffectiveness of monetary and fiscal policies in reducing the high rates of inflation and unemployment;

(4) the near record rates of inflation and unemployment have caused extreme hardship and dislocation to the American consumer, worker, farmer, and businessman;

(5) investigations by the Federal Trade Commission, the Department of Justice, the National Commission on Food Marketing, and other independent studies have identified conditions of excessive concentration and anticompetitive behavior in various industries; and

(6) vigorous and effective enforcement of the antitrust laws, and reduction of monopoly and oligopoly power in the economy, can contribute significantly to reducing prices, unemployment, and inflation.

(b) POLICY.—It is the purpose of the Congress in this Act to support and invigorate effective and expeditious enforcement of the antitrust laws by improving and modernizing antitrust investigation and enforcement mechanisms, to facilitate the restoration and maintenance of competition in the marketplace, and to prevent and eliminate monopoly and oligopoly power in the economy.

TITLE II—ANTITRUST CIVIL PROCESS ACT AMENDMENTS

SEC. 201. The Antitrust Civil Process Act (76 Stat. 548; 15 U.S.C. 1311) is amended as follows:

(a) Clause (c) of section 2 is amended to read as follows:

"(c) The term 'antitrust investigation' means any inquiry conducted by any antitrust investigator for the purpose of ascertaining whether any person is engaged, has been engaged, or is about to engage in any antitrust violation or in any activities which may lead to any antitrust violation;".

(b) Clause (f) of section 2 is amended by striking out the words "not a natural person", by inserting immediately after the word "means" the words "any natural person or", and by inserting immediately after the word "entity" the words ", including anybody acting or purporting to act under color or authority of State law".

(c) Subsection (a) of section 3 is amended to read as follows:

"(a) Whenever the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, has reason to believe that any person may be in possession, custody, or control of, or may have reasonable means of access to, any documentary material, or may have or may reasonably be able to secure any information, relevant to the subject matter of a civil antitrust investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for examination or to answer in writing written interrogatories concerning such information, or to give oral testimony concerning it, or to furnish any combination thereof.".

(d) Subsection (b) of section 3 is amended to read as follows:

"(b) Each such demand shall—

"(1) state the nature of the conduct constituting the alleged antitrust violation which is under investigation and the provision of law applicable thereto; and

"(2)(A) if it is a demand for production of documentary material—

"(i) describe the class or classes of documentary material to be produced thereunder, with such definiteness and certainty as to permit such material to be fairly identified; and

"(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(iii) identify the antitrust investigator who will be the custodian to whom such material shall be made available; or

"(B) if it is a demand for answers to written interrogatories—

"(i) identify the antitrust investigator to whom such answers shall be made; and

"(ii) propound the written interrogatories to be answered; and

"(iii) prescribe a date or dates at which time answers to the written interrogatories shall be made; or

"(C) if it is a demand for the giving of oral testimony—

"(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(ii) identify the antitrust investigator or investigators who shall conduct the examination.".

(e) Subsection (c) of section 3 is amended to read as follows:

"(c) Such demand shall—

"(1) not require the production of any information that would be privileged from disclosure if demanded by, or pursuant to, a subpoena issued by a court of the United States in aid of a grand jury investigation of such alleged antitrust violation; and

"(2)(A) if it is a demand for production of documentary material, not contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged antitrust violation; or

"(B) if it is a demand for answers to written interrogatories, not impose an undue or oppressive burden on the person required to furnish answers.".

(f) Subsection (f) of section 3 is redesignated subsection (h) and the following new subsections are inserted immediately following subsection (e):

"(f) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any natural person by—

"(1) delivering a duly executed copy thereof to the person to be served; or

"(2) depositing such copy in the United States mails, by registered or certified mail

duly addressed to such person at his residence or principal office or place of business.

"(g) Service of any such demand or of any petition filed under section 5 of this Act may be made upon any person who appears to the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, not to be found within the territorial jurisdiction of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. If such person has had contacts with the United States that were sufficient to, or if the conduct of such person has so affected the trade and commerce of the United States as to, permit the courts of the United States to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this Act by such person that it would have if such person were personally within the jurisdiction of such court.".

(g) Section 3 is further amended by inserting the following new subsections immediately after redesignated subsection (h):

"(i) The production of documentary material in response to a demand for production thereof shall be made under a sworn certificate, in such form as the demand designates (by a person or persons having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material described by the demand which is in the possession, custody, or control of the person to whom the demand is directed, or to which he or it has reasonable access, has been produced and made available to the custodian.

"(j) Each interrogatory in a demand served pursuant to this section shall be answered separately and fully in writing under oath, by a person or persons having knowledge of the subject matter thereof, and it shall be submitted under a sworn certificate, in such form as the demand designates, to the effect that all information required by the demand which is in the possession of the person to whom the demand is directed, or to which he or it has reasonable access, has been furnished.

"(k)(1) The examination of any person pursuant to a demand for oral testimony served under this section shall be taken before an officer authorized to administer oaths and affirmations by the laws of the United States or of the place where the examination is held. The officer before whom the testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. Upon certification the officer before whom the testimony is taken shall promptly transmit the transcript of the testimony to the possession of the antitrust investigator or investigators conducting the examination. The antitrust investigator or investigators conducting the examination may exclude from the place where the examination is held all persons other than the person being examined, his counsel, the officer before whom the testimony is to be taken, and any stenographer taking said testimony. The provisions of the Act of March 3, 1913 (Ch. 114, 37 Stat. 731; 15 U.S.C. 30) shall not apply to such examinations.

"(2) The oral testimony of any person taken pursuant to a demand served under this section shall be taken in the judicial district of the United States within which such person resides, is found, or transacts business, or in such other place as may be agreed upon between the antitrust investigator or investigators conducting the examination and such person.

"(3) Any person compelled to appear under a demand for oral testimony pursuant to this section may be accompanied by counsel. For any purposes other than those set forth in this paragraph, such person shall not refuse to answer any question, nor by himself or thorugh counsel interrupt the examination by making objections or statements on the record. Such person or counsel may object on the record, briefly stating the reason therefor, whenever it is claimed that such person is entitled to refuse to answer on grounds of privilege or other lawful grounds. If such person refuses to answer any question on the grounds of privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of part V of title 18, United States Code. If such person refuses to answer any question, the antitrust investigator or investigators conducting the examination may request the district court of the United States for the judicial district within which the examination is conducted to order such person to answer, in the same manner as if such person had refused to answer such question after having been subpenaed to testify thereto before a grand jury, and upon disobedience to any such order of such court, such court may punish such person for contempt thereof.

"(4) Upon completion of the examination, any person examined under a demand for oral testimony may clarify or complete answers otherwise equivocal or incomplete on the record.

"(l) The antitrust investigation procedures specified in this section shall be deemed within the scope of sections 371 and 1001, title 18, United States Code, and such sections shall be applicable to any written or oral statement, or other act or omission, made or done in the course of such antitrust investigation procedures."

(h) Subsection (b) of section 4 is amended by inserting in the first sentence immediately after the word "demand", first appearance, the words "for the production of documents", and by amending the second sentence to read as follows: "Such person may upon written agreement between such person and the custodian substitute true copies for originals of all or any part of such material.".

(i) Subsection (c) of section 4 is amended by inserting in the first sentence immediately after the word "material" the words "described in subsection (b)(2) of section 3", and by inserting in the fourth sentence immediately before the word "documentary" the word "such".

(j) Subsection (d) of section 4 is amended to read as follows:

"(d)(1) Whenever any attorney of the Antitrust Division of the Department of Justice has been designated to appear before any court, grand jury, or Federal administrative or regulatory agency in any case or proceeding or to conduct any antitrust investigation, the antitrust investigator or investigators having custody and control of any documentary material described in subsection (b)(2) of section 3, interrogatories served pursuant to this Act and answers thereto, or transcript of oral testimony taken pursuant to this Act may deliver to such attorney such documentary material, interrogatories and answers thereto, or transcript of oral testimony for use in connection with any such case, proceeding or investigation as such attorney determines to be required. Upon the completion of any such case, proceeding, or investigation such attorney shall return to the antitrust investigator or investigators any such materials so delivered and not having passed into the control of such court, grand jury, or agency through the introduction thereof into the record of such case or proceeding.

"(2) The Antitrust Division, while participating in any Federal administrative or regulatory agency proceeding, may employ the authority granted by this Act to obtain information or evidence for use in such proceeding.".

(k) Subsection (e) of section 4 is amended to read as follows:

"(e) Upon the completion of (1) the antitrust investigation for which any documentary material described in subsection (b)(2) of section 3 of this Act was produced, and (2) any such case or proceeding, the custodian shall return to the person who produced such material all such material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) which has not passed into the control of any court, grand jury, or federal administrative or regulatory agency through the introduction thereof into the record of such case or proceeding.".

(l) Subsection (f) of section 4 is amended to read as follows:

"(f) When any documentary material has been produced by any person under a demand described in subsection (b)(2) of section 3 of this Act, and no case or proceeding as to which the documents are usable had been instituted and is pending or has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General or upon the Assistant Attorney General in charge of the Antitrust Division, to the return of all such documentary material (other than copies thereof furnished to the custodian pursuant to subsection (b) of this section or made by the Department of Justice pursuant to subsection (c) of this section) so produced by such person.".

(m) Subsection (g) of section 4 is amended to read as follows:

"(g) In the event of the death, disability, or separation from service in the Department of Justice of the custodian of any documentary material produced under a demand for production described in subsection (b)(2) of section 3 of this Act or the antitrust investigator having possession of answers in writing to written interrogatories or the transcript of any oral testimony produced under any demand issued under this Act, or the official relief of such custodian or antitrust investigator from responsibility for the custody and control of such material the Assistant Attorney General in charge of the Antitrust Division shall promptly (1) designate another antitrust investigator to serve as custodian of such documentary material or to maintain possession of such answers to interrogatories or such transcript of oral testimony, and (2) transmit in writing to the person who submitted the documentary material produced under a demand for production described in subsection (b)(2) of section 3 of this Act, notice as to the identity and address of the successor so designated. Any successor designated under this subsection shall have with regard to such materials all duties and responsibilities imposed by this Act upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation.".

(n) Subsection (a) of section 5 is amended by striking out all the words following the word "Act", and by striking out the comma after the word "Act" and inserting in lieu thereof a period.

(o) The first sentence of subsection (b) of Section 5 is amended to read as follows:

"(b) Within twenty days after the service of any such demand upon any person, or at any time before the compliance date specified in the demand, whichever period is shorter, or within such period exceeding twenty days

after service or in excess of such compliance date as may be prescribed in writing, subsequent to service, by an antitrust investigator named in the demand, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon the antitrust investigator or investigators named in the demand a petition for an order of such court modifying or setting aside such demand.".

(p) The second sentence of subsection (b) of section 5 is amended by striking out the final period and inserting a colon in lieu thereof, and by inserting immediately after the colon the words: *Provided, however,* That such person shall promptly comply with such portions of the demand not sought to be modified or set aside.".

(q) Subsection (b) of section 5 is amended by inserting the following sentence at the end thereof: "Any such ground not specified in such a petition shall be deemed waived unless good cause is shown for the failure to assert it in such a petition.".

(r) Subsection (a) of section 6 as amended by *inserting* in the third "whoever" paragraph between the words "any" and "documentary" the words "any oral or written information or", and by inserting between the third and fourth "whoever" paragraphs the following:

"Whoever knowingly and willfully withholds, falsifies, or misrepresents, or by any trick, fraud, scheme, or device conceals or covers up, a material part of any oral or written information or documentary material which is the subject of a demand pursuant to the Antitrust Civil Process Act, or attempts to or solicits another to do so; or".

SEC. 202. The provisions of this title shall be effective on the date of enactment of this Act, and may be employed in respect of acts, practices, and conduct that occurred prior to the date of enactment thereof.

TITLE III—FEDERAL TRADE COMMISSION ACT AMENDMENTS

SEC. 301. Section 10 of the Federal Trade Commission Act (38 Stat. 724; 15 U.S.C. 50) is amended as follows:

(a) The first sentence of the third paragraph is amended to read as follows:

"If any person, partnership, or corporation required by this Act to file any annual or special report or to obey any subpoena shall fail so to do within the time fixed by the commission for filing or obeying the same, and such failure shall continue for fifteen days after notice of such default, the person, partnership, or corporation shall forfeit and pay to the United States a civil penalty of not less than $1,000 nor more than $5,000 as the court may determine, for each and every day of the continuance of such failure. Such forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the Commission, brought in the case of a corporation or partnership, in the district where the corporation or partnership has its principal office or in any district in which it shall do business, and, in the case of any other person, in the district where such person resides or has his principal place of business.".

(b) Immediately following the third paragraph, insert the following new paragraph:

"No action to stay accumulation of any of the penalties provided by the preceding paragraph of this section or to enjoin the Commission or the United States from enforcement of any subpoena or any Commission order to file any annual or special report may be commenced until after the service of a notice of default by the Commission as provided in the preceding paragraph. No court shall issue any order staying the accumulation of such penalties unless the party seeking such relief shall have first demonstrated:

"(1) a substantial probability of ultimate success on the merits;

"(2) that such party will be irreparably injured unless the accumulation of such penalties is stayed; and

"(3) that the equities clearly favor such stay.

No court shall issue an order enjoining the Commission or the United States from enforcement of any subpoena or any order to file an annual or special report unless the plaintiff shall have first demonstrated:

"(1) that such subpoena or order to file a special or annual report is unduly burdensome; or

"(2) that the information sought by such subpoena or order to file a special or annual report is not reasonably relevant to the inquiry being conducted by the Commission.

The Commission shall have authority to determine its own jurisdiction to conduct investigations or to adjudicate complaints in the first instance, unless such investigation or adjudication is expressly prohibited by this Act.".

TITLE IV—PARENS PATRIAE

SEC. 401. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by inserting immediately following section 4B the following new sections:

"SEC. 4C. (a) Any attorney general of a State may bring a civil action in the name of such State in the district courts of the United States under section 4 or 16, or both, of this Act, and such State shall be entitled to recover damages and secure other relief as provided in such sections—

"(1) as parens patriae of the persons residing in that State, with respect to damages sustained by such persons, or alternatively, if the court finds in its discretion that the interests of justice so require, as a representative of a class or classes consisting of persons residing in that State, who have been damaged; or

"(2) as parens patriae, with respect to damages to the general economy of that State or any political subdivision thereof: *Provided,* That such damages shall not be duplicative of those recoverable under paragraph (1) of this subsection; or

"(3) on behalf of any or all political subdivisions of that State with respect to damages sustained by such political subdivisions.

"(b)(1) Whenever the attorney general of a State institutes an action pursuant to paragraph (a)(1) of this section, he shall within thirty days thereafter cause notice thereof to be published in the manner prescribed by State statute or rule of court for publication of legal notice in such State, or, in the absence of an applicable State statute or rule of court, in such manner as the district court shall by general rule prescribe. No further publication or notice shall be required in respect to such actions.

"(2) Any person may exclude from an action instituted pursuant in paragraph (a)(1) of this section his or its claim for relief in respect of the subject matter of such action, by filing a statement to such effect with the court in which such action has been instituted. Such statement shall be filed within thirty days after publication of notice required by paragraph (1) of this subsection, in such form as the district court shall by general rule prescribe. The claims of only those persons filing such statements shall be excluded from such action. The claims for relief in respect of such subject matter of all other persons residing in such State shall be included in such action, and the final judgment in such action shall be res judicata as to such claims.

"(c) In any action under subsection (a) of this section, the State—

"(1) may recover the aggregate damages sustained by the persons or political subdivisions on whose behalf the State sues without separately proving the individual claims of each such person or political subdivision; and proof of such damages shall be permitted on the basis of any or all of the following:

"(A) statistical or sampling methods;

"(B) the pro rata allocation of—

"(i) illegal overcharges, or

"(ii) excess profits—

to sales occurring within the State; or

"(C) such other reasonable system of estimating aggregate damages as the court in its discretion may permit; and

"(2) shall distribute, allocate, or otherwise pay out of the fund so recovered either (A) in accordance with State law, or (B) in the absence of any applicable State law, as the district court may in its discretion authorize. Such distribution procedure shall afford each person or political subdivision on whose behalf the State sues a reasonable opportunity individually to secure the pro rata portion of the fund attributable to his or its respective claims for damages, less litigation and administrative costs, including attorneys' fees, before any such fund is escheated or used for general welfare purposes.

"SEC. 4D. (a) Whenever the Attorney General of the United States has brought an action under this Act, and he has reason to believe that any State attorney general would be entitled to bring an action based substantially on the same cause of action pursuant to section 4C of this Act, he shall promptly so notify such State attorney general.

"(b) If, after the ninety-day period which begins on the date of the mailing of any notification under subsection (a) of this section, the State attorney general fails or declines to bring such an action, the Attorney General may himself bring such action in place of the State attorney general, and he shall thereafter be deemed parens patriae of the persons residing in such State for the purposes of such action. Such action shall be brought in the district in which the action under section 4A is pending and shall be consolidated therewith.

"(c) In actions brought under this section, section 4C(c)(1) shall apply with respect to proof of damages by the Attorney General. Subject to subsection (d) of this section, section 4C(c)(2) shall apply to any amounts paid to States pursuant to this subsection.

"(d) With respect to any recovery of damages under this section, the Attorney General shall pay or cause to be paid to the respective States, on behalf of the persons residing in such States for whom he has recovered such damages, a pro rata share of the total damages recovered, after deducting therefrom, on the basis of regulations prescribed by the Attorney General and approved by the Comptroller General of the United States, litigation expenses, including actual attorney's fees and administrative costs. Any amounts so deducted shall be deposited in a special fund by the Attorney General, and, subject to an appropriation, used only for activities under this section.

"SEC. 4E. With respect to any federally funded State program affected by antitrust violations, any State shall be entitled to treble damages for the entire amount of overcharges or other damages sustained in connection with such a program. The Attorney General of the United States shall have the right to intervene in any such action, to protect the interests of the United States; and he shall have the power to sue for treble damages on behalf of any State that fails or declines to bring such action within the ninety-day period which begins on the date of the mailing of notification from the Attorney General that he believes cause exists for bringing such action. The United States shall be entitled to secure re-

imbursement of its actual expenses, if any, and of its equitable share of any recovery of damages under this section. If the United States brings a separate action for its damages sustained in connection with the program, and recovers such damages, the defendant in such action shall be entitled to set such recovery off against any amount recovered by a State in respect of the same damages. The provisions of sections 4C(c) and 4D (c) and (d) of this Act shall apply to any action and damages recovered therein pursuant to this section."

SEC. 402. (a) As used in this title, the term "State" shall include the District of Columbia, and the term "attorney general of a State" shall include the Corporation Counsel of the District of Columbia.

(b) The provisions of this title shall apply to all civil actions filed under the antitrust laws, in which a State is plaintiff, that are pending on the date of enactment of this Act or that are hereafter filed, including those in which the cause of action accrued before the date of enactment of this Act.

TITLE V—PREMERGER NOTIFICATION

SEC. 501. The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730; 15 U.S.C. 12), is amended by adding a new section 23 to read as follows:

"PREMERGER NOTIFICATION

"SEC. 23. (a) Notwithstanding any other provision of law, no person or persons shall acquire, directly or indirectly, the whole or any part of the stock or other share capital or of the assets of another person or persons, if the acquiring person or persons, or the person or persons the stock or assets of which are being acquired, or both, are engaged in commerce or in any activity affecting commerce, and—

"(1)(A) the acquiring person or persons have total assets or annual net sales in excess of $100 million; and

"(B) the person or persons the stock or assets of which is being acquired have total assets or annual net sales in excess of $10 million; or

"(2) the combined total assets or annual net sales of the acquiring person or persons and the person or persons the stock or assets of which is being acquired are in excess of $100 million—until expiration of the notification and waiting period specified in subsection (b)(1) of this section.

"(b)(1) The notification and waiting period required by this section shall expire 60 days after the persons subject to subsection (a) of this section each file with the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (hereafter referred to in this section as the 'Assistant Attorney General') duplicate originals of the notification specified in paragraph (2) of this subsection, or until expiration of any extension of such period pursuant to subsection (c)(2) of this section, whichever is later, except as may otherwise be authorized pursuant to section (c)(4) of this section.

"(2) The notification required by this section shall be in such form and contain such information and documentary material as the Federal Trade Commission, after consultation with the Assistant Attorney General, shall by general regulation prescribe, after notice and submission of views, pursuant to section 553, title 5, United States Code.

"(3) The Federal Trade Commission, after consultation with the Assistant Attorney General, is authorized and directed to require the filing of a premerger notification report at least 30 days prior to the effective date of an acquisition by any person or persons engaged in commerce, or in any activities affecting commerce, and not subject to subsection (a) of this section.

"(4) The Federal Trade Commission, after consultation with the Assistant Attorney General, is authorized and directed to define the terms used in this section, prescribe accounting methods for reporting thereunder, by general regulation except classes of persons and transactions from the notification requirements thereunder, and to promulgate rules of general or special applicability as may be necessary or proper to the administration of this section, insofar as such action is not consistent with the purposes of this section, after notice and submission of views, pursuant to section 553, title 5, United States Code.

"(c)(1) The Federal Trade Commission, pursuant to the Federal Trade Commission Act, or the Assistant Attorney General, pursuant to the Antitrust Civil Process Act, may prior to the expiration of the periods specified in subsections (b)(1) and (b)(3) of this section, require the submission of additional information and documentary material relating to the acquisition by any person or persons subject to the provisions of this section, or by any officer, director, or partner of such person or persons.

"(2) If such information and documentary material is not produced in full within the time specified, the Federal Trade Commission or the Assistant Attorney General may, in its or his discretion, extend the periods specified in subsections (b)(1) and (b)(3) of this section for an additional period of up to 30 days beyond the date on which it or he notifies such person, officer, director, or partner that it or he is satisfied that the information or documentary material has been produced. If such notification as to production is unreasonably withheld, any person entitled to such notification may secure a declaration to such effect by way of civil action instituted in the United States District Court for the District of Columbia.

"(3) No provisions of this section shall limit the power of the Federal Trade Commission or the Assistant Attorney General to secure, at any time, information or documentary material from any person, including third parties, pursuant to the Federal Trade Commission Act or the Antitrust Civil Process Act.

"(4) The Federal Trade Commission and the Assistant Attorney General may waive the waiting periods provided in this section or the remaining portions thereof, in particular cases, by publishing in the Federal Register a notice that neither intends to take any action within such periods in respect of the acquisition.

"(d) If, within the notification and waiting period specified in subsection (b)(1) of this section, a proceeding is instituted by the Federal Trade Commission or an action is filed by the United States, alleging that an acquisition violates Section 7 of this Act, or Sections 1 or 2 of the Sherman Act (15 U.S.C. 1–2), and either the Federal Trade Commission or the Assistant Attorney General certifies to the United States District Court within which the respondent resides or carries on business, or in which the action is filed, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, the court shall enter an order that such acquisition shall not be consummated until the order of the Commission in respect thereof or the judgment entered in such action has become final, and that the proceeding or action shall be in every way expedited.

"(e) Failure of the Federal Trade Commission or the Assistant Attorney General to request additional information or documentary material pursuant to this section, or failure to interpose objection to an acquisition within the periods specified in subsections (b)(1) and (b)(3) of this section, shall not bar the institution of any proceeding or action, or the obtaining of any information or documentary material, with respect to such acquisition, at any time under any provision of law.

"(f)(1) Whenever any person violates or fails to comply with the provisions of subsection (a) of this section, such person shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each day during which such person directly or indirectly holds stock or assets, in violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the United States.

"(2) Whenever any person fails to furnish information required to be submitted, pursuant to subsection (c)(1) of this section, such person shall be liable for the penalties provided for noncompliance with the provisions of the Federal Trade Commission Act or the Antitrust Civil Process Act, whichever is applicable.

"(g) In any proceeding instituted or action brought by the Federal Trade Commission or the United States alleging that an acquisition violates section 7 of this Act, or sections 1 or 2 of the Sherman Act, upon application of the Federal Trade Commission or the Assistant Attorney General to the United States District Court within which the respondent resides or carries on business, or in which the action is filed, such court shall, as soon as practicable, enter an order establishing the purchase price of the acquired stock or assets, requiring the acquiring person or persons to maintain the personnel, assets, stock or firm being acquired as a separate entity, and requiring the profits of the acquired firm, stock, or assets to be placed in an escrow account, pending the outcome of the proceeding or action. Upon entry of a final order or judgment that the acquisition is in violation of section 7 of this Act, or sections 1 or 2 of the Sherman Act, the court shall order the divestiture of the unlawfully acquired assets or stock. If divestiture is by sale, it shall be at a price not to exceed the purchase price. Any profits held in escrow shall be transferred with the stocks or assets unlawfully acquired."

SEC. 502. The provisions of this title shall be effective 120 days after the date of enactment of this Act. Effective upon the date of enactment of this Act, the Federal Trade Commission is authorized to carry out the requirements of sections 23(b)(2) and (b)(4) of the Clayton Act, as amended by this Act.

TITLE VI—NOLO CONTENDERE

SEC. 601. Section 5(a) of 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. 16(a)), is amended to read as follows:

"5(a)(1) A final judgment heretofore or hereafter entered in any civil action or criminal proceeding brought by the United States under the antitrust laws, finding or concluding that a defendant has violated said laws, or is guilty of an offense under said laws, shall be prima facie evidence against such defendant in any civil action brought by any person against such defendant under said laws, as to all matters respecting which said judgment would be an estoppel as between the parties thereto, except as provided in paragraph (3) of this subsection.

"(2)(A) A plea of nolo contendere hereafter entered in a criminal proceeding under the antitrust laws shall be prima facie evidence against such defendant in any civil action brought by any person against such defendant under said laws, as to all matters in the indictment necessary to sustain a judgment of conviction upon a jury verdict that the defendant was guilty of the offense charged in the indictment.

"(B) When a plea of nolo contendere is

used as provided by subparagraph (A) of this paragraph, the bill of particulars filed in the proceeding may be used to interpret or construe the indictment, and any statement made in court on behalf of the defendant in connection with the entry of such plea may thereafter be received in evidence against the defendant as an admission.

"(3) The provisions of paragraph (1) of this subsection shall not apply to a consent judgment entered before any testimony has been taken, or to a judgment entered in an action brought by the United States under section 4A of this Act.".

SEC. 602. The provisions of section 5(a)(2) of the Clayton Act, as amended by this title, shall apply to all criminal proceedings that are pending on the date of enactment of this Act or that are hereafter filed, including those in which the offense was committed before the date of enactment of this Act.

TITLE VII—MISCELLANEOUS

AFFECTING COMMERCE

SEC. 701. Sections 2, 2a, 3, and 7 of 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. 13, 13a, 14, and 18), are amended by striking out the words "in commerce" wherever the term appears and inserting in lieu thereof the words "in or affecting commerce".

COMPLEX CASES

SEC. 702. 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), is amended by adding a new section 21 as follows:

"COMPLEX CASES

"SEC. 21. In any civil action brought in any district court of the United States under the antitrust laws, or any other Acts having like purpose that have been or hereafter may be enacted, wherein the United States is plaintiff and equitable relief is sought, the Attorney General may file with the court, prior to the entry of final judgment, a certificate that, in his opinion, the case is a complex antitrust case. Upon filing of such certificate, it shall be the duty of the judge designated to hear and determine the case or the chief judge of the district court if no judge has as yet been designated, to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. Special masters, economic experts, and other personnel may be designated to assist the trial judge in the expeditious and efficient trial of the case, and in expediting discovery and pretrial matters. Economic and other experts may be used by the court in all phases of the trial, including the preparation and analysis of plans for relief.".

FOREIGN ACTIONS

SEC. 703. 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), is amended by adding a new section 22 as follows:

"FOREIGN ACTIONS

"SEC. 22. In any civil action or proceeding before any court of the United States, involving any act to regulate interstate or foreign trade or commerce, or to protect the same against unlawful restraints or monopolies, in which the court orders any party thereto or any person in privity with such party to furnish discovery, evidence, or testimony, and such party or person refuses, declines, or fails to do so on the ground that a foreign statute, order, regulation, decree, or other law prohibits compliance with such order, the court may enter an order forthwith against such party, dismissing all or some of such party's claims, striking all or some of such party's defenses, or otherwise terminating the proceeding or any portion thereof adversely as to such party.".

SEVERABILITY

SEC. 704. If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

EFFECTIVE DATE

SEC. 705. (a) Section 701 of this title shall apply to acts, practices, and conduct occurring after the date of enactment of this Act.

(b) Section 702 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed.

(c) Section 703 of this title shall apply to all actions on file on the date of enactment of this Act or hereafter filed, in respect of noncompliance with discovery orders hereafter entered. Nothing contained in this subsection shall be deemed to limit the authority of any court to reenter any discovery order heretofore entered, and thereby make such section 703 applicable thereto.

(d) Unless otherwise specified, the effective date of this Act shall be the date of enactment thereof.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., April 4, 1974.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal "To amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations."

The Antitrust Civil Process Act, 76 Stat. 548, 15 U.S.C. 1311, which presently applies solely to the production of documents by persons (other than natural persons) under investigation, would be extended by this proposal to (1) include persons (including natural persons) in addition to those under investigation, who may have information relevant to a particular antitrust investigation, and to (2) permit the service of written interrogatories and the taking of oral testimony.

The draft bill would also clarify the Act by correcting the adverse effect of a Ninth Circuit Court of Appeals decision, which held that civil investigative demands may issue only to require the production of documents relating to current or past, but not incipient, violations. *United States* v. *Union Oil Company of California*, 343 F.2d 29 (9th Cir., 1965). The Act would also be clarified by removing any doubt that it permits the use of evidence in investigations and cases in addition to the specific investigation to which the issued demand relates and any case resulting therefrom. Cf. *Upjohn* v. *Bernstein* (D.D.C. Civ. Action No. 1322–66, 1966).

The draft bill specifically authorizes the Department of Justice to extend the period in which persons served may judicially contest a demand, thereby protecting the rights of the latter while facilitating compliance with the demand and lessening the possibility of litigating the question of the legality of the demand. The draft bill would specifically sanction the Government's present practice of extending the time for production, thereby affording opportunity for partial production, possibly obviating the need for full production, and avoiding resort to the court by either the person served or the Government. The Department's existing practice of requiring certification of compliance would also be specifically sanctioned by the draft bill.

A major objective of the proposed legislation, the production of oral testimony, would be obtained by a somewhat modified Administrative Procedure Act process providing for the presence of the witness' counsel in a limited role with a restricted right to raise objections.

Broadening the Act to cover oral testimony would introduce no novel, untried concepts in antitrust enforcement. Arizona, Connecticut, Florida, Hawaii, Illinois, Kansas, Louisiana, Maine, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, South Carolina, Texas, Wisconsin, and Puerto Rico have given their Attorneys General (in the case of Puerto Rico, the Secretary of Justice) the power to summon witnesses to give oral testimony in antitrust investigations prior to initiation of any suit or proceeding.[1]

These jurisdictions also extend the civil investigative subpoena power in antitrust investigations to individuals as well as to artificial persons, and provide for service upon persons capable of providing testimony relevant to the investigation, whether or not they are the actual target of the investigation. The draft bill would utilize the provisions of the federal immunity statute to bring natural persons producing evidence within the reach of a civil investigative demand.

In the area of trade regulation at the federal level, section 9 of the Federal Trade Commission Act confers on the Commission power to compel oral testimony in the course of its examinations. Among departments and other agencies whose heads, members, or employees have statutory authority to compel attendance and testimony of witnesses in the course of investigations pertinent to laws which they administer are Agriculture, HEW, Labor, Treasury, AEC, CAB, FAA, FCC, FPC, FMC, ICC, NLRB, Rail Road Retirement Board, Tariff Commission, and VA.[2]

Nor is precedent lacking for extending the investigatory power to incipient violations. The acts of Hawaii, Illinois, New Jersey and New York for example, specifically authorize the use of civil investigative subpoenas in investigations of incipient violations.

No field of litigation involves facts more complex and records more extensive than are found in the Government's antitrust cases. The task of amassing the voluminous data essential to successful antitrust enforcement is of considerable magnitude. Insofar

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[1] Ariz. Rev. Stats., Ann., title 44, chap 10, sec. 44–1407; Conn. Gen. Stats. Ann., title 35, chap. 624, sec. 35–42; Fla. Stats. Ann., title 31, chap. 542, sec. 11; Hawaii Rev. Stats., title 26, chap. 480, sec. 480–18; Ill. Ann. Stats., chap 38, sec. 60–7.2; Kan. Stats. Ann., chap. 50, sec. 50–153; La. Rev. Stats., title 51, secs. 143, 144; Me. Rev. Stats., title 10, chap. 201, sec. 1107; N.H. Rev. Stats. Ann., title 31, chap. 356, sec. 356.10; N.J. Stats. Ann., title 56, chap. 9, sec. 56:9–9; N.Y. Consol Laws, chap. 20, art. 22, sec. 343; N.C. Gen. Stats., chap 75, sec. 75–10; Okla. Stats. Ann., title 79, chap 1, sec. 29; Code of Laws of S.C., title 66, chap. 2, art. 6, sec. 66–111; Texas Codes Ann., Bus. and Commerce Code, title 2, chap. 15, sec. 15.14; Wisc. Stats. Ann., title 14, chap. 133, sec. 133.06; P.R. Laws Ann., title 10, chap. 13, sec. 271.

[2] There are over three dozen provisions in the United States Code authorizing the taking of compulsory testimony. Among them are: 7 U.S.C. 15, 222, 499m, 610, 855, 2115 (Agriculture); 12 U.S.C. 1820 (banking agencies); 15 U.S.C. 49 (FTC); 15 U.S.C. 77s, 78u, 79r, 80a–41, 80b–9 (SEC); 15 U.S.C. 717m (FPC); 16 U.S.C. 825f (FPC); 18 U.S.C. 835 (ICC); 19 U.S.C. 1333 (Tariff Commission); 26 U.S.C. 7602 (Treasury); 27 U.S.C. 202(c) (Treasury); 29 U.S.C. 209, 308, 521 (Labor); 38 U.S.C. 3311 (VA); 42 U.S.C. 405 (HEW); 42 U.S.C. 2201 (AEC); 45 U.S.C. 362 (R. R. Retirement Board); 46 U.S.C. 826, 1124 (FMC); 47 U.S.C. 409 (FCC); 49 U.S.C. 12, 916, 1017 (ICC); and 49 U.S.C. 1484 (CAB).

as it went, enactment in 1962 of the Antitrust Civil Process Act provided a signal benefit to the Government's civil investigations by authorizing production of relevant documents from corporations, associations, partnerships, or other legal entities not natural persons, under investigation. But the limitations on the scope of the demand have left the Act far from meeting essential investigatory needs of the Department's Antitrust Division.

The refusal of industry sometimes to cooperate voluntarily in antitrust investigations, which gave rise to the Antitrust Civil Process Act, is the reason today that more effective civil discovery means are needed. The same reasons that supported enactment of the Civil Process Act speak for the Act's expansion. Although the grand jury can be used in investigation of criminal violations under the Sherman Act, the Clayton Act is not a criminal statute, and the grand jury is unavailable where only a civil action is contemplated. Often it is not desirable to bring companion criminal and civil suits; the facts may not warrant criminal sanctions, or the urgency for civil relief may make it unfeasible to risk the delay that very likely would attend the bringing of both types of actions. In other situations it may appear at the outset that the evidence may not meet the test for a criminal case.

The proposed bill would simply make available to the Attorney General the same antitrust investigatory powers in civil investigations that he now has in criminal investigations, and provide him with authority similar to that of the Federal Trade Commission. Enlarged discovery would not only materially assist investigation of facts leading to decisions on the filing of civil actions, but will facilitate the reaching of decisions on whether to resort to grand jury proceedings.

For the reasons set forth above, I urge the Congress to give this legislative proposal its early and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

———— ————,

Attorney General.

Mr. HUGH SCOTT. Mr. President, I am delighted to be sponsoring the Antitrust Improvements Act of 1975 with Senator HART.

I have always been a vigorous supporter of our antitrust laws. Our system works best when we have full competition. Competition produces a wide variety of products at the lowest possible prices for the consumer and industry. This is the reason why I have already sponsored legislation in this Congress to repeal the fair trade laws and to increase the budgets of the Justice Department and the Federal Trade Commission for more antitrust enforcement.

It is important to emphasize that President Ford has already called for more vigorous antitrust enforcement. Effective use of the antitrust laws can be a positive method to bring down high prices and to control inflationary tendencies in our economy.

The bill introduced today advances some significant changes which can expedite antitrust action by the Government. I understand there may be some adverse comments and I look forward to full and complete hearings on each of the issues raised. If after hearings a significant doubt exists as to the viability of a particular part of the bill, I would certainly reevaluate my current position. However, at this time I believe the bill would help vigorous antitrust enforcement.

The legislation recommends a number of ideas that have been discussed for years by those involved in the antitrust field. It would make a plea of nolo contendere in a criminal antitrust action available as evidence in a private antitrust case. Fines for failure to comply with an FTC subpena or special order would be increased for the first time in 50 years. A method would be set forward to have notice of large mergers or acquisitions with power in the Attorney General under certain cases to forestall mergers pending court determination. State attorneys general will be permitted to file antitrust suits on behalf of citizens or their States—similar to class action suits. In large antitrust cases, the bill allows for the use of special masters and other experts to speed their resolution. The Antitrust Division is permitted to issue civil investigative demands to individuals as well as companies. This would also apply to demands in advance of a merger. Finally, the bill would increase the effectiveness of our antitrust laws to foreign corporations that do business in the United States.

All of these proposals deserve study and I hope we will seek quick action by the Senate. Antitrust laws have traditionally acted as a check upon a tendency of corporations in some industries not to compete. Because we do not live in a perfect world, we need antitrust laws now more than ever before. The consumer can only benefit from their just and thorough application. The Antitrust Improvements Act of 1975 will move us quickly in that direction.

By Mr. HUMPHREY (for himself, Mr. MCGEE, and Mr. MONDALE):

S. 1285. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries. Referred to the Committee on Agriculture and Forestry and the Committee on Interior and Insular Affairs, jointly, by unanimous consent.

PAYMENT IN LIEU OF TAXES ON FEDERAL LANDS TO COUNTIES

Mr. HUMPHREY. Mr. President, I am today introducing a bill to overhaul and improve the system of payments by the Federal Government to counties in which Federal lands associated with Federal natural resources programs are located. I introduced this legislation last year with Senators MONDALE, MOSS, MCGEE, MAGNUSON, and CHURCH. It will also again be introduced on the House side.

This bill would offer another method for determining fair revenues from these Federal lands, rather than the many different existing formulas for making payments in lieu of taxes to the local governments. These payments presently are computed as a percentage of the Federal revenues generated by these lands. My bill would give local governments the opportunity to have these Federal lands appraised, placed on the tax rolls, and taxed according to the same millage rate applied to similar private lands.

The need for reform in this area, so vital to hundreds of counties in rural America, has long been recognized. When the Public Land Law Review Commission completed its work in 1970, one of its principal recommendations was that—

> The United States—should—make payments in lieu of taxes for the burdens imposed upon State and local governments by reason of Federal ownership of public lands without regard to the revenues generated therefrom.

Mr. President, when I introduced this bill in the 93d Congress, I asked that chapter 14 of the Public Land Law Review Commission report be included in the RECORD. Those interested can refer to page 1045 of the January 29, 1974, RECORD.

Almost 14 years ago the Senate took action to accomplish a similar reform. On May 14, 1960, the Senate passed my bill, S. 910, which was similar in intent to the legislation I am introducing today.

This was just prior to a change of administrations and, regrettably, the Bureau of the Budget opposed that bill, and the House did not complete action on it.

The bill passed by the Senate in 1960 would have resulted in a basic reform of the Federal payments system, while also assuring that Federal expenditures would be fair and reasonable.

Mr. President, we have waited 3 years for the administration to submit its proposals to implement the recommendation of the Public Land Law Review Commission that a Federal payment system be established that would not be tied to varying levels of revenues from Federal lands, which have led to serious inequities and often totally inadequate payments under the present system.

During the summer and fall of 1973, my distinguished colleague from Minnesota, John Blatnik, who has since retired, held several detailed conferences with county officials representing those areas in Minnesota where the national forests are concentrated. My staff and I cooperated in those meetings.

What we learned made it abundantly clear to us that under the present system, payments from the national forests to the counties very seldom come close to approaching tax equivalency. The same thing is true of other "fixed-percentage" type payment systems under other Federal lands holdings. Thus, it seemed to us that the best approach was to introduce a bill that reformed the entire payments system. The bill I am introducing today will do just that.

It covers such holdings as the national forests, Bureau of Land Management lands, fish and wildlife refuges, and the Corps of Engineers—civil functions. In a nutshell, it covers all natural resources lands that now have a "payment-in-lieu-of-tax" formula.

The bill gives the counties 2 years to elect whether to participate in the new payment system established under this act or to stay with the present system.

The bill also provides for an appraisal of the value of Federal lands in each county to be made. A 2- to 4-year period is provided for this to be completed.

In sum, once a county elects to go un-

der the new system, the method of fixing the payments to the local government will be the same as that for comparable private land. The assessed value of the land multiplied by the local millage rate will determine the annual payment. This, in my opinion, will be a tremendous improvement over the present hodgepodge of payment formulas.

With regard to the national forests, for example, last year with 25 percent of revenue going as the in-lieu-of-taxes payment to the counties, payments ran from an average of 1 cent per acre in some States to an average of $2.85 per acre in the highest State. For individual counties the payments ran from a few dollars in some counties to a high of $9,677,709 in one county.

In Minnesota, four counties received 7 cents per acre and three received 13 cents per acre from regular national forest land. Nationwide, the average county was paid 62 cents per acre.

Payments to Minnesota counties ranged from $45.63 in total to $39,642.64.

On another block of national forest lands in Minnesota, the Boundary Waters Canoe area, a separate payment formula exists that pays three-fourths of 1 percent of the value of the lands. These 749,000 acres pay an average of 35 cents per acre as compared to the average of 9 cents per acre paid on the 1.4 million acres of national forest land under the 25-percent system. In neither case is the payment a fair approximation of tax equivalence based upon the best information that we have been able to secure.

St. Louis County, Minn., provides an interesting example. This county had 795,000 acres of private forest taxed at 53 cents per acre, 753,000 acres of national forest at 7 cents per acre, and 195,000 acres in the Boundary Waters Canoe area taxed at 32 cents per acre. Certainly these data do not suggest that all of the national forest lands would pay, under our bill, 53 cents per acre. However, since the lands that pay 7 cents are essentially the same as the lands that pay 32 cents and neither are too dissimilar from the private lands, there is reason to believe that on a truer tax equivalence than either of the current Federal methods provide, the payments would be far closer to 53 cents per acre than to 7 cents per acre.

This bill has been discussed with representatives of the National Association of Counties. Its principles have their support.

The enactment of this bill will not only increase the payments made by the Federal Government to local governments, it will also give these payments a reasonable relationship to the taxes paid on similar private lands. I believe it will also encourage local governments to adopt more uniform and equitable tax policies and systems.

I believe that this is a reasonable approach to meeting an old and complex problem. The fact that this problem has not yielded to earlier reform efforts does not discourage me from seeking to improve the situation. However, as my friends in county government know, securing enactment of this bill will require hard work and will be a real exercise in Federal-State-county cooperation.

Enactment of this legislation will give to our hard-pressed rural counties the equitable treatment that they deserve and that fairness dictates.

Mr. President, since the jurisdiction over the matter included in this bill is divided between the Committee on Agriculture and Forestry and the Interior Committee, I ask unanimous consent that it be concurrently referred to both of these committees.

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

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

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

S. 1285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Payments in Lieu of Taxes Act of 1975".

SEC. 2. As used in this Act—

(a) The term "public lands" means all lands, and natural resources thereon, or interests in lands, owned by the United States which are administered for natural resources purposes, except lands or interests therein held by the United States in trust for any group, band, or tribe of Indians, Aleuts, or Eskimos, lands used exclusively for national defense purposes, and the Outer Continental Shelf.

(b) The term "Administrator" means the Administrator of General Services Administration.

(c) The term "board" means a State Board of Appraisal Appeals established under section 4.

(d) The term "regular taxpayers" means taxpayers subject to State and local real property taxes who do not enjoy the benefits of tax immunity.

(e) The term "county" includes a parish or borough.

SEC. 3. (a) Within two years after the date of enactment of this Act, each county shall elect whether it wishes to proceed under the terms of this Act to receive payments from the Federal Government equal to the real property taxes otherwise due from public land within such county, or continue to receive whatever payments such county is entitled to receive under any existing applicable Federal law providing for Federal payments for such county similar to those available under this Act or for payment to such county of part of the revenue derived from such public land.

(b) The Administrator and each county electing to proceed under this Act shall jointly arrange to have the public land in such county appraised and such appraisal shall be completed within two years after the date such county made such election. If the Administrator and the county agree that the appraisal may require longer than two years to complete they may either divide the area and complete a portion in two years or provide a period of not to exceed four years to complete such appraisal. However, before such appraisal is finally adopted by the county, the county, upon due notice and payment of actual costs for such appraisal to date, may elect to remain under such existing applicable Federal law.

(c) In making appraisals under this section the following criteria shall be met:

(1) The appraisal of public land shall be consistent with the appraisal for real property tax purposes of privately owned lands in the county.

(2) There shall be no discrimination against the Federal Government in relating payments to the real property tax rates applicable to similar private land.

(3) Appraisals shall be completely and thoroughly reviewed at least every ten years. In the intervening years, appraisals shall be updated annually in accordance with procedures to be established by the Administrator. However, upon the request of any county, at no less than five-year intervals, a reappraisal may be conducted in the same manner as the original appraisal.

(d) Appraisals shall, when made, conform to standards for the State and counties involved, and only their actual cost shall be deducted from payments to be made to a county under this Act.

SEC. 4. (a) When any county within a State has elected to proceed under the terms of this Act, there shall be established for that State a State board of appraisal appeal which shall consist of three members, one member to be appointed by the Administrator and two members to be appointed by the Governor of the State for which such board is established. Of the members appointed by the Governor, one shall be appointed from among persons who are citizens of the State and representative of the interests of the counties in the State in which are located public lands. Members shall serve terms of five years and may be reappointed.

(b) Members of each board shall serve without compensation but, while away from their homes or regular places of business in performance of services for the board, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(c) Two members of a board shall constitute a quorum.

(d) Each board shall select a chairman who shall call meetings of that board.

(e) Each board shall consider and decide any appeal from a county within the State relating to the appraisal of public land within such county either with regard to the cost or procedure of the appraisal or to the appraisal findings. Decisions of the board shall be final and shall not be subject to judicial review unless arbitrary or capricious.

SEC. 5. (a) Beginning in the first complete fiscal year after the acceptance of such appraisal by both the county involved and the Administrator, the Secretary of the Treasury is authorized to pay annually to the State in which such county is located an amount equivalent to the State, county, and local real property taxes on public lands within such county, based on the tax rate applicable to similar private lands at the value arrived at under the appraisal conducted under this Act.

(b) The payment made to a State shall be distributed by the State to those counties electing to proceed under the terms of this Act in which the public lands are located to be used by such counties for any public purpose. Each such county shall receive an amount equal to the total amount of taxes due from the public lands located within such county.

(c) Notwithstanding any other provisions of this Act, or of any other law, the Administrator is authorized to discontinue payments to such county of part of the revenue derived from such public land on a gradually decreasing basis over a period of five years and to program implementation of this Act on a similar time basis, for any county where immediate implementation of this Act will result in hardships because of a substantial reduction in the amount of payments.

SEC. 6. Nothing in this Act shall interfere with the right of State or local governments to levy possessory interests taxes on private owners of improvements made by private users on public lands.

SEC. 7. There are hereby authroized to be appropriated such sums as may be necessary

to administer this Act and to make the payments authorized by it.

By Mr. BEALL:

S. 1286. A bill to amend title II of the Social Security Act to increase to $5,100 the annual amount which individuals may earn without suffering deductions from benefits on account of excess earnings. Referred to the Committee on Finance.

Mr. BEALL. Mr. President, I am sending to the desk a bill which would, if enacted, increase the social security earnings limitation to $5,100.

On May 14, 1973, I introduced S. 1787 which would have provided for an earnings limitation of $2,800. The Congress ultimately compromised by raising the ceiling from $2,100 to $2,400. This figure has subsequently been increased to $2,520.

Because so many of our senior citizens are forced to live on such meager income, I believe it is incumbent upon the Congress to allow this segment of our population the additional flexibility they need to provide a decent standard of living for themselves.

I would like to see us abolish altogether the earnings limitation, and I am a cosponsor of S. 410 which would achieve that objective. However, I am not certain that it is possible for us to achieve the enactment of this legislation at this time, and I have, therefore, decided to introduce legislation which would approximately double the current income a social security recipient can earn without a reduction in his or her benefits.

I have selected this figure because it would expand the work opportunities for those senior citizens who are willing and able to contribute their talents to our economic system. By supplementing their income through additional earnings, senior citizens can improve their standard of living and enjoy greater independence and comfort in their retirement years. Such an opportunity is especially important to senior citizens in light of the hardships they bear during a period of inflation.

As the ranking Republican on the Subcommittee on Aging of the Labor and Public Welfare Committee, as well as a member of the Senate Special Committee on Aging, I have been impressed by the willingness and resourcefulness of our Nation's senior citizens to utilize their own talents and resources in overcoming the problems that confront them. Second, my bill will help to make the talents and resources of our Nation's senior citizens available to our Nation's economy to a greater degree than is presently possible. I strongly believe that senior citizens, for the most part, want to remain active contributing members of the community for as long as possible. America's 20 million senior citizens are largely responsible for the unprecedented wealth and power that our Nation has achieved and I believe that we should not exclude them from actively participating in the economic affairs of our Nation.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD at the completion of my remarks.

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

S. 1286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraphs (1) and (4) (B) of section 203(f) of the Social Security Act are each amended by striking out "$200" and inserting in lieu thereof "$425".

(b) The first sentence of paragraph (3) of section 203(f) of such Act is amended by striking out "$200" and inserting in lieu thereof "$425".

(c) Paragraph (1)(A) of section 203(h) of such Act is amended by striking out "$200" and inserting in lieu thereof "$425".

SEC. 2. The amendments made by this Act shall be effective with respect to taxable years beginning after December 31, 1975.

By Mr. TOWER (for himself and Mr. MONTOYA):

S. 1287. A bill to extend part J of the Vocational Education Act of 1963 relating to bilingual vocational training. Referred to the Committee on Labor and Public Welfare.

Mr. TOWER. Mr. President, I am today introducing a bill to extend part J of the Vocational Education Act of 1963 relating to bilingual vocational training. The distinguished Senator from New Mexico (Mr. MONTOYA) has joined me in presenting this bill to the Senate for its consideration.

For a long time we have directed our efforts toward increasing opportunities for Spanish-speaking peoples. Through these efforts we have determined that the Vocational Education Act offers tremendous resources for achieving our national goal of equal education and employment opportunities for all of our citizenry.

Part J, an extension of title VII of Public Law 93-380, contains a number of important provisions that have helped to promote bilingual job training for Americans with limited English-speaking ability. I have worked hard for this legislation, and I am confident that its extension will result in expanded employment opportunities for bilingual citizens. We have not yet come close to eliminating the education problems faced by Spanish-speaking Americans in a predominately Anglo environment. Education is the key to advancement in our society; and if our goal of equal educational opportunity is to be achieved, we cannot tolerate the high dropout rate which exists within our Spanish-speaking community and which is directly related to the fact that the median income of a Spanish-speaking family is well below that of the population as a whole.

The legislation offered today is intended to strengthen the partnership which has been created between vocational education and bilingual education. Bilingual vocational training is primarily directed at the disadvantaged bilingual person who, for a variety of reasons, finds himself outside the confines of the traditional education establishment and who wishes to acquire additional skills. The objective of bilingual vocational training is to remove barriers to citizens with limited English-speaking ability as they strive to obtain better jobs in the private sector.

I am very pleased to note that our bill to extend part J is strongly supported by the major Spanish-speaking organizations and groups within our society. Such organizations include the National Congress of Hispanic American Citizens—El Congreso; SER—Jobs for Progress, Inc.; League of United Latin American Citizens—LULAC; American GI Forum of the United States; and other similarly active organizations. It must be kept in mind that the purpose of this legislation is to provide equal employment opportunities for bilingual persons while at the same time allowing them and their communities the opportunity to thrive within their own cultural background and heritage. The Spanish-speaking American's culture is a rich one, and we must work within this framework in order for the program to be a successful one.

I urge my colleagues to give this important proposal their utmost consideration. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 193 of the Vocational Education Act of 1963 is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof "for each of the fiscal years 1975, 1976, and 1977".

By Mr. GARY W. HART (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. HATFIELD, Mr. PHILIP A. HART, Mr. KENNEDY, Mr. LEAHY, Mr. MCGOVERN, Mr. MONDALE, Mr. MANSFIELD, Mr. NELSON, and Mr. PROXMIRE):

S. 1288. A bill to prohibit the expenditure of funds for the development and procurement of any lethal chemical weapons after the date of enactment of this act, and for other purposes. Referred to the Committee on Armed Services.

Mr. GARY HART. Mr. President, today, I will introduce, along with 11 of my colleagues, a bill that would place a total freeze on the military's program to produce a new generation of deadly nerve gas bombs and other lethal chemical weapons.

A few months ago, the United States finally ratified the Geneva Protocol of 1925 in which we pledged not to use nerve gas and other toxic chemical agents—weapons that have been anathema to the nations of the world since World War I. But that agreement, while a major step forward, unfortunately contains an important exception. Most major nations, including the United States, still reserve the right to use chemical weapons if they are attacked first.

I strongly believe that the next important step should be a further international agreement providing for a total ban on nerve gas and other chemical weapons The next step should not be the development of new and advanced chemical weapons systems.

The principal effect of this bill would be to bring to a halt the Pentagon's new

program to develop binary nerve gas weapons. The binary weapons would differ from our current stockpile in one main way. Instead of loading the artillery shells or bombs with the deadly agent, the binary weapons would contain two less dangerous substances that would combine, after firing, to create the lethal gas. This, the Pentagon argues, means that our nerve gas would be safer to manufacture, to store, and to take to the battlefield.

In my view this so-called safety would only have the effect of increasing the danger of chemical warfare. If nerve gas is easier to handle and more widely distributed around the world, it is more likely to be used. It also raises the danger that these weapons might be stolen by terrorist groups.

I believe that there is no such thing as a "safe" nerve gas—some are so deadly that they can cause painful death within seconds if a microscopic quantity simply touches the skin.

While the Department of Defense has asked for only some $14.3 million for binary nerve gas weapons for fiscal 1976, this is only the tip of the iceberg when it comes to the total cost of this new generation of chemical weapons. The entire program will eventually cost hundreds of millions of dollars if the Pentagon is allowed to proceed with its plan to replace our existing stockpile with binary weapons.

This bill would also have a second effect. It would prohibit the Pentagon from replacing nerve gas weapons that have deteriorated with similar models. Our current stockpile is large enough to exterminate the population of entire nations. Any small reduction in that stockpile caused by detoxifying obsolete weapons would not, in my view, be of military significance.

But again, I believe this prohibition would be a step in the right direction—toward the eventual elimination of morally repulsive weapons that do not significantly contribute to our national security.

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

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

S. 1288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no funds may be expended on or after the date of enactment of this Act by the Department of Defense or by any other department or agency of the United States for the purpose of:

(1) researching, developing, testing, engineering or manufacturing of any lethal chemical warfare agent or any lethal chemical warfare agent delivery system;

(2) procuring or otherwise obtaining any lethal chemical warfare agent;

(3) procuring or otherwise obtaining any delivering system or any component of any delivery system designed for the dissemination of any such lethal chemical warfare agent.

(b) Notwithstanding the provision of subsection (a) of this section, the Department of Defense shall be permitted to acquire or develop such quantities of lethal chemical warfare agents as may be necessary to conduct research, development, testing, and evaluation of devices, equipment, or processes that are or may be required to provide protection against lethal chemical warfare agents.

(c) The Secretary of Defense shall report to Congress within 30 days after the acquisition of any quantity of any lethal chemical warfare agent. Such report shall describe the agent, the quantity acquired, and the specific purpose for which such lethal chemical warfare agent is to be used.

(d) For purposes of this Act:

(1) The term "lethal chemical warfare agent" means any toxic chemical, solid, liquid or gas, which through its chemical properties is intended to be used to produce injury or death to human beings.

(2) The term "lethal chemical warfare agent delivery system" means any device, instrument, apparatus or contrivance, including any components or accessories thereof, intended to be used to disperse or otherwise disseminate lethal chemical warfare agents.

By Mr. KENNEDY (for himself, Mr. STAFFORD, Mr. RIBICOFF, Mr. PERCY, and Mr. CLARK):

S. 1289. A bill to amend chapter 5, subchapter II of title 5, United States Code, to provide for improved administrative procedures. Referred to the Committee on the Judiciary.

THE OPEN COMMUNICATIONS ACT OF 1975

Mr. KENNEDY. Mr. President, each day, in the Halls of Government, the voice of the American public is muffled and overwhelmed by the force of secret influence. But it is no secret that special interests often launch massive assaults on Federal administrative agencies for their own purposes, to the detriment of the public interest. A few well-documented examples illustrate the pervasiveness of this problem. The ITT settlement stands as one classic example. Secret meetings held between dairy lobbyists and White House officials paved the way for the administration to raise milk price supports. Calls were made by Government officials to the SEC on behalf of Mr. Vesco, and to other regulatory agencies on behalf of other campaign contributors.

While these examples are among the most notorious incidents of recent years, the pattern they suggest is all too common. The same pattern emerges from a careful study of the CAB, the FDA, and other major regulatory agencies begun by the Senate Subcommittee on Administrative Practice and Procedure.

Last year, the subcommittee began to compile data on the practices and procedures of regulatory agencies, with particular emphasis on the nature and extent of industry contacts. An analysis of the data obtained thus far has revealed a pattern of routine, continuous contacts between Federal administrative agencies and special interest groups. For example, the subcommittee ascertained from materials submitted by the Civil Aeronautics Board that, in 1974 alone, there were 769 contacts between members of the CAB and industry representatives, not including social and off-hours visits. Yet despite the continuous and significant nature of these contacts, the fact that they take place and their frequency and content are almost always hidden from public view.

Similarly, last year the subcommittee began hearings on the procedures of the Food and Drug Administration. During the course of these hearings, agency employees revealed that FDA policy regarding the safety and effectiveness of new drugs often changed markedly after private, unannounced meetings between FDA administrators and drug company officials, despite scientific evidence militating against the approval of the drugs.

These examples of unceasing day-to-day communications cast a constant shadow over the integrity of administrative proceedings. They also show how ineffective the rules governing such contacts are as they now stand.

Yet this problem is not a simple one with a simple solution. It must be recognized that the public has a legitimate right to communicate with Federal officials. The first amendment guarantees and protects the right of citizens to petition the Government for redress of grievances. Likewise, Federal officials benefit from the input of individual citizens, businesses, and groups in shaping Government policy in the public interest.

Some administrative agencies have begun to address the problems—both apparent and real—highlighted by the exercise of secret influence in administrative decisionmaking. The Department of Justice, under an order promulgated by former Attorney General Richardson, requires employees to record all communications with noninvolved parties. The Department of Transportation has established procedures for making records of meetings and conversations, with logs of certain kinds of meetings automatically placed on the public record. Employees of the Consumer Product Safety Commission maintain public record of communications regarding any matter "other than of a trivial nature, that pertains in whole or in part to any issue—likely to be the subject of a regulatory or policy decision."

The Administrative Procedure Act, which governs the internal procedures of Federal agencies, contains limited rules regarding communications of agency officials with private interests. These rules, called ex parte rules, prohibit off-the-record communications between agency employees and parties to formal on-the-record agency proceedings. But the statute neglects to regulate the greater part of an agency's activities: rulemaking, the formulation of policy, and the exercise of discretion in investigatory and prosecutorial matters. These sensitive and important areas are ripe for abuse, yet they remain cloaked in secrecy.

Today, I am introducing an amendment to the Administrative Procedure Act, cosponsored by Senator STAFFORD, Senator RIBICOFF, Senator PERCY, and Senator CLARK, which will reach those areas. The legislation would require the logging and disclosure of heretofore secret communications between agency officials and those who seek to influence them. Yet it would also fully protect and

encourage the right of the public to petition Government. The bill recognizes that all interested members of the public are entitled to an equal opportunity to make their views known to Government officials. Thus, free access would be allowed for all, while the logging procedure will provide sufficient "sunshine" to maintain public confidence in the entire process.

We know that this can be done. The Department of Transportation, for example, has been logging such contacts for 5 years. During the last year, the Federal Energy Administration, the Federal Trade Commission, the FDA, and the Consumer Product Safety Commission have all established procedures for making records of meetings and conversations and for making some public disclosure. Other agencies have begun to establish similar procedures.

The legislation we are introducing recognizes that some administrative difficulties may arise from logging and disclosure requirements that have too broad a sweep. Its purpose is to strike a balance between administrative burdens and the greater public interest, as has been done in the past with the Freedom of Information Act, the Administrative Procedure Act, and the new campaign finance law.

This bill recognizes the sophistication of administrative decisionmaking and tailors its requirements accordingly. It focuses on the high-level decisionmaker and the highest level decisions. It would allow agency personnel to solicit information freely. The legislation provides for the confidentiality of internal agency activities. And it would not unduly impede the flexibility which is the lifeblood of the administrative process.

Basically, the bill would require agency officials to maintain a record of communications initiated by persons outside the agency, with the exception of informants and the working press. High-level agency officials, beginning at the GS–15 and including the executive levels, would be subject to the logging requirements.

An agency's activities would be subject to three different kinds of logging and disclosure requirements.

First, communications concerning formal agency proceedings would be logged by the agency official and fully disclosed to the public. Second, communications regarding matters other than agency proceedings—policy matters or internal agency proceedings not governed by the Administrative Procedure Act—would be disclosed to the public in summary form if they are among those deemed "important" by the agency. A third category of requirements would apply to communications relating to discretionary agency activities during the preadjudicative stages of an enforcement proceeding. In order to protect the privacy of parties who are the subjects of such actions, communications they initiate with agency officials would be recorded and maintained only within the agency. However, all communications from nonparties attempting to influence agency officials during this critical period would be fully logged and publicly disclosed. And officials who knowingly falsify their records would be subject to criminal sanctions.

Let me suggest a specific example of how this bill would work in practice. A recent news article revealed that an Assistant Secretary of the Treasury Department wrote the General Services Administration, urging it not to intervene in local electric company rate cases. The article further revealed that shortly before this letter was sent, the head of the local electric power company met privately with Treasury Secretary Simon, seeking Government support for the company's request for a rate increase. I believe that it was entirely appropriate for the company official to bring his views to the Secretary's attentions. And it is equally appropriate for the company official to bring his position to GSA. But the public certainly has an interest in knowing that there may have been a connection between the Treasury letter and the utility company's plea. The public should be able to know of the communication with the electric company, with all the necessity for enterprising investigative reporters to reveal what the agency itself should be disclosing. The bill I introduce today would require that the company's contact with the Treasury Secretary on this important matter of public policy be logged and publicly disclosed as a matter of course.

I am pleased to note that Common Cause has given us considerable support in developing this legislation. In a statement last year, John Gardner offered his perceptive observations on the problem of agency secrecy:

> Some of the most effective and surreptitious lobbying today is practiced on executive agencies. Agency secrecy makes it extremely difficult for the citizen-consumer-taxpayer to counter the behind the scenes influence of the industries being regulated. The ironic thing is that government secrecy is no problem for the special interests: they have ways of knowing all that goes on. The only ones left out in the dark are the citizens. Our emphasis is not on prohibition of lobbying activities, but on their full disclosure. This can only be accomplished by a new lobby registration law, and by a new executive branch program for logging lobbying contacts. Most of the abuses can be traced to the secrecy which hides lobbying from public scrutiny.

I believe this bill represents a reasonable approach which attempts to distinguish between high Government officials and other Federal employees, between contacts on important matters of public interest and those of lesser significance, and between records of contacts which should be publicly disclosed and those which should be maintained only within an agency. It respects the privacy of individuals under investigation and the freedom of the press. Its procedures are relatively inexpensive and easy to administer. And, most importantly, it will draw aside the veil of secrecy which shrouds administrative matters and will reaffirm the public's right to know about and participate in agency decisionmaking.

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

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

S. 1289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Open Communications Act of 1975".

SEC. 2. Subchapter II of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 560. Maintenance of records of ex parte communications

"(a) For the purpose of this section, the term—

"(1) 'agency official' means all employees of the executive branch who are compensated in grade 15 and above under the General Schedule under section 5332 of this title 5, or under the Executive Schedule under subchapter II of chapter 53 of this title;

"(2) 'person' includes an individual, partnership, corporation, association, firm, society, joint stock company, Member of Congress, officer or employee of the executive branch, or any party to a proceeding;

"(3) 'informant' means any person who offers incriminating information, under an assurance of confidentiality, to the agency official for use in a civil or criminal enforcement proceeding;

"(4) 'preadjudicative stages of a proceeding' means agency activities prior to the commencement of an administrative or judicial enforcement proceeding held to determine punishment for or to prevent the violation of Federal law or agency regulation;

"(5) 'record of communications maintained for internal disclosure' means a record of communications received by the agency official which shall contain—

"(A) the name and position of the official who received the communication;

"(B) the date upon which the communication was received;

"(C) an identification, so far as possible, of the person from whom the communication was received and of the person on whose behalf such person was acting in making the communication;

"(D) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form;

"(6) 'record of communications maintained for summary disclosure' means a record of communications received by the agency official which shall contain—

"(A) the name and position of the official who received the communication;

"(B) the date upon which the communication was received;

"(C) an identification, so far as possible, of the person from whom the communications was received and of the person on whose behalf such person was acting in making the communication;

"(D) a brief characterization of the subject matter under discussion;

"(E) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form. In the case of materials which fall under section 552(b), a summary of the communication or a copy of such material with suitable deletions will suffice in lieu of the original.

"(7) 'record of communications maintained for full disclosure' means a record of communications received by the agency official which shall contain—

"(A) the name and position of the official who received the communication;

"(B) the date upon which the communication was received;

"(C) an identification, so far as possible, of the person from whom the communication was received and of the person on whose be-

half such person was acting in making the communication;

"(D) a brief summary of the subject matter or matters of the communication, including relevant docket numbers if known;

"(E) in the case of communications through letters, documents, briefs, and other written material, copies of such material in its original form. In the case of materials which fall under section 552(b), a summary of the communication or a copy of such material with suitable deletions will suffice in lieu of the original;

"(F) a brief description, when applicable, of any action taken by the official in response to the communication.

"(b)(1) Each agency official shall prepare a record of communications maintained for summary disclosure for each oral or written communication initiated by persons outside the agency, pertaining to a substantive policy matter before the agency, except any such communication from informants or members of the working press. For the purpose of this paragraph, a 'substantive policy matter' means any important agency action or policy issue as prescribed in regulations promulgated by the agency, except that no such regulation shall apply to agency proceedings as defined in section 551(12) of this chapter.

"(2) Each agency official shall prepare a record of communications maintained for full disclosure for each oral or written communication, initiated by persons outside the agency, during the pre-adjudicative stages of a proceeding or pertaining to a pending agency proceeding, except (i) any such communication from informants or members of the working press and (ii) any such communication initiated by the party to an enforcement proceeding during the pre-adjudicative stage. With respect to communications initiated by the party to an enforcement proceeding during the pre-adjudicative stage the agency official shall prepare a record of communications maintained for internal disclosure.

"(c)(1) Each agency shall assure that records of communications maintained for summary disclosure and records of communications maintained for full disclosure shall be prepared and furnished for inclusion in a public file within five working days of the receipt of the communication. Public files containing such records shall be located in the public reading room of the agency. Such records for which no public file already exists shall be placed in public files located in the public reading room, appropriately indexed pursuant to regulations promulgated by the agency. All public files shall be maintained for a period of five years, and shall be available for public inspection and copying.

"(2) Each agency shall assure that records of communications maintained for internal disclosure shall be prepared and furnished for permanent inclusion in the case or other appropriate file and that a copy of such record shall be furnished for inclusion in a centrally located file in the agency within five working days of the receipt of the communication.

"(d) Each agency official who is compensated under the Executive Schedule under this title shall provide for the maintenance of his prospective and retrospective calendars for public inspection in the public reading room of the agency. Such materials shall be submitted, and updated, the first working day of each week.

"(e) Any agency official who knowingly and willfully falsifies, forges, or fails to file any record required by this section shall be fined not more than $1,000 or imprisoned not more than one year, or both."

(b) The analysis of Chapter 5 of Title 5, United States Code, is amended by adding after item "559" the following new item:

"§ 560. Maintenance of records of ex parte communications".

SEC. 3. One year after the effective date of this Act, the Administrative Conference of the United States shall prepare a study of the procedures established under this section and offer suggestions to agencies and to Congress for their modification or improvement.

SEC. 4. The amendments made by this Act shall take effect ninety days after the date of enactment.

By Mr. NELSON (for himself and Mr. JAVITS):

S. 1290. A bill to reorganize the Clemency Board, the Department of Defense, the Department of Justice and the Department of Transportation to provide fair and efficient consideration of all individuals eligible for amnesty relating to military service in the war in Southeast Asia, and for other purposes. Referred to the Committee on Government Operations.

CONTINUATION OF THE PRESIDENT'S AMNESTY PROGRAM

Mr. NELSON. Mr. President, Senator JAVITS is joining me in introducing a bill to continue the President's amnesty program with certain changes.

The time has come for Congress to take further steps to heal the deep wounds inflicted on our Nation by the long and bitter war in Vietnam. Specifically, Congress should support and extend the President's amnesty program for the thousands of young men who evaded the draft or deserted the military during the Vietnam conflict. We are therefore introducing legislation for that purpose.

The need for immediate action on this legislation is clear. Last September, President Ford took the constructive step of establishing a program to provide amnesty for thousands of young men who, for one reason or another, felt compelled to refuse the draft or desert the military during the Vietnam war. In creating that program, the President recognized, as we all should, that the interests of society are served best when its system of justice reflects a good measure of understanding and mercy. The President spoke of this national need last summer when he announced his intention to issue an amnesty program:

All of us who served in one war or another know very well that all wars are the glory and agony of the young. In my judgment, these young Americans should have a second chance to contribute their fair share to the rebuilding of peace among ourselves and with all nations.

So I am throwing the weight of my Presidency into the scales of justice on the side of leniency. . . .

I ask all Americans who ever asked for goodness and mercy in their lives, who ever sought forgiveness for their trespass, to join in rehabilitating all the casualties of the tragic conflict of the past.

The program promulgated one month later incorporated the spirit of the President's promise. That program insured that every Vietnam draft evader or military deserter would be given a fair hearing to determine whether or not he should be granted clemency for his offense. The President's program also provided that, under certain circumstances, clemency would be granted only if the offender agreed to perform some alternate public service for a period of 2 years or less.

Already there is enough evidence with individual cases to demonstrate the wisdom and justice of an amnesty program. The Clemency Board created by the President, for example, has reviewed a large number of cases in which clemency was necessary as a matter of simple justice. Some representative cases reviewed by the Board include the following:

One individual served valiantly with the Army in Vietnam for almost a year. He was wounded three times and was awarded three Purple Hearts, the Vietnam Service Medal, and the Bronze Star for valor. After being reassigned to the United States, his father went bankrupt because of a drinking problem and his family generally fell upon hard times. He therefore returned home without authorization from the Army to earn some money to help his parents and his seven brothers and sisters. Despite these circumstances, the individual was fined, sentenced to six months at hard labor, and given a bad conduct discharge.

Another individual also served valiantly with the Army in Vietnam for a year and earned the Republic of Vietnam Campaign and Vietnam Service Medals. After his return to the United States, he requested an administrative discharge from the Army so that he could return home to help his mother, who had become extremely ill and was in desperate financial straits. When the Army refused the request for an administrative discharge, he returned home and went immediately to work. He, too, was fined and given a bad conduct discharge.

Another individual was a Jehovah's Witness whose religion forbade him from participation in war. He applied for conscientious objector status, but that was denied because the application was made after he had received his induction notice. The individual reported for induction but failed to step forward and take the oath. He turned himself in and stated he would do alternate service. However, he was convicted as a draft evader and given a 3½-year sentence, of which he served almost a year.

These and many similar cases underscore the need to continue the amnesty program. No one should condone violations of the law. But respect for the law does not preclude mercy in the dispensation of punishment. Nor should it blind one to injustices in the administration of the law.

Under the most recent Executive order, every eligible draft evader or military deserter must apply for clemency by March 31, 1975. After that, there will be no institutionalized opportunity for an eligible individual to seek the clemency he may deserve. This would be most unfortunate. Of the approximately 125,000 men eligible to apply for clemency, fewer than 20,000 have taken advantage of the opportunity. At this point we do not know all the reasons which may account for the unwillingness or inability of eligible individuals to apply. But we do know that the President's spirit of reconciliation

will not be served—and will in fact be undermined—if the opportunity for those individuals to receive mercy is withdrawn at the end of this month.

Congress, however, should not expect the President alone to continue to bear the burdens of the amnesty program. Congress, after all, repeatedly voted billions of dollars of public funds—over the dissents of myself and others—for the Vietnam war. Congress thus assumed some responsibility for the conduct of American policies in Vietnam. Congress should now accept some responsibility for ending the divisiveness which the war created.

This bill would enable Congress to fulfill that responsibility. In essence, the bill provides for the continuation of the President's program with certain modifications. These modifications account for some problems which have been exposed by the program's implementation over the past few months.

The first problem which the bill tries to correct concerns the administration of the program. The President's program actually consists of four separate operations. The Justice Department handles all cases of draft evasion where the individual has not yet been convicted. According to the Justice Department, this involves approximately 4,400 men. The Department of Defense handles all cases of military desertion from the Army, the Navy, the Marines, and the Air Force where the individual has not yet been discharged. The Department of Transportation independently handles all cases of military desertion from the Coast Guard where the individual has not yet been discharged. Together, the Defense and Transportation Departments estimate that there are 12,500 eligible men under their jurisdictions. Finally, the Clemency Board handles all cases where the individual has been convicted of draft evasion or already discharged from the Armed Forces. The Board estimates that 110,000 eligible men are within its jurisdiction.

The problem here is that there are different agencies which are applying different criteria to people in similar situations. Someone who was discharged from the Army for being absent without leave, for example, may receive better treatment at the hands of the Clemency Board than someone who went AWOL for similar reasons but has not yet been discharged and is therefore subject to the Defense Department's jurisdiction. Or, conversely, the Board may recommend that a military deserter do alternate service to obtain some form of clemency; the Defense Department, on the other hand, cannot require someone to do such alternate service outside the armed services since it loses jurisdiction over the individual as soon as he is discharged.

To prevent these kinds of inequitable situations, the bill would vest the Clemency Board with jurisdiction over all cases of draft evasion and military desertion. In this way, the same criteria and recommendations will be applied to people in similar situations. As a practical matter, this will increase the Board's workload by only 10 percent.

Another problem which the bill attempts to remedy concerns the arrest, prosecution and punishment of men who have applied for clemency. Under the existing situation, a draft evader living in Canada may return to the United States and apply for clemency. After conducting its examination, the Board may recommend a period of alternate service which the individual may decline to accept because he believes it is inequitable. If the offer of clemency is rejected, the individual immediately becomes subject to arrest, prosecution, and punishment.

This is clearly unjust. An individual should not have to risk prosecution in order to apply for clemency. The bill consequently provides that an individual who rejects any clemency offer may return to any foreign country in which he may have been living before he made the application for clemency.

Another problem concerns the right of draft evaders and military deserters living abroad to visit their families. To the rich family, of course, this is not a problem; they can afford the travel costs to visit their son wherever he may be. But to the vast majority of families, the cost of their son's draft evasion or military desertion means that they may never see him again because they cannot afford the travel expenses involved. The Vietnam war has already caused enough heartache and divisiveness. We should not compound the problem by prohibiting families from seeing their son, especially when his offense may be based on moral principle or some other compelling reason.

To correct this situation, the bill provides that any draft evader or military deserter living abroad shall be given a 30-day nonimmigrant visa each year. The bill provides further that anyone holding such a visa will be immune from arrest, prosecution or punishment for draft evasion or military desertion.

Finally, the bill does away with all deadlines for making a clemency application. Draft evasion and military desertion during the Vietnam war often involved agonizing choices by men who ultimately felt a greater obligation to their families or their conscience than to the laws and regulations governing military service. Such a person may need considerable time to decide whether or not to apply for clemency under the President's program—not only to understand fully how the program works but also to determine whether he wants to take advantage of it.

In any event, there is no sense in making this process a race to beat the clock. This is especially so since some individuals may have committed an offense 10 years ago and have had a long time to consider their fate, while others may have committed an offense only 2 or 3 years ago. Accordingly, the bill provides that the Clemency Board will entertain applications until its demise on December 31, 1976; thereafter, its functions will be assumed by the Justice Department. This should not pose any administrative burden since the vast majority of eligible men who want to apply will probably do so within the year.

The bill being offered today does not pose any constitutional problems. The legislation makes clear that the President will have the sole responsibility and discretion to determine whether clemency should be granted and, if so, under what conditions. Therefore, the bill does not in any way restrict the pardon power or any other power granted to the President under article II of the Constitution.

Many decades ago, Supreme Court Justice Benjamin Cardozo wrote that "the final cause of law is the welfare of society." That observation underlies the importance of the legislation being offered today. For there is no question but that this bill, if enacted, would do much to further the welfare of our society. It would enable thousands of young men to redeem their mistakes of the past; and in giving them this chance, the bill will further the spirit of national reconciliation which the President paid tribute to in announcing the amnesty program.

In offering this bill, we recognize that there are broad disagreements among people as to the merits of that program. I have cosponsored the bill offered by Senator PHILIP HART to grant unconditional amnesty to all Vietnam draft evaders and military deserters. At some point in the near future the Congress is going to have to face the question of whether we should grant unconditional amnesty to the Vietnam draft evaders and military deserters. But in the meantime we should not allow thousands of young men to become the unintended victims of our disagreements. Time is running out of them. The President's program requires all applications for clemency to be filed by March 31, 1975. For this reason, I trust and hope that the measure being offered today will be given a fair and speedy hearing.

Mr. President, I ask unanimous consent to insert the text of the bill in the RECORD at this point.

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

S. 1290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "Clemency Board Reorganization Act of 1975."

REORGANIZATION OF THE PRESIDENTIAL CLEMENCY BOARD

SEC. 2. The Presidential Clemency Board created by Executive Order 11803, dated September 16, 1974, is hereby established by law and reorganized to assume such responsibilities and powers granted to it by this Act and is directed to execute such responsibilities and powers in a manner consistent with the provisions of this Act. The Board shall be composed of nine members to be appointed by the President, one of whom shall be designated by the President to serve as chairman.

REORGANIZATION OF EXECUTIVE DEPARTMENTS AND AGENCIES AND TRANSFER OF POWERS

SEC. 3. (a) Any jurisdiction, responsibility or function which the Department of Defense has with respect to any draft evader or military deserter, as defined by this Act, under any law, regulation, presidential proclamation or Executive Order, shall be transferred to the Presidential Clemency Board. The Department of Defense shall thereafter be relieved of all such jurisdiction, responsibility or function, except as may otherwise be provided for by this Act.

(b) Any jurisdiction, responsibility or function which the Department of Justice has with respect to any draft evader or military deserter, as defined by this Act, under any law, regulation, presidential proclamation or Executive Order shall be transferred to the Presidential Clemency Board. The Department of Justice shall thereafter be relieved of all such jurisdiction, responsibility or function, except as may otherwise be provided for by this Act.

(c) Any jurisdiction, responsibility or function which the Department of Transportation has with respect to any draft evader or military deserter, as defined by this Act, under any law, regulation, presidential proclamation or Executive Order shall be transferred to the Presidential Clemency Board. The Department of Transportation shall thereafter be relieved of all such jurisdiction, responsibility or function, except as may otherwise be provided for by this Act.

THE FUNCTIONS OF THE PRESIDENTIAL CLEMENCY BOARD

SEC. 4. (a) The Board, under such regulations as it may prescribe, shall examine the cases of all draft evaders and military deserters who apply for Executive clemency.

(b) The Board shall report to the President its findings and recommendations as to whether Executive clemency should be granted or denied in any case. If clemency is recommended, the Board shall also recommend the form that such clemency should take, including clemency conditioned upon a period of alternate service in the national interest. In recommending any period of alternate service, the Board shall consider, among any other factors it deems appropriate, any prison term, or part thereof, or other punishment which the individual has served or endured for any offense specified in subsection (a) or (b) of section 14 of this Act. In the case of an individual discharged from the armed forces with a punitive or undesirable discharge, the Board may recommend to the President that a clemency, general or honorable discharge be substituted for a punitive or undesirable discharge. The President shall make the final determinations as to whether Executive clemency should be offered and, if so, under what conditions.

(c) The Board shall give priority consideration to those applicants who are presently confined and have been convicted only of an offense specified in subsection (a) or (b) or section 14 of this Act, and who have no other outstanding criminal charges pending against them.

(d) Any alternate service recommended by the Board under subsection (b) of this section shall not be longer than two years and shall promote the national health, safety or interest. No applicant shall be permitted to complete all or any part of such alternate service by service in the armed forces. The alternate service shall be completed in accordance with such regulations as the Board may prescribe and under the auspices of any department or agency of the United States which the Board deems appropriate. Any applicant who satisfactorily complete the period of any alternate service proposed by the President will be relieved of arrest, prosecution and punishment for any offense specified in subsection (a) or (b) of section 14 of this Act.

RIGHTS OF APPLICANTS

SEC. 5. (a) Notwithstanding any other law or regulation, any draft evader or military deserter residing in a foreign country may return to the United States for purposes of applying for Executive clemency under the provisions of this Act. Such individual shall be required to make an application with the Board for Executive clemency within 30 days after the date of entry into the United States and shall not be arrested, prosecuted or punished for any offense specified in subsection (a) or (b) of section 14 of this Act until the expiration of that 30 day period.

(b) No applicant shall be arrested, prosecuted or punished for any offense specified in subsection (a) or (b) or section 14 of this Act until 30 days after he receives notice of the President's disposition of the recommendation made by the Board with respect to that applicant, or until 30 days after he receives notice of the President's disposition of any appeal made to the Board, whichever is later, and then only if Executive clemency is not offered or, if offered, is not accepted. Any applicant who entered the United States from another country under the limited immunity granted by subsection (a) of this section and who rejects any offer of Executive clemency by the President may return to that other country at the point of entry.

(c) Notwithstanding any other law or regulation, any draft evader or military deserter, whether or not a United States citizen, who resides in a foreign country and has not been indicted or convicted of any offense other than those specified in subsection (a) or (b) of section 14 of this Act, shall, upon application, be given a 30-day non-immigrant visa at least once each year if he otherwise qualifies for such visa. No draft evader or military deserter holding such a non-immigrant visa shall be arrested, prosecuted or punished for any offense specified in subsection (a) or (b) of section 14 of this Act.

(d) Any regulations adopted by the Board pursuant to section 4(a) of this Act shall account for and preserve any and all legal and constitutional rights which a draft evader or military deserter may have.

REACQUISITION OF UNITED STATES CITIZENSHIP

SEC. 6. Notwithstanding any other law or regulation, any applicant who has renounced his United States citizenship and acquired the citizenship of another country may have his United States citizenship restored by appearing before a United States district court judge and renouncing citizenship of that country and pledging allegiance to the United States.

SEALING OF RECORDS

SEC. 7. Any and all records of an offense for which a Presidential pardon has been granted under this Act shall be sealed and shall not be disclosed except:

(a) in response to an order of a court of competent jurisdiction;

(b) at the request of the pardoned applicant;

(c) at the request of a department or agency of the United States which is conducting a lawful investigation necessary for a security clearance or Presidential appointment; or

(d) at the request of a department or agency of the United States which is conducting a lawful investigation of fraud in the application for or the granting of Executive clemency under the provisions of this Act.

VETERANS BENEFITS

SEC. 8. Unless otherwise granted by the President, the issuance of a clemency discharge shall not automatically confer rights to Veterans Benefits: *Provided*, That the Veterans Administration or the Department of Defense may review each case of an applicant receiving a clemency discharge for the purpose of determining whether or not Veterans Benefits should be granted; such review shall be without regard to any acts for which a presidential pardon has been granted.

ADMINISTRATION

SEC. 9. Each member of the Board, other than an officer or employee of the United States, shall be entitled to compensation for each day he is engaged in the work of the Board at a rate not to exceed the daily rate prescribed by law for persons and positions in GS–18 and shall also be entitled to receive travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in government service employed intermittently.

ADMINISTRATIVE SERVICES

SEC. 10. Necessary administrative services and support may be provided to the Board by the General Services Administration on a reimbursable basis.

COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

SEC. 11. All departments and agencies in the Executive branch are authorized and directed to cooperate with the Board in the conduct of its work and to furnish the Board, to the extent permitted by law, all appropriate information and assistance.

FINAL RECOMMENDATIONS; TERMINATION OF BOARD

SEC. 12. The Board shall submit its final recommendation to the President not later than December 31, 1976, at which time it shall cease to exist. Any functions assigned to the Board under this Act shall thereafter be assumed by the Department of Justice.

AUTHORIZATION

SEC. 13. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

DEFINITIONS

SEC. 14. As used in this Act—

(a) The term "draft evader" means any individual who has been or may be indicted or convicted for any offense committed on or after August 4, 1964, and prior to March 29, 1973, in violation of section 6(j) or 12 of the Military Selective Service Act (50 App. U.S.C. § 462) or of any rule or regulation promulgated under such sections, or of any related law, rule or regulation.

(b) The term "military deserter" means (A) any individual who has received or may receive a punitive or undesirable discharge for one or more violations of article 85, 86, or 87 of the Uniform Code of Military Justice (10 U.S.C. 885, 886, 887), or any related article, committed on or after August 4, 1964, and prior to March 29, 1973, or (B) any individual who is serving a sentence for one or more such violations.

(c) "Executive clemency" means a pardon or other act of mercy or forgiveness by the President, under such terms and conditions as the President may prescribe, pursuant to powers granted to the President by Article II of the United States Constitution.

(d) "Presidential Clemency Board" or "Board" means the body created by this Act to consider the cases of draft evaders and military deserters and to recommend to the President whether such evaders or deserters should receive executive clemency and, if so, under what conditions.

(e) "Clemency applicant" or "applicant" means any draft evader or military deserter who applies for clemency under the provisions of this Act.

(f) "Clemency discharge" means a military discharge granted by the President pursuant to the provisions of this Act to signify that the applicant left the military service under honorable conditions.

(g) The term "Military Selective Service Act" means the Military Selective Service Act or any prior corresponding Act.

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

S. 1291. A bill to establish a National Commission on Economic Growth and Stability to identify major changes and long-term trends in the economy of the United States and to propose public policies responsive to such changes and trends. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JOHNSTON. Mr. President, today

Senator CRANSTON and I are introducing legislation to create a National Commission on Economic Growth and Stability. The purpose of this commission is to bring a number of economic experts into Government for 1 year. The mission of these economists would be to identify the major changes that have occurred in our economy, and to make specific public policy recommendations for addressing these changes on a long-term basis.

One of the messages of the economic recession in which we now find ourselves is that our national and international economies may be far more complicated than any of us realized. In the 1960's, when our country enjoyed 9 years of continued prosperity, there was the feeling among economists and many Members of Congress that we had discovered the secret of our economy, and that we could fine tune that economy to maintain growth, high employment, and price stability. The last year has shown that that kind of confidence was premature.

The lessons we are now learning are very different. Perhaps the most important economic lesson of today is that there are continuing and substantial changes in our economic world.

All of us can identify several major changes. American industrial structure continues to become more concentrated. Most of our large industries are now oligopolistic, with anywhere from three to a dozen major producers. At the same time, we all have observed the growth of conglomerate corporations, so that previously independent producers and distributors are now part of much larger corporate entities.

There are a number of other important changes we have seen. The situation of world commodity shortages experienced during 1973 was unprecedented in recent years. The current increase in unemployment coupled with the highest rates of inflation since World War II are suggestive of an economic environment which is very unusual. The increase in energy costs, and the embargo on Arab oil in late 1973, have introduced a new set of variables into our economic equations. There is continuing concern about our capital needs in the future, and whether or not we will be able to meet them. And we have recently heard questions about the total size of Government spending—which now accounts for one-third of our national output—and whether such a large public sector can undermine the solid foundations of our economy.

When we look at this list of economic developments, there is an inescapable message: Our world is forever changing, and we must respond to those changes. In submitting this legislation, which is titled the Economic Growth Act of 1975, we are trying to take a first step toward meeting the unprecedented economic challenges that we face today.

Ideally, our Government should have an ongoing means of tapping expert economic advice on problems of long-range importance. Such a resource does not now exist. The major elements of the economic advisory mechanism—the President's Council of Economic Advisers, the Department of the Treasury, the Federal Reserve Board, and the Office of Management and Budget—are too concerned in solving our day-to-day problems to focus on the long-range issues mentioned before. These organizations must spend their time in putting Americans back to work now; in speeding economic growth now; in restoring price stability now. But in solving today's problems, we do not always plan well for tomorrow.

We recognize that there is general skepticism among many Americans about commissions. And this is with good reason. All too often commissions have been established when a President has faced an issue of national concern and did not know specifically what to do. All too often commissions have lacked independence, or have functioned with limited support from either the executive or legislative branch. And all too often the proposals of commissions have been ignored.

The body that this legislation would create is unlike most of these commissions in many important ways. First, it would be a group of men and women qualified professionally to do a specific job. Most of our commissions include a mix of distinguished Americans. And that is fine for many tasks. But today we have people who are professionally qualified to contribute to our economic problem-solving, and we should tap that resource. This is why this is a commission of professional economists. Second, members of the commission usually meet infrequently, and spend most of their time ratifying conclusions that are reached by staff. The National Commission on Economic Growth and Stability would require that the nine members serve on a full-time basis, so that the product of the Commission is really the work of the members. Third, the commission would have complete independence. It would have its own budget, and would not have to rely on the President or the Congress once it was created. Fourth, the Commission would be comprised of members nominated by both parties. The legislation provides for the appointment of five members by the President, five by the Speaker of the House, and five by the President of the Senate. Fifth, there is a provision for congressional input into the Commission's work by the Joint Economic Committee. Sixth, there is a provision for formal comment on the report of the Commission once completed.

We believe that this proposal would be an important first step to our understanding the long-range needs of the American economy. Perhaps if something like this had been undertaken in the 1960's we could have discovered many of the problems we are now facing in the 1970's and might have better prepared for them. If such a commission had made but one basic recommendation—for example, the need for energy conservation—we could have avoided many of the economic hardships that we are now experiencing. Therefore, we hope that the Congress will create this Commission and that the group can begin its work by next fall.

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

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

S. 1291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Growth Act of 1975."

FINDINGS

SEC. 2. The Congress finds that—

(1) The goals of the Employment Act of 1946, requiring that the Federal Government use all practical means to create and maintain useful employment opportunities for all those able, willing, and seeking work, continue to be important guidelines for the United States.

(2) It is equally important that the Federal Government, to the greatest extent possible, use all practical means to maintain economic growth in the United States and to achieve and maintain stable prices.

(3) In order to accomplish these goals, it is necessary for the Federal Government to identify major and significant changes in the national and international economy that have occurred, and to project important possible economic changes for the future.

(4) These changes should be identified with sufficient frequency and specificity so that public policy can reflect the evolving economic environment.

(5) The industrialization of the United States and the rapid and significant changes in the structure of American industry have resulted in a developing economy that presents significant problems in maintaining efficient utilization of scarce resources and maximum utilization of production capacity.

(6) The growing interdependence of national economies raises additional issues in the coordination of the international economy.

(7) Existing institutions do not adequately identify and anticipate the kind of broad and significant changes in economic activity that occur.

(8) Therefore an organization should be established to identify major problems facing the United States economy in the future, in the context of the primary changes that have occurred in the national and international economies, and to identify public policy for achieving national economic goals.

PURPOSE

SEC. 3. It is the purpose of this Act to establish a National Commission on Economic Growth and Stability to identify the major changes in the national and international economic environments that would affect the development of national economic policy. The Commission shall propose a long-range program designed to achieve the national economic goals referred to in section 2 (1) and (2) of this Act.

ESTABLISHMENT AND DURATION

SEC. 4. (a) There is established as an independent instrumentality of the Federal Government a National Commission on Economic Growth and Stability (hereinafter referred to as the "Commission"). The Commission shall consist of 9 members who are, by background, training, or experience, qualified economists and who shall serve on a full-time basis for the first 12 months of Commission activity, during which time the report of the Commission will be completed. The Commission shall cease to exist 18 months after appointment, and members will serve during the last 6 months with sufficiency frequency to conduct the hearings and receive the comments as provided for in Section 6(c). Commission members will receive per diem compensation during this 6-month period, as provided in Section 4(c).

(b) The members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, except that 3 members so appointed shall be from among individuals recommended by the Speaker of the House of Representatives, and 3 such members shall be appointed from among individuals recommended by the President pro tempore of the Senate. The President shall, at the time of appointment, designate one of the members to be chairman of the Commission and one of the members to be vice-chairman of the Commission.

(c) Each member of the Commission shall be entitled to be compensated at a rate equal to the rate for level IV of the Executive Schedule under section 5315 of title 5, United States Code, whether the compensation is on an annual or per diem basis.

(d) The Commission shall submit a final report not later than 12 months after the appointment of the Commission to the President and the Congress on specific findings and recommendations with respect to the subjects outlined in section 5. The Commission may prepare, publish, and transmit to the President and to the Congress such other reports and recommendations as it deems appropriate.

FUNCTIONS

SEC. 5. It shall be the function of the Commission to conduct a study and report to the President and to the Congress with respect to major changes in the economy and proposed policies for addressing these changes. The work of the Commission should focus on the long-term issues facing the national economy, and should identify appropriate public policy for addressing projected long-term changes in national economic structure, stability, and activity. The work of the Commission will present findings on the following subjects, as well as other topics selected by the Commission:

(1) *Sources and problems of economic growth*, including productivity trends, the availability of capital and the structure of capital markets, the impact of population trends, the impact of technical achievements and technology transfer, the impact of energy shortages and long-range shortages in other commodities, and monetary policy.

(2) *Problems of price stability*, including the impact of more concentrated market structures on competition, antitrust laws and their enforcement, structure and impact of organized labor, and the effectiveness and significance of Government rate-making commissions.

(3) Problems of full employment, including long-range manpower training, and the correspondence of manpower supply with employment demands in the long term.

(4) Problems of international economic stability, including international trade policy, the international monetary system, and the United States balance of payments.

(5) Problems of Government fiscal policy, including the level and composition of Government spending, and the structure and impact of the tax system.

(6) Effectiveness of the existing economic advisory mechanism, including the current resources for economic policy formulation.

ADVICE TO THE COMMISSION

SEC. 6. (a) The Commission may, during the period of its work, hold hearings at such times and places as it may deem advisable to gather information and opinions about subjects of importance to the Commission's study.

(b) It is recommended that during the period of its work the Commission solicit advisory counsel from representatives of industry, labor, relevant international organizations, governmental regulatory agencies and commissions, the banking and investment industries, members of the antitrust and tax bar, and elected public officials.

(c) During the period of six months after the issuance of its report, the Commission shall receive comments on the report and hold hearings on the report. If it is deemed necessary by the Commission, a supplement to the report may be issued to summarize contributions made from this comment and hearing process.

(d) The provisions of the Federal Advisory Committee Act will not apply to this Commission.

STAFF AND POWERS

SEC. 7. Subject to such rules and regulations as it may adopt, the Commission may—

(1) appoint and fix the compensation of an Executive Director at the rate provided for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS–15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 United States Code.

CONGRESSIONAL OVERSIGHT

SEC. 8. The Joint Economic Committee shall monitor and review the activities and reports of the Commission.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 9. Each department, agency, and instrumentality of the Federal Government including the Congress, consistent with the Constitution of the United States, is authorized and directed to furnish to the Commission such reports, and other information as the Commission deems necessary to carry out its functions under this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are authorized to be appropriated not to exceed $2,000,000 for the expenses of the Commission.

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

S. 1292. A bill to provide for the management, protection, and development of the national resource lands and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HASKELL. Mr. President. As you know, on January 30, 1975, I introduced S. 507—the National Resource Lands Management Act. This bill, often referred to as the BLM Organic Act would provide the first comprehensive statement of congressional goals, policies, and authority for the use and management of 451 million acres of federally owned lands administered by the Secretary of Interior through the Bureau of Land Management.

I am introducing today, for Senators JACKSON and FANNIN, by request, the administration's version of this important legislation. I am pleased to note, Mr. President, that this bill closely parallels S. 507 in many respects. Unfortunately, the administration's proposal was not available last week when the Subcommittee on the Environment and Land Resources held a hearing on S. 507. Due to the extraordinary number of rollcall votes on the floor last Friday, the subcommittee was unable to complete the hearing in a single day. Therefore, we will be scheduling another hearing in the near future and will be pleased to have the administration's proposal before us at that time.

I ask unanimous consent that the letter of transmittal accompanying the administration's proposal be included in the RECORD at this point.

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

WASHINGTON, D.C.,
March 6, 1975.

DEAR MR. PRESIDENT AND DEAR MR. SPEAKER: Transmitted herewith is a draft bill "To provide for the management, protection and development of the national resource lands, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee and that it be enacted.

The national resource lands administered by the Secretary of the Interior through the Bureau of Land Management comprise 60% of all Federal lands. The national resource lands were for many years used as a means of stimulating the growth and development of the West. Consequently, little attention was given to preserving the irreplaceable values of those lands. Many of the laws pertaining to the lands were designed primarily to facilitate disposal. Although there has been a growing awareness that these lands are an invaluable national asset and although our policy is now to preserve their values in Federal ownership for the benefit of the general public, these lands have inherited an archaic and often conflicting conglomeration of laws which govern their use.

From 1812 to 1946, these lands were under the custodial administration of the General Land Office in the Department of the Interior. Its primary job was to survey the land and convey it to qualified applicants. The dust storms and other distress of the 1930's focused national attention on western lands. In 1934, the Taylor Grazing Act brought a large measure of protection and management to the "forgotten lands" in the West. For the purpose of managing grazing of the western lands, the Grazing Service was created within the Department of the Interior.

From 1934 to 1946, the Grazing Service and the General Land Office shared administration of the western range. The Bureau of Land Management was created in 1946 primarily through consolidation of the functions of these two existing agencies. The variety of responsibilities of the Bureau of Land Management is extraordinary among the Federal resource management agencies:

It has exclusive jurisdiction over and responsibility for management of 450 million acres of national resource lands. In addition, BLM has some management responsibilities on millions of acres of withdrawn lands.

In cooperation with the Geological Survey, it has responsibilities for administration of the mineral laws on more than 800 million acres of land including public domain, acquired lands and lands in which the United States has reserved mineral interests. In addition, BLM administers the mineral leasing program on the Outer Continental Shelf.

It keeps the basic public land records and does land boundary surveys for most Federal lands.

Despite the extensive responsibilities of BLM, Congress has never clearly defined BLM's mission or made a comprehensive grant of authority to BLM to accomplish its mission. Unlike other Federal conservation agencies such as the National Park Service and the National Forest Service, the mission and authority of BLM must be gleaned from some three thousand land laws which have accumulated over some 170 years. This piecemeal collection of laws is seriously inadequate, incomplete, and sometimes conflicting.

Although the Bureau of Land Management

is responsible for more Federal land than any other Federal agency, its authorization to administer the land is inadequate. For example, BLM has insufficient sale and exchange authority and has no general authority to enforce its rules and regulations. It does not have essential administrative authority enjoyed by other Federal agencies, such as really workable exchange authority, or a working capital fund and authority to contract with State and local law enforcement agencies for protection of Federal lands and their uses. The bill transmitted herewith would provide the basic mission statement and authority for management, protection, development, sale and administration of national resource lands. It would be a Congressional declaration, for the first time, of national policies governing the use and management of the national resource lands and would provide specific guidelines for the management of these vast lands.

The format of the bill is designed in view of the long-range needs for a legislative base for the management of the national resource lands, as pointed out in various analyses, including that of the Public Land Law Review Commission. Each title of the proposal is designed to permit separate consideration of its provision and to permit modifications without review of other titles. It provides for a separate repealer title, to consolidate administrative authority in one act and eliminate archaic laws.

Title I of the proposal, the "National Resource Lands Management Act", declares a national policy that these lands be managed under the principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the quality of environment, including requiring appropriate land reclamation as a condition for use.

It directs the Secretary of the Interior to inventory the national resource lands and to develop comprehensive land use plans for such lands, giving priority to areas of critical environmental concern. "Areas of critical environmental concern" are defined to include, among others, important natural systems and scenic or historic areas. The bill also directs the Secretary to identify land suitable for wilderness study, and to review and make recommendations to Congress for inclusion of eligible land within the Wilderness System.

Title II, Conveyance and Acquisition Authorities, would provide modern disposal authority for the Secretary to sell by competitive bidding national resource lands at not less than fair market value, when management of those lands would be significantly improved or when such disposal would serve important public objectives which cannot be prudently and feasibly achieved on land other than the national resource lands, or when the lands are not suitable for Federal purposes. Under certain circumstances it would authorize conveyance of mineral interests in lands to the surface owner if certain criteria are met. Acquisition of lands needed for proper management of national resource lands would be authorized.

Title III, Management Implementing Authority, would provide modern land management tools and procedures designed to facilitate achievement of the goals and objectives established for the national resource lands. Among other things, it would establish a working capital fund that would afford a more efficient method of accounting for various programs and service operations of the Bureau of Land Management.

It would significantly facilitate management of the national resource lands by making violation of laws and regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees. In addition, the Secretary would be authorized to cooperate with State and local law enforcement agencies on national resource lands and to reimburse them for extraordinary services on national resource lands.

Title IV provides uniform and comprehensive authority for the Secretary to grant rights-of-way for purposes ranging from roads, trials and canals to powerlines and pipelines other than oil and gas pipelines. Presently this authority must be gleaned from numerous, often overlapping laws.

Title V of the proposal would repeal a number of obsolete, duplicative, or superseded laws. These include a hodgepodge of land disposal laws, and a number of other laws relating to fees, charges, and other administrative matters.

The national resource lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

JACK HORTON,
Assistant Secretary of the Interior.

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

S. 1293. A bill to establish the Charles M. Russell National Wildlife Range, the Charles Sheldon National Wildlife Range, and the Kofa National Wildlife Range as part of the National Wildlife Refuge System, and for other purposes. Referred to the Committee on Commerce.

Mr. METCALF. Mr. President, a major component in our efforts to protect wildlife in the Western United States has been a system of wildlife ranges, including the preserve of nearly a million acres in central Montana known as the Charles M. Russell National Wildlife Range. Imagine my surprise when, upon returning from an Interparliamentary Union Conference in February, I learned that the Interior Department had arbitrarily decided to oust the U.S. Fish and Wildlife Service from administrative responsibilities of the Russell and two other major ranges and award sole jurisdiction for them to the Bureau of Land Management. The action regarding the Russell Range was taken without any consultation with the Montana Senators, and the same may have been true with regard to consultation with my colleagues representing States in which the other ranges are located. I refer to the Kofa Range in Arizona and the Sheldon Range located in Nevada and Oregon.

Apart from the questionable legal basis for such an arbitrary decision, I was distressed that jurisdiction was awarded to an agency which is identified in the public eye with commercial use of public lands. I have long insisted that the Bureau of Land Management has one of the most difficult jobs in America managing some of our most fragile lands without adequate popular and congressional support. But I cannot understand why the Bureau, with its many and diversified problems, wants to expand into management of game ranges in the west.

I have always held the view that the Fish and Wildlife Service should be the sole administrator of the areas in question, and have so communicated my feelings to the Secretary. But I refrained from introducing remedial legislation pending an explanation from the BLM. I met with agency officials in my office on March 7 and queried them at length on the rationale for the transfer. With reluctance, I agreed to withhold introduction of legislation pending the outcome of explanatory hearings by the BLM in Montana. Assistant Secretary Jack Horton later confirmed that formal approval of the proposed shift would also await completion of the hearings.

I have since learned from several sources that Fish and Wildlife personnel on the Russell Range have been given 2 weeks by BLM to either transfer to the latter agency or leave the area. The ultimatum adds to my uneasy feeling that the decision is final, no matter what transpires at the Montana hearings. I thus feel compelled to introduce restraining legislation in spite of our tentative agreement.

I am, therefore, introducing today a bill which would, first establish the Western game ranges by act of Congress rather than by their present executive decree, and second, award sole jurisdiction to the U.S. Fish and Wildlife Service. This action has the support of 22 national conservation organizations, plus cosponsorship on short notice by my senior colleague, MIKE MANSFIELD, and the junior Senator from Oregon, BOB PACKWOOD. I have no doubt that further support will be generated as the merits of the case become known.

Under terms outlined in my March 20 letter to Secretary Rogers Morton, no Senate hearing will be sought on the bill until the BLM completes its hearings in Montana and we have a chance to assess public reaction. I am, however, asking Senate Interior Committee Chairman HENRY JACKSON to request a full report on the Department's order. Hopefully, that information will be available by the time the Montana hearings are completed.

Mr. President, I introduce the bill for appropriate reference and ask that it be printed at this point in the RECORD.

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

S. 1293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, on and after the date of this Act, the Charles M. Russell National Wildlife Range in Valley, Garfield, Petroleum, Fergus, Phillips and McCone Counties, Montana; the Charles Sheldon National Wildlife Range in Washoe and Humboldt Counties, Nevada, and Lake County, Oregon; and the Kofa National Wildlife Range in Yuma County, Arizona (hereinafter in this Act referred to collectively as the "ranges"), which consist of the lands and waters as described in Section 2 of this Act, shall be areas within the National Wildlife Refuge System.

SEC. 2. (a) The Charles M. Russell National Wildlife Range shall consist of the lands and waters described in Executive Order 7509 of December 11, 1936, establishing the Fort Peck Game Range, as modified by Public Land Order 2951 of February 25, 1963, changing the name to the Charles M. Russell National Wildlife Range, and shall include lands and waters comprising the U L Bend National Wildlife Refuge established on a portion of the lands formerly within the

range by Public Land Order 4588 of March 25, 1969.

(b) The Charles Sheldon National Wildlife Range shall consist of the lands and waters described in Executive Order 7522 of December 21, 1936, and shall include all lands and waters acquired by purchase, gift or exchange within the boundary of the range and administered as separate units of the range. The Sheldon National Antelope Refuge established by Executive Order 5540 of January 26, 1931, creating the Charles Sheldon Wildlife Refuge, as enlarged by Executive Order 7364 of May 6, 1936, and modified by Executive Order 2416 of July 25, 1940, changing the name to Sheldon National Antelope Refuge, including all lands and waters acquired by purchase, gift or exchange, administered as part of the refuge shall be added to the range and redesignated as the Charles Sheldon National Wildlife Range.

(c) The Kofa National Wildlife Range shall consist of the lands and waters described in Executive Order 8039 of January 25, 1937, as modified by Public Land Order 4216 of April 24, 1967.

SEC. 3. (a) The Secretary of the Interior, acting through the United States Fish and Wildlife Service, shall administer the ranges in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd-ee; 80 Stat. 927), and other applicable laws and regulations.

(b) No lands or waters within any of the ranges may be disposed of by sale, donation, or otherwise, nor may the administration of the ranges be transferred, in whole or part, from the United States Fish and Wildlife Service, unless such disposal or transfer is authorized by Act of Congress.

Mr. PACKWOOD. Mr. President, the citizens of Oregon have been shocked to learn of the cavalier decision by the Department of the Interior to oust the U.S. Fish and Wildlife Service from managing the Charles Sheldon Antelope Range, part of which is in our State, and turn this magnificent wildlife area over exclusively to the Bureau of Land Management, along with other wildlife ranges in Montana and Arizona.

Many people first heard of this decision in newspaper stories, and even now, 6 weeks later, no public comments have been invited on this action by the Department of the Interior.

The critical concern over these ranges is one of management. The Presidential orders establishing these ranges provided that wildlife would be the primary concern in managing the ranges, and that all other uses would not conflict with it. The Fish and Wildlife Service is eminently qualified to do this. They have the professional expertise and a long history of dealing with wildlife problems.

As you know, I am a strong supporter of the Bureau of Land Management. About 25 percent of our State is administered by BLM, including some of our richest timber land and vast expanses of range land. BLM needs help badly in establishing a multiple-land-use mandate for the difficult job it has managing some of our country's most fragile land without adequate popular and congressional support.

However, I do not subscribe to the notion that BLM should also take over lands whose predominant purpose is for wildlife conservation. The Sheldon Antelope Range was established primarily for wildlife purposes, and it should stay that way, under the proven management of the Fish and Wildlife Service. Oregonians have much experience with the Fish and Wildlife Service, which manages large refuges, such as the Hart Mountain Antelope Refuge and Malheur National Wildlife Refuge. I can see no plausible reason not to continue this capable agency's management of the wildlife refuges and ranges.

My colleagues should be aware that BLM has already considered opening these ranges for oil and mineral extraction, as well as intensive grazing. The published materials released by BLM on the transfer decision state that BLM will not change the management of the Sheldon Range in any way. However, I understand that BLM intends to allow practices in these ranges which will seriously threaten the wildlife values there. Furthermore, BLM is well known to be more sympathetic toward the exploitation of commodity resources on these ranges than would the Fish and Wildlife Service.

These ranges were never meant to be multiple-use areas. Certain livestock grazing is allowed under the Executive orders that established them, but they have never been viewed as being open to all resource uses. The citizens of Oregon would not stand for it.

Mr. President, at least three major newspapers have criticized this transfer of these valuable lands over to the BLM. I ask unanimous consent that their editorials be included in the RECORD at this point.

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

[From the Sunday Oregonian, Portland (Oreg.) Feb. 23, 1975]

WILDLIFE LOSS

The never-ending crusade to conserve and enhance wildlife resources of the nation has its high points and its low points. Federal agencies with jurisdiction over such resources sometimes demonstrate sincere recognition of their responsibilities. Sometimes, they don't.

Among the items of bad news is the decision of Secretary of Interior Rogers Morton removing jurisdiction over 2 million acres of wildlife habitat in Montana, Nevada and Arizona from the Fish and Wildlife Service and awarding it exclusively to the Bureau of Land Management, another Interior Department agency whose chief concerns are grazing, mining and oil and gas leasing. The affected areas are the Charles M. Russell National Wildlife Range, the Charles Sheldon Antelope Range and the Kofa Game Range. These have been jointly administered by Fish and Wildlife and BLM since they were established in the 1930s by order of President F. D. Roosevelt.

Twenty-three environmental organizations led by the Wilderness Society have urged President Ford to revoke Secretary Morton's order. Turning these wildlife ranges over to BLM, they said, "is absolutely unacceptable." BLM's own report that 83 per cent of the grazing land it administers is in fair, poor and bad condition is not reassuring as to its management of habitat set aside for wildlife.

[From the New York Times, Feb. 27, 1975]

WHOSE PUBLIC LANDS?

Conservationists are rightly aroused by the Interior Department's decision to give exclusive control of three of the country's major wildlife ranges to the Bureau of Land Management. Their concern is warranted enough for Congress to step in if President Ford does not reverse Secretary Morton's deplorable action.

The issue is extremely simple. The Fish and Wildlife Service, which has had joint jurisdiction with the B.L.M. over these areas, has been conscientiously trying to fulfill its duty to protect the wild animal life of the Kofa Game Range in Arizona, the Charles Sheldon Antelope Range in Nevada and the Charles M. Russell National Wildlife Range in Montana. It has resisted overgrazing of the land and destructive mining claims.

The B.L.M., by contrast, has historically concentrated on protecting the interests of livestock grazers and mining interests, with only secondary concern for watershed, wildlife and recreational values. Inevitably the two agencies have been in conflict—notably on such matters as the bureau's plans to destroy the sagebrush of the antelope range by spraying it with herbicides and to confine livestock with extensive fencing, regardless of harm to the wildlife of the area.

The unnatural administrative yoking of the two agencies should no doubt be ended—but the Secretary wants to do that in precisely the wrong way. B.L.M. is already in control of the vast bulk of public lands, as it was intended to be.

But there is no justification for turning over to it the administration of ranges specifically established for the protection of animals that depend on undisturbed environments—among them the desert bighorn sheep, the pronghorn antelope and a variety of raptors. These ranges, which are their habitat, represent less than one-half of 1 per cent of the public lands. They should be assigned to Fish and Wildlife, to which a fourth game range, in Arizona, has in fact been transferred.

The only purpose in Mr. Morton's move is to accommodate the stock and mining interests which have already been overprotected by an indulgent government at the expense of the common heritage. Congress should say no.

[From the Los Angeles Times, Feb. 27, 1975]

BUREAU OF LAND MANAGEMENT UNFIT TO RUN SYSTEM?—THE DIRE THREAT TO OUR WILDLIFE PRESERVES

(By Lewis Regenstein)

America's system of wildlife preserves is in danger of being dismantled and destroyed. Unless public pressure can force a shift in current policies of the Interior Department, the entire system may eventually be turned over to private interests intent on mining, oil and gas exploration, livestock ranching and other destructive exploitation.

The clearest indication of Interior's intentions came just three weeks ago when it striped the U.S. Fish and Wildlife Service of its jurisdiction over three of the nation's most important wildlife preserves and turned them over solely to the Bureau of Land Management. The three preserves—totaling more than 2 million acres—are among the nation's most important wildlife conservation areas, each essential to the preservation of several rare and endangered species:

The Charles M. Russell National Wildlife Range in Montana, which consists of 970,000 acres of gentle rolling grasslands and steep forested ridges. It provides ideal habitat for elk, prong-horn antelope, beaver, burrowing owls, and such rare and endangered species as the bald eagle, prairie and peregrine falcons, osprey and black-footed ferrets.

The Charles Sheldon Antelope Range in Nevada and Oregon, famous for its 578,000 acres of high desert mesas and rolling hills. It contains California big horn sheep, bald eagles and antelope.

The Kofa Game Range, which covers 660,000 acres in southwestern Arizona. It pro-

vides essential habitat for desert big horn sheep, mule deer, ringtailed cats, and peregrine and prairie falcons.

A fourth range, the Cabeza Prieta Game Range in Arizona, which contains little grazing or mining potential, was assigned to the Fish and Wildlife Service by the same order, while the Desert National Wildlife Range in Nevada is already under sole jurisdiction of the FWS.

These five wildlife ranges were established in the 1930s by President Franklin D. Roosevelt to protect wildlife species dependent in the shrinking wilderness of the desert and high plains. At that time, management of the ranges was assigned jointly to the FWS, which was to take charge of wildlife, and the Bureau of Land Management, which as to supervise livestock grazing and mining. Since then, BLM's discharge of its duties has been less than striking. For example, cattle grazing was to be carried out only where there was excess forage not needed by wildlife, but BLM has permitted extensive overgrazing by livestock, thus robbing resident wildlife populations of forage necessary for survival.

Further evidence that the Bureau of Land Management is not qualified to be in charge of wildlife ranges can be found in a 1974 study of Nevada grazing lands done by an evaluation team for BLM itself. The report concluded that Nevada lands under the bureau's jurisdiction have been used almost exclusively for livestock grazing at the expense of wildlife, recreation and water conservation. As recently as last September, in fact, BLM director Curt Berklund conceded that conditions similar to or worse than those in Nevada existed on lands throughout the West managed by the bureau.

A 1965 evaluation of the Kofa Game Range, done jointly by BLM and FWS, made this observation: "It is apparent the delicately balanced vegetative complex on the desert areas involved cannot support livestock and also maintain its inherent potential to serve wildlife." This study also found that "present livestock use is occurring to the detriment of wildlife, representing an infraction of the directives of the establishing executive order," and recommended that grazing be phased out within seven years.

Nevertheless, nine years later, grazing continues today.

In turning over three of the nation's most important wildlife ranges to BLM—long known as a destructive and exploitative agency—Interior Secretary Rogers C. B. Morton caved into pressure from mining, livestock and other business interests. These interests want the Fish and Wildlife Services stripped of control of the ranges because it has, in some cases, had the temerity to try and halt overgrazing by livestock.

BLM control poses no such problem. The latest figures supplied by BLM itself show that 83% of the rangeland it manages is in fair, poor, or bad condition, and no effort is being made to improve it.

Clearly, a takeover by BLM could virtually destroy the stability of the species for whose protection our wildlife ranges were originally established. BLM, for instance, has proposed large-scale herbicide spraying of sagebrush and extensive fencing on the Sheldon Antelope Range—a program which, of course, would benefit livestock while wreaking havoc with wildlife. The fencing would interfere with the free movement of the antelope, and elimination of sagebrush would destroy plant life on which the sage grouse depend.

Several species that were rare in the 1930s—such as proghorn antelope—have made a remarkable recovery on these ranges, but under BLM management their survival will once again become jeopardized. The ranges were established in part because livestock grazing had seriously depleted forage necessary for antelope. Now, with the need for wildlife preserve greater than ever before, the livestock lobby—through the Bureau of Land Management, has regained its dominant position in supervising wildlife ranges.

Responsibility for the regrettable decision by the Interior Department can be attributed to holdovers from the Nixon administration—notably Interior Secretary Morton; Undersecretary of Interior John Whitaker, who worked with oil and mineral exploration firms for most of his professional career, and BLM director Berklund, a former Idaho sawmill operator.

In the long view, much more than three wildlife ranges is at stake. As George Alderson, director of federal affairs for the Wilderness Society in Washington, D.C., has pointed out: "If Secretary Morton is allowed to get away with this decision to turn over three major wildlife preserves to commercial interests, it will set a precedent that could result in the dismemberment of our entire National Wildlife Refuge system."

America's native wildlife, much of which is rapidly disappearing, deserves better than to be handed over to the government's least competent, least responsible land management agency. It is abhorrent to true conservationists that these irreplaceable wildlife preserves should be converted into feed lots for sheep and cattle or into devastated land scarred by open-pit mines.

Thus, a coalition of 25 national environmental, conservation and animal-protection organizations, led by the Wilderness Society, has launched a campaign to persuade President Ford and Secretary Morton to reconsider and assign these wildlife ranges solely to the Fish and Wildlife Service.

Otherwise, these preserves will be lost forever to the miners and ranchers—men who would imperil our nation's beauty and natural heritage for the sake of quick profit.

Mr. PACKWOOD. Mr. President, I am pleased to join today with the Senator from Montana (Mr. METCALF) as a cosponsor of legislation that will give the Charles Sheldon Antelope Range, the Charles M. Russell National Wildlife Range, and the Kofa Game Range, a permanent statutory sanction and assign it solely to the U.S. Fish and Wildlife Service. I am also very pleased to learn that the honorable chairman, Congressman AL ULLMAN, from our home State of Oregon, supports the transfer of the Charles Sheldon Refuge lands back to the Fish and Wildlife Service, since those lands are within his congressional district.

I understand that the Fish and Wildlife Service employees in these game ranges have been given an ultimatum of choosing whether they wish to remain with the Service and take their chances on transfers over to the Bureau of Land Management. I understood that no such action was to be taken until public meetings with the BLM were held in Montana later this spring. I also join with Senator METCALF in respectfully suggesting that any action to transfer personnel be postponed by Secretary Rogers Morton.

Mr. President, in summary, I ask unanimous consent that the editorial, "A Time To Protest," from the Living Wilderness, be included in the RECORD at this point.

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

A TIME TO PROTEST

Miners and stockmen of the West, who long have coveted the five great national wildlife ranges created by President Franklin D. Roosevelt in the 1930s, won a victory in early February which should shock every conservationist in the country. What they succeeded in doing was twisting the arm of Secretary of the Interior Rogers C. B. Morton to wrest three of those ranges from the U.S. Fish and Wildlife Service, an agency which exists to protect wildlife, and turn them over to the exclusive control of the Bureau of Land Management, an agency which exists primarily to serve commodity interests.

The Secretary directed that the Kofa Game Range in Arizona, the Charles Sheldon Antelope Range in Nevada and the Charles M. Russell Wildlife Range in Montana be administered exclusively by BLM.

As a sop to Fish and Wildlife the Cabeza Prieta Game Range in Arizona was placed in its exclusive jurisdiction, as the Desert Wildlife Range in Nevada had been in 1966.

The result of that shift can be a steady decline in wildlife populations, including desert bighorn sheep, eagles, endangered peregrine and prairie falcons and many other species of wildlife. BLM already has plans to use chemical herbicides, such as 2,4-D, to kill sagebrush, on which the sage grouse is dependent, and to fence large acreages for cattle, despite the clear danger this poses to the free movement of antelope and other wildlife. In countless decisions to come one can expect BLM to give short shrift to wildlife values.

If this were the beginning of the agency's involvement in wildlife range management, one might hope for something better. But through almost four decades of joint administration with the Fish and Wildlife Service, BLM has shown its hand time and again. (Under the joint arrangement, Fish and Wildlife was supposed to look after wildlife habitat needs while BLM handled grazing and mining.) Pleas by Fish and Wildlife to eliminate overgrazing, for example, have fallen on deaf ears.

A measure of BLM's performance may be found in its own recent year-end report, which found 83 percent of its grazing land in fair, poor or bad condition.

Behind the shift to BLM may be an effort to undermine the Fish and Wildlife Service, ultimately turning over wildlife management exclusively to the states, and to keep these large tracts of public land from getting into the wilderness system. The Wilderness Act of 1964 required review of all lands administered by the National Park Service, Forest Service and Fish and Wildlife Service—but *not* BLM. By shifting these areas to BLM the Interior Department may hope to reduce their chances of Wilderness Act protection. Interestingly enough, when conservationists last year urged that BLM be given a mandate to review its lands for wilderness designation, BLM Director Curt Berklund was hotly opposed.

What is to be done? We think the course is clear. Conservationists should insist that this outrageous decision be revoked or, barring that, that the Congress take steps to block it. There is simply no valid justification for turning over more than 2 million acres of America's best wildlife habitat to a handful of livestock and mining interests having no concern for the future of this country's wilderness wildlife populations and those dependent on a natural condition for survival.

By Mr. METCALF (for himself, Mr. MANSFIELD, Mr. ALLEN, Mr. HOLLINGS, Mr. THURMOND, Mr. BURDICK, and Mr. MCCLURE):

S. 1294. A bill to provide additional funds to the States for carrying out wildlife restoration projects and programs, and for other purposes. Referred to the Committee on Commerce.

Mr. METCALF. Mr. President, I introduce today a bill that seeks to expand our

national capability to restore and enhance wildlife. This would be done by building on the successful foundation of the Federal Aid in Wildlife Restoration Act of 1937, a program that pays its own way.

That program, administered by the U.S. Fish and Wildlife Service, has been a tremendous force in acquiring and developing key areas of wildlife habitat, in stimulating research to learn the biology and needs of our wildlife, in upgrading wildlife conservation programs in every one of our 50 States. It can be said without exaggeration that no other single program has contributed so fully to the restoration and improved management of America's wildlife.

Financial support for this outstanding program comes entirely from the American sportsman. Through manufacturers' excise taxes, he pays for the entire program, including its administration by the Fish and Wildlife Service.

The Federal Aid in Wildlife Restoration Act was signed by President Franklin D. Roosevelt on September 2, 1937. It dedicated a then 10-percent excise tax on sporting arms and ammunition for wildlife restoration. The money is deposited in a Federal aid in wildlife restoration fund. The revenue collected is apportioned by formula to the respective States and territories.

The program was initiated on July 1, 1938, through an appropriation of $1,000,000, as a reimbursable contract grant program. Other than the initial appropriation, the entire program has been supported wholly by America's sportsmen ever since.

During World War II, the Congress imposed new excise taxes on many articles and raised the percentage on items already taxed. Thus, the excise tax on sporting arms and ammunition became 11 percent. Also during World War II more money was being collected than could be fully used by the States and the Congress permitted the tax collections to accumulate in the fund.

Although there have been several amendments to the act, its basic principle remains unchanged. In fiscal year 1948, the Congress authorized the amount of the tax collected by the Treasury in each fiscal year to be appropriated automatically in total in the succeeding fiscal year. That increased efficiency of fiscal administration for the Federal departments and the States.

The backlog of $13.5 million which had accumulated during World War II was authorized under Public Law 84–375 to be apportioned in five annual equal amounts under the statutory formula beginning with fiscal year 1956.

Public Law 91–503, approved on October 23, 1970, provided that the long-standing—since 1932—10-percent excise tax on pistols and revolvers be credited to the wildlife restoration program. One-half of the funds apportioned from this additional revenue may be used by the States for improved outdoor education programs and shooting range construction. A similar amendment imposing an 11-percent excise tax on certain types of archery gear was signed on October 25, 1972. My bill would impose a similar tax on the remaining logical source of support for this vital program, the powder, shot, and other components of handloaded ammunition.

During its 36 years, the Federal aid in wildlife restoration program accomplishments are legend. In fact, during the post-World War II period of excise tax cancellations, it was the sportsmen paying the tax that implored the Congress to maintain this successful program. They wanted to pay for it so they must have felt that they were getting their money's worth.

At the close of fiscal year 1974, the U.S. Treasury had collected $624,703,604.29 through this tax; and, through fiscal year 1975, $593,966,125.45 has been apportioned to the 50 States in support of wildlife programs. Only $37,737,478.84, 4.9 percent, has been retained by the Secretary of the Interior as authorized by the statute and about 3 percent has been used in direct program administration. Gross program expenditures including the States' 25-percent share exceed $741 million.

An outstanding contribution of the program has been the professional upgrading of the staffs of State wildlife conservation departments. A review of the wildlife profession, including appropriate positions in universities and colleges, reveals that about 75 percent of the wildlife resource professionals are or were at one time employed under this program. Thus, in addition to providing a greatly expanded employment opportunity, the percentage of professionally trained people on all agency staffs increased from as low as zero to almost 100 percent. The proof of the value of this program is the dramatic increase in America's wildlife, many species of which formerly were at a very low point.

Physical accomplishments include: acquisition in fee of almost 3.5 million acres of wildlife habitat at a cost of over $100 million; additional land control through lease, easement, license, agreement, and so forth, of over 36 million acres; development, operation, maintenance, and management of 3,000 game management areas; successful introduction or reintroduction of over 50 species of birds and mammals providing some thriving populations in every State and territory. Nonhunted species also invariably benefit from the purchase, development, and protection of wildlife management areas in all States.

During the early years of the program, one of the major activities was the initiation of an inventory of "what do we have, how many, and where." These investigations were coupled with research into techniques for maintaining the status of the respective populations and included such methods as: age and sex criteria; habitat evaluation systems; population thresholds; and trapping, tagging and monitoring methods. As staff capability and the flow of dollars increased the emphasis toward practical research advanced. The need for pooling equipment and specialists in interrelated fields results in multistate cooperative research ventures utilizing the available expertise for specific problems normally beyond the economic capability of individual States.

Thus a program that was introduced in fiscal year 1939 at $1,000,000 level of funding has grown to more than $50,000,000 in fiscal year 1975. It has permitted the State fish and game agencies to pull themselves up by their own bootstraps. It has helped put the United States in the undisputed position of the foremost and most successful practitioner of wildlife management in all of the world. And, as I noted earlier, all of the money, with the exception of the pump-priming $1 million, has been paid by sportsmen.

The bill I have introduced would provide still more of America's sportsmen an opportunity to contribute to this worthwhile program. My bill would require that half of the components excise tax receipts and half of the previously enacted excise taxes on handguns and archery gear be allocated for wildlife restoration projects. The other half would be used only for hunter education and shooting range construction.

Hunter education and shooting range activities are becoming an increasingly important part of State wildlife programing. They result in better public understanding of wildlife and wildlife conservation which elicits more intense interest in the resource. Shooting ranges are important for hunter education and as public recreation facilities, especially near densely populated areas. In recent times, State wildlife agencies have been doubling each year the amount of money they invest in public shooting ranges. But the demand for these facilities has not been met. More funds are needed and will be produced by my bill.

I have been informed that there is broad agreement with my bill. National conservation organizations, sportsmen's groups, State wildlife agencies, handloaders associations, and the components manufacturers have voiced their support.

By Mr. ROTH:

S. 1295. A bill to limit the jurisdiction of the Supreme Court of the United States and any such inferior court as ordained and established by the Congress of the United States to enter any judgment, decree or order, denying or restricting, as unconstitutional, the exercise of free religious expression or the saying of voluntary prayer in any public school or other public building. Referred to the Committee on the Judiciary.

S.J. Res. 64. A joint resolution proposing an amendment to the Constitution. Referred to the Committee on the Judiciary.

VOLUNTARY SCHOOL PRAYER

Mr. ROTH. Mr. President, American education is rooted in the schools first transplanted here from England to the Massachusetts Bay colony by the Puritans. American values and tradition including the reading of the scriptures were nourished in the early American grammar schools.

Compulsory education came into being at a time when the thirst for religious and political freedom provided the stimulus for the early immigration and set-

tlement of this country. Since this Nation's founding parents enjoyed the highly cherished freedom of rearing their children in an environment conducive to the development of moral values. Then came the Supreme Court decision of *Engel* v. *Vitale*, 370 U.S. 421.

Mr. President, I am sure that my colleagues are familiar with that decision and its aftermath. The immediate reaction of Congress to it was the introduction of more than 50 constitutional amendments to override the decision or to limit its impact upon a "vital and sensitive spot" in our national life.

Justice Douglas, though concurring, has these words to say which are relevant:

First, a word as to what this case does not involve.

Plainly, our Bill of Rights would not permit a state or the federal government to adopt an official prayer and penalize anyone who would not utter it. This, however, is not that case, for there is no element of compulsion or coercion in New Yorks regulation requiring that public schools be opened each day with the following prayer: "Almighty God, we acknowledge our dependence upon Thee, and we beg thy blessings upon us, our parents, our teachers and our country" . . .

What New York does on the opening of its public schools is what we do when we open court. Our marshal has from the beginning announced the convening of the court and then added, "God save the United States and this honorable court." That utterance is a supplication, a prayer in which we, the judges, are free to join, but which we need not recite any more than the students need recite the New York prayer.

What New York does on the opening of its public schools is what each house of Congress does at the opening of each day's business. . . .

Mr. President, as a result of the Supreme Court's decision of 1962, the few that rejected religion have been able to impose their will over the vast majority of Americans—denying their children the right to harmlessly reaffirm their faith and dependence on God.

Mr. President, in the State of Delaware, as I am sure in the rest of the United States also, there is preponderent support for voluntary prayer in public schools. In 1969, I took a poll of my constituents. Eighty-four percent of the respondents favored a constitutional amendment to permit voluntary prayer in public schools.

Mr. President, in 1973, I introduced Senate Joint Resolution 89 to amend the Constitution of the United States to permit voluntary prayer in public schools or other public buildings, especially our public schools. The Senate Committee on the Judiciary of the 93d Congress did hold hearings on Senate Joint Resolution 89 and similar proposals. Regretably it was not reported. However, failure of enactment need not be reason for despair. If we do not succeed, we can certainly try, try, and try again, again, and again.

Mr. President, today I am reintroducing the same resolution and am urging that it be given priority consideration.

Recognizing that any constitutional amendment is a long and difficult road toward the reinstatement of voluntary prayer in public schools, I am introducing a second bill today to limit the jurisdiction of the Supreme Court of the United States and any such inferior court as ordained and established by Congress of the United States, to enter any judgment, decree or order, denying or restricting, as unconstitutional, the voluntary participation by anyone in the exercise of free religious expression or the saying of a prayer of his or her choice in any public school or building.

Mr. President, my proposal, is similar to S. 283 introduced by Senator HELMS, the distinguished senior Senator from the State of North Carolina. However, my bill is slightly different in that it addresses not merely voluntary prayer, but the voluntary participation by anyone in the free exercise of religious expression as well.

The purpose of my second bill is to reinstate the legal right to the States to make their own decision with respect to prayer in public schools. My bill will preclude the Supreme Court of the United States from having any appellate jurisdiction, and the Federal district courts from having any original jurisdiction over cases emanating from any State statute, ordinance, rule, regulation, or the like related to the free exercise of religious expression or the saying of a voluntary prayer in any public school or public building.

I am well aware that it will not overturn the Engel decision. That is not my intent because the reintroduction of my Senate joint resolution will, hopefully, accomplish that. Meanwhile, my second bill, if enacted, will keep future school prayer related cases out of Federal district courts and the Supreme Court.

Mr. President, I now send to the desk my legislative package, in support of prayer in public schools and I ask that the full texts be printed in the RECORD at the conclusion of my remarks.

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

S. 1295

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

(a) chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ or certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to the exercise of free religious expression or the saying of voluntary prayers in public schools or other public buildings.".

(b) The section analysis at the beginning of chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. 2. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1363. Limitation on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1363. Limitations on jurisdiction.".

SEC. 3. The amendments made by the first two sections of this Act shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

S.J. RES. 64

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"SECTION 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public school or other public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

By Mr. MORGAN:

S. 1297. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for an improved method of selection of the State planning agency, and for other purposes. Referred to the Committee on the Judiciary.

AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

Mr. MORGAN. Mr. President, I am today introducing an amendment to the Omnibus Crime Control and Safe Streets Act of 1968. This bill (S. 1297) could have a major impact on the administration and allocation of LEAA funds.

Under the present legislation the various State Governors have the responsibility for establishing and overseeing the State planning agencies, which with the statewide committees, administer the LEAA program at the State level. I believe that experience has proved that this is bad policy and bad law and I think it time that it be corrected.

As many of you know, I served as attorney general of North Carolina for some 6 years prior to resigning to seek the public office I now hold. By tradition, the attorney general of a State is considered the chief law officer of that State and it is to him that citizens automatically turn for leadership in the area of law and order and justice. By virtue of my office, I served on the statewide planning committee along with some 25 or 30 other persons. However, in spite of the fact that the attorney general is considered the chief law officer of his State, the attorney general of my State as in many others has absolutely no control over the functioning of the committee or its staff.

I, for one, believe that programs intended to improve the quality of criminal justice in this Nation ought to be admin-

istered by those who are involved in the day-to-day problems related to the criminal justice system. At least, I think the legislative bodies of the States should have the right to determine by whom the program will be run in their respective States and not be bound by Federal legislation to administration under the direct control of the Governor.

The LEAA program has come under increasing criticism and a good part of it has been to the effect that those administering it at the Federal and State level have not been responsive to the needs of the agencies receiving grant funds. I believe that a good way to insure that responsiveness is to let the legislative bodies of the States determine who is best suited in their State to administer a program to improve the criminal justice system. Frankly, in many instances I do not believe that will be the Governor or his designee as the law now provides.

My bill would not preclude the Governors from running the program in their States. It would simply provide that some constitutional officer other than the Governor could administer the program if the duly elected legislative officials of that State determined that the goals of the program could thus be better served.

During the last several years I have experienced and seen others experience the frustration of seeing a program vitally related to the office to which one was elected run by persons at the State level who had little background or interest in the area of criminal justice. Time has proved that the logic which prompted the restriction in the existing law was faulty and for this reason I offer this amendment to the Omnibus Crime Control and Safe Streets Act of 1968.

Mr. President, I ask unanimous consent that this bill (S. 1297) be printed at this point in the RECORD.

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

S. 1297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 203(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows: "Such agency shall be established by the State legislature or designated by a constitutional officer selected by the State legislature and shall be subject to the jurisdiction of a constitutional officer selected by the State legislature."

SEC. 2. The amendment made by this Act shall become effective on the first day of the third month following the last month during which the State legislature meets in regular or special session on or after the date of enactment of this Act or one year after the date of enactment of this Act, whichever occurs first.

By Mr. BELLMON:

S. 1298. A bill to amend the Interstate Commerce Act. Referred to the Committee on Commerce.

Mr. BELLMON. Mr. President, today I am introducing legislation which would significantly modify the emergency rail provision, section 1(16)(b), of the Interstate Commerce Act.

The Nation has already been faced with a state of failing railroads. Various actions have been taken to help assure that necessary services to affected communities will be continued. These actions, in my opinion, are vastly inadequate and in addition they offer no help at all to the thousands of employees who are affected.

Mr. President, the impending shutdown of the Rock Island Railroad threatens to put more than 10,000 employees out of work at a time when other jobs are difficult if not impossible to find. The hardship upon these workers is intense. They deserve far more consideration from the railroads which will absorb the Rock Island and provide future services than the present law provides.

The bill I am introducing will help give these loyal and dedicated men and women an opportunity to continue their careers and continue using their skills in the transportation industry of our country.

Under present Federal law, the Interstate Commerce Commission is empowered under section 1(16)(b) to order another railroad to operate all or a portion of a failing railroad in order to assure the preservation of essential services. This remedy is limited to 60 days although it can be extended for cause for a maximum of 240 days. The Federal Government is obligated to compensate fully any costs which profitable railroads entail in performing services for the failing railroad.

Although the implementation of this provision will assist greatly in insuring that essential services are maintained, we have seen in the case of the Rock Island Railroad that this act simply does not go far enough in guaranteeing that the employees affected will keep their jobs and that rail service is fully maintained in all communities being served. It is for this reason that I am today introducing legislation which, if enacted, would make the following changes in section 1(16)(b) of the Interstate Commerce Act.

First, the ICC would be required to provide for the operation of the entire rail system of any railroad when its cash position makes its continued operation impossible. At present, the ICC is empowered to decide in its infinite wisdom which lines are to be operational thereby leaving some areas without assured rail service. This change would remove this discretionary authority and guarantee the continued operation of all areas presently being served by the failing railroad.

Second, this bill would mandate that the rail carrier's lines be operated for a period of 18 months.

Third, the rail carriers ordered to take over the operation of the bankrupt railroad would be required to utilize the services of all its employees during this 18-month period.

By enacting this proposal, Congress would make it possible that when a railroad is unable to maintain its operation a means will become available to guarantee for a period of at least 18 months full employment and continued rail service to all communities. This will permit the time necessary for a proper and orderly economic readjustment to the many problems caused by the economic failure of the railroad.

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

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

S. 1298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1, paragraph (16)(b) of the Interstate Commerce Act be amended to read as follows:

"(b) Whenever any carrier by railroad is unable to transport the traffic offered it because—

"(1) its cash position makes its continuing operation impossible;

"(2) it has been ordered to discontinue any service by a court; or

"(3) it has abandoned service without obtaining a certificate from the Commission pursuant to this section;

the Commission shall upon the same procedure as provided in paragraph (15) of this section make such just and reasonable directions as will provide for the operations of the entire system of such carrier's lines subject to the following conditions:

"(A) Such direction shall be effective for a period of 18 months; provided that during the 18 month period no service in existence at the beginning of such period shall be terminated."

(B) No such directions shall be issued that would cause a carrier to operate in violation of the Federal Railroad Safety Act of 1970 or that would substantially impair the ability of the carrier so directed to serve adequately its own patrons or to meet its outstanding common carrier obligations.

(C) the directed carrier shall not, by reason of such Commission direction, be deemed to have assumed or to become responsible for the debts of the other carrier.

(D) The directed carrier or carriers shall hire all employees of the other carrier to the extent such employees had previously performed the directed service for the other carrier, and, as to such employees, the directed carrier or carriers shall be deemed to have assumed all existing employment obligations and practices of the other carrier relating thereto, including, but not limited to, agreements governing rate of pay, rules and working conditions, and all employee protective conditions commencing with and for the duration of the direction.

(E) any order of the Commission entered pursuant to this paragraph shall provide that if, for the period of its effectiveness, the cost, as hereinafter defined, of moving the traffic of another carrier shall exceed the direct revenues therefor, then upon request, payment shall be made to the directed carrier, in the manner hereinafter provided and within 90 days after expiration of such order, of a sum equal to the amount by which such cost has exceeded said revenues. The term "cost" shall mean those expenditures made or incurred in or attributable to the operations as directed, including the rental or lease of necessary equipment, plus an appropriate allocation of common expenses, overheads, and a reasonable profit. Such cost shall be then currently recorded by the carrier or carriers in such manner and on such forms as by general order may be prescribed by the Commission and shall be submitted to and subject to audit by the Commission. The Commission shall certify promptly to the Secretary of the Treasury the amount of payment to be made to said carrier or carriers under the provisions of this paragraph. Payments required to be made to a carrier under the provisions of this paragraph shall be made by the Secretary of the Treasury from funds hereby authorized to be ap-

propriated in such amounts as may be necessary for the purpose of carrying out the provisions hereof.

By Mr. CHURCH (for himself, Mr. JACKSON, and Mr. FANNIN) (by request):

S. 1299. A bill to amend the Water Resources Planning Act to revise the membership of the Water Resources Council. Referred to the Committee on Interior and Insular Affairs.

Mr. CHURCH. Mr. President, by request, I send to the desk on behalf of the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN) a bill to amend the Water Resources Planning Act to revise the membership of the Water Resources Council.

Mr. President, this draft legislation was submitted by the U.S. Water Resources Council, and I ask unanimous consent that the explanation of the amendment accompanying the proposal be printed in the RECORD.

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

BACKGROUND INFORMATION

The Water Resources Council (WRC) was established by the Water Resources Planning Act of 1965 (P.L. 89-80) for the purposes of preparing periodic national assessments of the adequacy of the Nation's water and related land resources; directing and coordinating comprehensive regional and river basin planning; recommending to the President needed changes in Federal policies and programs; establishing, with the approval of the President, principles, standards, and procedures for Federal water and related land resources planning; coordinating such planning activities, performing responsibilities with regard to the creation, operation, and termination of Federal-State river basin commissions; and providing financial assistance to the States so as to increase their participation in water and related land resources planning.

The proposed bill would amend the Water Resources Planning Act to revise the membership of the Water Resources Council.

The Council of Members has unanimously approved full membership in the Water Resources Council for the Secretary of Commerce, the Secretary of Housing and Urban Development, and the Administrator of the Environmental Protection Agency and has recommended that appropriate action be taken to make them full members. The Secretaries and the Administrator have indicated that they would favor full membership and participation in the Council. At present, the Secretary of Commerce, the Secretary of Housing and Urban Development, and the Administrator of the Environmental Protection Agency are non-statutory "associate" members of the Council. This status does not give them the privileges and responsibilities of statutory membership; the Secretaries cannot vote and their roles are essentially advisory.

The Department of Commerce has responsibility for providing extensive basic economic data and projections (OBERS) in cooperation with the Department of Agriculture, for certain marine resources affairs, for fostering industrial expansion and economic development which requires substantial use of water and related land resources, for providing the national networks of geodetic control surveys, and for river flow forecasting and flood warning.

The Department of Housing and Urban Development has contributed much to the Council by providing a link between planning for river basins and planning for the concentrated urban population centers. The National Flood Insurance Program, established by the Housing and Urban Development Act of 1968, as amended, will require extensive coordination with all flood damage prevention programs for which the other Council members have major responsibilities.

The Environmental Protection Agency has major responsibilities with respect to water quality and other aspects of water resources use. These responsibilities are an integral part of coordinated and comprehensive water resource planning. Without participation of EPA, major components of water resources activities represented in the Council prior to the creation of the Agency cannot be adequately considered in the Council's coordinated activities.

The Department of Transportation Act of 1966 expanded WRC membership to include the Secretary of Transportation on matters pertaining to navigation features of water resource projects. The Water Resources Planning Act of 1965 does not have language including the Secretary of Transportation and therefore this amending language is necessary for purposes of completeness.

In addition, the Secretary of Health, Education, and Welfare has requested to be removed from full membership status on the Council. The Council of Members unanimously approved the request.

Removal of the Secretary of HEW is appropriate because of Reorganization Plan No. 3 of 1970 which transferred virtually all water resources and related land planning functions then existing in HEW to the new Environmental Protection Agency.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 1300. A bill to revise title 23 of the United States Code, relating to highways, terminate the Highway Trust Fund, and amend the Urban Mass Transportation Act of 1964, in order to improve transportation. Referred to the Committee on Public Works.

(The remarks of Mr. KENNEDY and Mr. WEICKER when they introduced the above bill appear earlier in the RECORD.)

By Mr. CHURCH (for himself, Mr. JACKSON, and Mr. FANNIN) (by request):

S. 1301. A bill to promote a more comprehensive national program of water resources research and technology development to reorganize certain functions in the Department of the Interior, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

WATER RESOURCES RESEARCH AND TECHNOLOGY DEVELOPMENT ACT OF 1975

Mr. CHURCH. Mr. President, by request, I send to the desk on behalf of the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN) a bill to promote a more comprehensive national program of water resources research and technology development to reorganize certain functions in the Department of the Interior, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 10, 1975.

Hon. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

Hon. NELSON ROCKEFELLER,
President of the Senate, Washington, D.C.

Dear Mr. President.
Dear Mr. Speaker.

There is enclosed a draft bill "To promote a more adequate national program of water resources research and technology development, to reorganize certain functions in the Department of the Interior, and for other purposes." It constitutes an amendment to the Water Resources Research Act of 1964, P.L. 88-379, as amended by P.L. 89-404 and P.L. 92-175.

We recommend that the proposed bill be enacted.

The bill combines into a new Office of Water Research and Technology those functions authorized by the Saline Water Conversion Act of 1971, P.L. 92-60, and the Water Resources Research Act of 1964, P.L. 88-379, as amended. It also provides for an expanded technology development program which encompasses desalting technology development activities authorized by the Saline Water Conversion Act of 1971 but, additionally, provides authorization to pursue, through technology development program actions, the results of other water-related research authorized by the Act to the stage where such findings and determinations can be used for practical application in resolving or mitigating the Nation's water and water-related problems.

The draft bill extends certain authorities under the Water Resources Research Act which would otherwise expire at the end of fiscal year 1976. That Act authorizes the appropriation of funds with which the Secretary of the Interior can by means of grants, matching grants, contracts or other arrangements with qualified educational institutions, private firms and individuals, and with local State and Federal government agencies, undertake research into aspects of water problems related to the mission of the Department of the Interior which may be deemed desirable and are not otherwise being studied. This authorization started at $5,000,000 in fiscal year 1967 and gradually increased to a maximum of $10,000,000 for each fiscal years 1972 through 1976.

The bill does not change the "Assistance to State for Institutes" or the "Matching Grants for Institutes" water resources research, training, and technical information dissemination program currently authorized by Title I of P.L. 88-379, as amended. Institutes, together with their cooperating universities, will continue to be a major source for producing the basic problem-oriented research results that are an absolute requirement for sound and cost-effective technology development. The draft bill authorizes appropriation of such funds as may be specified by the Congress in annual appropriation acts to carry out the provisions of Title II, in contrast to the specified limitations of the present Act.

Similarly, the Saline Water Conversion Act of 1971 authorizing annual appropriations for the initiation of new desalting program work extends only through fiscal year 1977. The draft bill would extend this program in modified form. Inasmuch as the functions authorized by the Saline Water Conversion Act are incorporated as part of the research and development activities authorized under the proposed amended Title II of the Water Resources Research Act of 1964, the draft bill repeals the Saline Water Conversion Act of 1971, P.L. 92-60, as amended.

The draft bill as forwarded is lacking pat-

ent provisions which will be provided in the near future.

New legislation is desirable to continue the water resources research and the technology development programs previously administered by the Office of Water Resources Research and the Office of Saline Water. Excellent progress has been made during the last decade in research directed toward a better understanding of the many complex biological, physical and sociological elements which comprise our water resource systems. There is, however, less certainty of the effectiveness with which these excellent and innovative research results have been interpreted and converted into practical applications. Recognition of this technology development and technology transfer deficiency prompted the National Water Commission, in its 1973 Report, to recommend that the Federal government establish an Office of Water Technology.

To meet this need of converting water resources research results into viable action programs without sacrificing the emphasis on research, the Secretary of the Interior established an Office of Water Research and Technology this past July. This action combined the functions then assigned to the Office of Water Resources Research and the Office of Saline Water, and established added responsibility for assuring the systematic and orderly application of research and research results to our most critical water problems.

The bill contains a provision that the Department of the Interior will cooperate fully with the Environmental Protection Agency to avoid duplication of efforts and it was the stated view of the Department of the Interior representatives, during negotiations formulating the bill, that the Department had no intention to encroach upon matters already being undertaken by EPA or to duplicate their efforts. It was understood that the Department of the Interior would coordinate its efforts with EPA to the extent necessary.

The proposed bill provides a comprehensive framework for carrying out this coordinated water resource research and technological development effort.

The Office of Management and Budget has advised that the presentation of this proposed legislation would be consistent with the Administration's objectives.

Sincerely yours,

JACK HORTON,
Assistant Secretary of the Interior.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. KENNEDY, Mr. HARTKE, Mr. MCGEE, Mr. SCHWEIKER, Mr. MCGOVERN, Mr. HUMPHREY, Mr. METCALF, Mr. HATHAWAY, Mr. PELL, Mr. EAGLETON, Mr. RIBICOFF, Mr. TUNNEY, Mr. JACKSON, Mr. ABOUREZK, Mr. STAFFORD, Mr. GRAVEL, Mr. STEVENSON, Mr. MONDALE, Mr. PHILIP A. HART, Mr. MUSKIE, Mr. GARY W. HART, Mr. MANSFIELD, Mr. BAYH, Mr. CASE, Mr. NELSON, Mr. CHURCH, Mr. CRANSTON, Mr. JAVITS, Mr. BROOKE, Mr. CLARK, Mr. BENTSEN, Mr. MAGNUSON, Mr. MOSS, Mr. GLENN, Mr. HASKELL, Mr. BUMPERS, Mr. MONTOYA, and Mr. BIDEN):

S. 1302. A bill to promote safety and health in the mining industry, to prevent recurring disasters in the mining industry, and for other purposes. Referred to the Committee on Labor and Public Welfare.

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1975

Mr. WILLIAMS. Mr. President, I am introducing for myself and other Senators, legislation designed to provide for increased efficiency and better management of our mine safety regulatory agencies. The cosponsors of this bill represent a national and bipartisan constituency. We serve on the committees concerned with our Nation's most pressing human and economic problems—Labor and Public Welfare, Public Works, and Interior. While we represent both mining and nonmining States, States with a wide divergence of economic and social problems, we have a unified concern for protecting the safety and health of our working miners. The tragic number of mine accidents in recent years has shown that the effectiveness of our mine safety programs has fallen drastically short of their anticipated goals. We in Congress have long recognized mining as one of the most dangerous occupations in this country, and over the years we have attempted to reduce its occupational hazards by passing major mine safety legislation. Unfortunately, our efforts have been largely frustrated by the tepid administration and enforcement of these laws by the Department of the Interior. Therefore, it again becomes our responsibility to alleviate the suffering of the Nation's miners and their families by providing the legislative machinery to reduce mine fatalities and injuries to an absolute minimum. The vehicle by which we hope to achieve this end is S. 1302, the Federal Mine Safety and Health Amendments of 1975.

The proposed legislation has three principal features: First, the bill will take the long overdue action of combining all mine workers under a single, strong piece of legislation. Mine safety and health is now regulated under two separate laws—the Federal Coal Mine Health and Safety Act of 1969 and the Metal and Nonmetallic Mine Safety Act of 1966.

Second, the functions of the Secretary of the Interior under the present Coal Mine and Metal Mine Acts will be transferred to the Secretary of Labor in a separate mine-safety and health administration, with an administrator, subject to Senate confirmation.

Third, the bill provides for standard setting and enforcement procedures which would conform to the Administrative Procedure Act and provide for appellate court review.

One of the major features of our proposed legislation is to transfer all responsibility for mine safety regulation and enforcement from the Department of the Interior to the Department of Labor. We consider this absolutely imperative if our nation's miners are to receive maximum benefit from the efficient administration of mine safety regulations. We deem this transfer necessary because of the inherent conflict imposed on the Department of the Interior by virtue of its dual mandate to maximize mineral and fuel production and to enforce mine safety regulations. Historically, the Interior Department's primary function has been the development of the Nation's natural resources. The protection of persons who must produce those resources often has been perceived as one of the Department's secondary functions. At best, maximizing mine production and enforcing mine safety are certainly conflicting roles for the Department. This dual mandate, compounded by the current increased demand for energy, really puts the Department between "a rock and a hard spot" in determining its policy priorities.

The Secretary of the Interior recognized this conflict in principle when he reorganized his Department in May, 1973, to separate responsibility for mine safety and health from the other functions of the Bureau of Mines. To this end, he created the Mining Enforcement and Safety Administration (MESA). However, while this has resulted in some improvement over the prior situation, the fact remains that the responsibility for the miners' health and safety continues to reside in a Department whose first concern is production. We recognize that MESA has many people who are dedicated to mine safety and that their corps of inspectors is well qualified. We simply maintain that MESA cannot be primarily responsive to the working miner's needs if it continues to be housed within the Department of the Interior.

One provision of our bill will transfer MESA's qualified and dedicated personnel resources to the Department of Labor, a Department which has no inherent conflict in its duty to American workers, a Department that has long been recognized as the advocate of the American worker with the Federal Government, one which has the interest and well being of workers at the top of its priority list. This bill will transfer those personnel now administering mine health and safety. We admit that transferring the administrative agency from one department of government to another does not represent an ultimate resolution of the mine safety problem. Rather, it represents the first step toward insuring vigorous enforcement of the law. It is a means toward the ultimate goal of reducing the present rate of death and disabling injuries that eats at the vitals of this important industry.

Let us pause for a minute on the matter of maximization of energy resources. I would like to bring to your attention the problems we will face in increasing coal production to meet the Nation's demands. We have vast coal resources, and when extracted, these can satisfy our energy needs for many years in the future. To some extent, coal can replace petroleum products as energy fuel and hence lessen our dependence on foreign oil. It may seem to some that we can immediately curtail our oil imports by producing more coal. While it is recognized that strippable coal production can be increased almost immediately, the same is not true for underground coal production. This is because we do not

have a ready stock of high production mining machinery, nor do we have an excess of skilled coal miners. Modern mining equipment is very sophisticated, and if a coal operator were to order new machinery tomorrow, his anticipated delivery date may be 2 or more years in the future. Should he advertise for skilled coal miners, he may not get enough response to begin a single shift.

Therefore, any immediate increase in coal production by underground mining would require an increase in output of existing mines by using on-hand equipment and by training more miners. If we attempt to increase production by operating around the clock, inexperienced miners will have to be utilized. As a matter of fact, some coal companies do now operate on a 24-hour basis, but they have the necessary equipment, expertise, and personnel to comply with the safety regulations. Some others do not. Therefore, we need a comprehensive and an effective mine safety program to insure the health and safety of those who are already employed and those who choose to enter mining occupations in the future. We think S. 1302 will fill that need.

A major defect in our present mine-safety legislation is that we have two separate Federal laws in existence: the 1966 Metal and Nonmetallic Mine Safety Act, which regulates mine safety in metal and nonmetallic coal mines, and the 1969 Coal Mine Health and Safety Act for the regulation of safety in coal mines. This has resulted in two separate enforcement divisions under MESA, which perform approximately the same regulatory functions for these two broad classes of mining operations. S. 1302 would place all mine-safety enforcement under one law administered by a single agency, thus ending the tremendous duplication of effort and disparity in operations between the two divisions. I will predict that before the ink is dry on today's CONGRESSIONAL RECORD, we will be hearing from those who oppose the single-manager concept and will uncategorically state that it is impossible to administer metal mining and coal mining under a single law. This is like saying that the manufacturing and construction industries cannot be regulated under a single statute by one agency. I would only mention that this is already being done by the Occupational Safety and Health Administration (OSHA) under the Department of Labor.

While OSHA may not be perfect, considerable progress has been made since the act was passed in 1970, and continuing improvement is expected. Again, by transferring mine safety to the Labor Department, a close relationship between OSHA's functions and mine safety regulatory functions will be effected. The opportunity to further reduce Federal expenditures, due to current duplication of efforts or facilities, is apparent. It is also expected that OSHA will benefit from the accummulated technical expertise of the mine-safety regulatory agency, once MESA is transferred to the Department of Labor.

Because I seem to have emphasized the increased efficiency of mine safety enforcement in my introduction of S. 1302, I do not want to convey the impression that our concern with operational efficiency is more important than humanitarian considerations. On the contrary, our primary objective is to minimize the suffering of miners and their families, and we view any improvement in operational efficiency as a means to that end.

While there have been no major mine disasters in the past 2 years, we should not allow the passage of time to dim our memory of two of the most calamitous disasters in American mining history that took place in 1972. On May 4, 1972, 91 men were killed in a mine fire at the Sunshine Silver Mine near Kellogg, Idaho. On February 26, 1972, the collapse of a coal mine refuse dam at Buffalo Creek, W. Va., took the lives of 125 inhabitants of the valley, including 14 coal miners. A total of 392 miners were killed in 1972—more than in any year since 1968, when 460 miners were killed while working. We contend that such a large number of deaths in any single year is a direct result of inadequate safety standards, standards which have been further diluted and made ineffective by questionable interpretations of the two existing laws covering mine safety.

The need for improvement in mine safety continues to be evident when the death rates for 1973 and 1974 are reviewed. During 1973, 132 coal miners were killed while pursuing their occupation. In 1974, 130 coal miners were killed while mining, and although this is two fewer than in the preceding year, it must be remembered that the mines were completely closed for almost 4 weeks during the 1974 contract negotiations and were operating at only 50 percent of capacity for another 2 weeks beyond that. We estimate that, had the mines not been shut down either completely or partially for a month and a half, the total number of fatalities for 1974 would have been greater than in 1973.

Obviously, the enforcement of the regulations pursuant to the 1969 Coal Mine Health and Safety Act is not having the desired result, despite the increase in the number of Federal coal mine inspectors from 1,226 in 1973 to 1,275 in 1974 and despite an increase in notices of violations issued against coal mine operators between the 2 years—from 71,155 in 1973 to 81,463 in 1974. In our view, there should have been a marked decrease in fatalities between 1973 and 1974, especially since MESA has been given ample resources to carry out its responsibilities.

As I mentioned earlier, there are two separate divisions in the Mining Enforcement and Safety Administration, one for coal mines and the other for metal and nonmetallic mines. The statistics for the metal and nonmetal mines are slightly better but still leave much room for improvement. The number of fatalities in metal and nonmetallic mines in 1974 was 151, compared to 175 in 1973, or a decrease of 24.

Why there should be such a marked difference in the results of the two divisions of the same organization is hard to understand, and it would seem logical that, since the same training and technical facilities are available both, the results should be somewhat equal. I would also mention that 36 of the fatalities charged to metal and nonmetal mining occurred in sand and gravel operations. Under the proposed legislation, sand and gravel operations would be placed under the jurisdiction of OSHA, where they could be more appropriately handled.

To those who might oppose new legislation, particularly that calling for the transfer of the Mining Enforcement and Safety Administration to the Department of Labor, I can only say that the record indicates a change is drastically needed. The effective enforcement of mine safety regulations is going to be critical in the coming months in view of the increased demand for energy fuels. There are those who will say that mine accidents, injuries, and fatalities are a normal part of the mining business and a part of the price we must pay for our energy needs. I cannot endorse the view that we must sacrifice human lives in order to further our existence—or even worse—our personal comfort and well being.

So far, I have directed my introductory remarks to the need for this legislation and, before closing, I should briefly explain some of the other provisions of the bill.

These are: a general duty provision to cover unique but dangerous circumstances for which no standards have been set; exclusion of the construction-oriented sand and gravel operations from mine safety regulations, which will allow the mine safety enforcement agency to concentrate its efforts on the more dangerous underground mining; provision for standard setting and enforcement procedures which would conform to the Administrative Procedure Act and provide for appellate court review; elimination of advisory health and safety standards, either by making them mandatory or by eliminating them completely. The new legislation would also provide for assessment of penalties for violations in metal and nonmetallic mines, a feature that presently applies only to coal mines. Health research matters are transferred to the Secretary of Health, Education, and Welfare under the National Institute of Occupational Safety and Health. Some particular provisions of the 1969 Coal Mine Health and Safety Act to be retained in the new legislation are the requirement that all underground mines be inspected at least four times a year and that especially hazardous mines be given a spot inspection at least once every 5 working days. In addition, the Secretary of Labor would retain the sanction to close a mine for certain violations, and this provision is, in fact, strengthened under our proposed legislation.

Most of all, the new legislation will contain a number of streamlined enforcement and review procedures which should reduce excessive delays in assessing fines. There still exists a disturbing gap between the amounts of penalties proposed by MESA for mine safety violations and the amounts actually collected in fines. This gap can largely be attributed to the delay between the time of citation for a violation by the mine inspector and the issuance of a proposed

assessment order. A July 1972 GAO report on MESA's penalty assessment system showed that the average time between the citation for a violation by the mine inspector and the issuance of a proposed assessment order was 129 days, with some delays ranging upward to 279 days. That same report revealed that of approximately $12 million in proposed penalties only $1.4 million had actually been collected.

In March 1973, a Federal judge ruled that the Interior Department's regulations and procedures for assessing fines were illegal, further complicating the collection of the full amount of penalties from coal companies who have violated the law. In April 1973, the Secretary of the Interior suspended the procedures for informal assessment of civil penalties and in October 1973, decentralized the assessment process by placing it in the district offices rather than in Washington. While some 70 coal mine inspectors were assigned to duty as assessment officers in an effort to clear up the backlog, MESA attorneys began compromising the penalties in an effort to further expedite the reduction of the backlog.

In June 1973, the Solicitor of the Department of the Interior issued Solicitor's Regulation 31 which gave solicitors within MESA the authority to dismiss Federal Mine Safety Acts of 1966 and 1969 and also gave regional and field solicitors and attorneys within a region the authority to dismiss and compromise litigation before the Office of Hearings and Appeals. This regulation was implemented immediately, and outstanding penalties compromised at an average of only 30 cents on the dollar. In one instance, an assessed penalty of $3,325 was settled for $1.

Our latest records show that the total amount assessed for all cases as of January 31, 1975 was about $48 million, of which only about $11.6 million has been collected, leaving an approximate difference of $36.4 million in unpaid assessments. Between April 24, 1973 and February 1, 1975, of some 20,546 new cases assessed for a total of $19,449,400 million, 6,203 cases were settled for a total of $4,681,782 million. We should emphasize that these figures are taken from data furnished by MESA itself. By contrast, OSHA's records show that of approximately $6.5 million in assessments for calendar year 1974, over $5 million has been collected.

It is difficult to estimate exactly how much of the $36 million in total unpaid assessments has been collected by the Department since the end of January 1975. But the Department has acknowledged that it is currently compromising the penalties for 30 to 40 cents on the dollar. This continued practice of compromising the penalties will hardly permit the Department to collect outstanding assessed penalties in full, let alone encourage compliance with the law.

I think these figures speak for themselves. We are not convinced that Interior's present system of processing and collecting penalties serves as an effective deterrent against mine safety violations. More to the point, the relationship between the violation itself and the amount of the fine is lost in a process whereby the adverse action between the coal operator and the government becomes more important than the safety or health violation. Let me emphasize that we are not concerned with collecting fines as an end in itself, but rather with the maintenance of an efficient but fair system of fines that will command respect from both the mine operators and the workers and serve as an incentive for voluntary compliance with the law.

To conclude, we are confident that our proposed legislation will resolve the conflict between the mandate to maximize mine production and to regulate mine safety that necessarily exists within the Department of the Interior by placing all mine safety regulatory functions under a single law administered by a single agency within the Department of Labor. It will allow further for the ready exchange of ideas, expert information, and experienced personnel between mine safety and occupational safety regulatory agencies within the same Department. I believe that this legislation is fair, that it will not impose an excessive burden on the mine operators, and that it will serve both the interests of the workers and of the business community.

I ask unanimous consent that S. 1302 together with an explanation be printed in the RECORD.

There being no objection, the 6:11 and analysis were ordered to be printed in the RECORD, as follows:

S. 1302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Mine Safety and Health Amendments of 1975".

TITLE I—AMENDMENTS TO THE GENERAL PROVISIONS OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

SHORT TITLE

SEC. 101. The first section of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows: "That this Act may be cited as the Federal Mine Safety and Health Act of 1975' ".

DEFINITIONS AND APPLICABILITY

SEC. 102. (a)(1) Section 2 of the Federal Mine Safety and Health Act of 1975 is amended by striking out "coal" wherever it appears. (2) Section 2(g)(1) of such Act is amended by striking out "the Interior" and inserting in lieu thereof "Labor."

(b)(1) Section 3(a) of such Act is amended by striking out "The Interior" and inserting in lieu thereof "Labor".

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

"(h) 'Mine' means (1) an area of land from which minerals other than sand or gravel are extracted in non-liquid form or, if in liquid form, are extracted with workers underground, (2) private ways and roads appurtenant to such area, and (3) land, excavations, underground passageways, shafts, slopes, tunnels, and workings, structures, facilities, equipment, machines, tools, or other property including impoundments, retention dams, and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting such minerals other than sand or gravel from their natural deposits in non-liquid form, or if in liquid form, with workers underground, or used in the milling of such minerals, except that with respect to protection against radiation hazards such term shall not include property used in the milling of source minerals defined in the Atomic Energy Act of 1954, as amended.".

(3) Sections 3 (d), (e), (g), and (j) of such Act are each amended by striking out the word "coal" wherever it appears.

(4) Section 3 of such Act is amended by striking out the word "and" at the end of paragraph (l), by striking out the period at the end of paragraph (m) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(n) 'Administration' means the Mine Safety and Health Administration in the Department of Labor; and

"(o) 'Commission' means the Occupational Safety and Health Review Commission established under the Occupational Safety and Health Act of 1970."

(c) Section 4 of such Act is amended by striking out the word "coal".

(d) (1) Section 5(c) of such Act is amended by striking out "Labor" and inserting in lieu thereof "the Interior".

(2) Section 5(f) of such Act is amended by striking out the word "coal" wherever it appears, and by striking out "section 106" and substituting "section 107".

(e) Section 301(c) of such Act is amended by striking out "Secretary" wherever it appears and inserting in lieu thereof "Commission".

TITLE II—MINE SAFETY AND HEALTH STANDARD AMENDMENTS

AMENDMENT TO TITLE I

SEC. 201. Title I of the Federal Coal Mine Health and Safety Act of 1969 is amended to read as follows:

"DUTIES

"SEC. 101. (a) Each mine operator (1) shall furnish to each miner employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or harm to such miner;

(2) Shall comply with the safety and health standards and all rules, regulations, and orders promulgated under this Act.

"(b) Each miner subject to the provisions of this Act shall comply with the safety and health standards and all rules, regulations, and orders promulgated under this Act which are applicable to his own actions and conduct.

"SAFETY AND HEALTH STANDARDS

"SEC. 102. (a) The Secretary may by rule promulgate, modify, or revoke any safety and health standards for the health and safety of miners, including standards for mine rescue and firefighting operations, and for the prevention of accidents, injuries, or occupational health hazards in mines which are subject to this Act in the following manner:

"(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Safety and Health, or a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under section 103 of this Act, The Secretary shall provide such an advisory committee with any proposals of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including the results of research, demonstrations, and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the

rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

"(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking a safety or health standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall publish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

"(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objections to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the safety or health standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

"(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking a safety or health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period (not in excess of ninety days) as the Secretary determines may be necessary to insure that affected operators and miners will be informed of the existence of the standard and of its terms and that operators affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the standard.

"(5) The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which assures that no miner will suffer any impairment of health or functional capacity even if such miner has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

"(6) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner so as to assure the maximum protection of miners. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the operator or at his cost, to miners exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examinations may be furnished at the expense of the Secretary of Health, Education, and Welfare. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the miner, to his designated physician. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

"(7) No safety or health standard promulgated under this title shall reduce the protection afforded miners below that provided by any safety or health standard previously in effect.

"(b)(1) The Secretary shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines (A) that miners are potentially subjected to physical or mental impairment from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect miners from such danger.

"(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

"(3) Upon publication of such standard in the Federal Register, the Secretary shall commence a proceeding in accordance with section 102(a) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (2) of this subsection.

"(c) The Secretary is authorized to grant a variance from any standard or portion thereof whenever he determines, or the Secretary of Health, Education, and Welfare certifies, that such variance is necessary to permit an operator to participate in research approved by him or the Secretary of Health, Education, and Welfare designed to demonstrate or validate new and improved techniques to safegurad the health or safety of workers.

"(d)(1) Any operator may apply to the Secretary for a temporary order permitting limited noncompliance with a standard or any provision thereof promulgated under this section. Such temporary order shall be granted only if the operator files an application which meets the requirements of paragraph (2) and establishes that (A) he is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date, (B) he is taking all available steps to safeguard his employees against the hazards covered by the standard, and (C) he has an effective program for coming into compliance with the standard as quickly as practicable. Any temporary order issued under this subsection shall prescribe the practices, means, methods, operations, and processes which the operator must adopt and use while the order is in effect and state in detail his program for coming into compliance with the standard. Such a temporary order may be granted only after notice to employees and an opportunity for a public hearing: *Provided,* That the Secretary may issue one interim order to be effective until a decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or six months, whichever is shorter, except that such an order may be renewed not more than twice (i) so long as he requirements of this subsection are met and (ii) if an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect for longer than 180 days.

"(2) An application for a temporary order under this subsection shall contain—

"(A) a specification of the standard and/or portion thereof from which the employer seeks a noncompliance order,

"(B) a representation by the operator, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefor,

"(C) a statement of the steps he has taken and will take (with specific dates) to protect miners against the hazards covered by the standard,

"(D) a statement of when he expects to be able to comply with the standard and what steps he has taken and what steps he will take (with dates specified) to come into compliance with the standard, and

"(E) a certification that he has informed his employees of the application by giving a copy thereof to their authorized representative, posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted, and by other appropriate means.

A description of how employees have been informed shall be contained in the certification. The information to employees shall also inform them of their right to petition the Secretary for a hearing.

"(e) Any affected operator may apply to the Secretary for an order for a variance from a standard promulgated under this section. Affected miners and their representative shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue an order if he determines on the record, after opportunity for an inspection where appropriate and a public hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an operator will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The order so issued shall prescribe the conditions the operator must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such order may be modified or revoked upon application by an operator, miner, representative of miners or by the Secretary, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

"(f) The provisions of subsections (d) and (e) shall not apply with respect to any standard in effect on the effective date of the Fed-

eral Mine Safety and Health Amendments of 1975, other than the standards in sections 202 (b) and (c) and 305(a) of this Act.

"(g) Any hearing held under this section shall be of record and subject to section 554 of title 5, United States Code.

"(h) Any person who may be adversely affected by a standard issued under this section may, at any time prior to the sixtieth day after such standard is promulgated, file a petition challenging the validity of such standard with the United States court of appeals for the District of Columbia circuit or the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole.

"ADVISORY COMMITTEES

"SEC. 103. (a) The Secretary may appoint advisory committees to assist him in his standard setting functions under section 102 (a) of this Act, and to advise him on other matters relating to safety and health in mines. Each such advisory committee shall include as a member one or more designees of the Secretary of Health, Education, and Welfare, the National Bureau of Standards, Department of Commerce, and the National Science Foundation, and shall include among its members persons qualified by experience and affiliation to present the viewpoint of operators of such mines and an equal number of persons similarly qualified to present the viewpoint of workers in such mines, as well as one or more representatives of mine inspection or safety agencies of the States. An advisory committee may also include such other persons as the Secretary may appoint who are qualified by knowledge and experience to make a useful contribution to the work of such committee, including one or more representatives of professional organizations of technicians or professionals specializing in safety or health, but the number of persons so appointed to any such advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Any meeting of such committee shall be open to the public and an accurate record shall be kept and made available to the public. No member of such committee (other than representatives of operators and miners) shall have an economic interest in any proposed rule.

"(b) Persons appointed to advisory committees from private life shall be compensated in the same manner as consultants or experts under section 3109 of title 5, United States Code. The Secretary shall pay to any State which is the employer of a member of such committee reimbursement sufficient to cover the actual costs to the State resulting from such representatives' membership on such committee.

"INSPECTIONS, INVESTIGATIONS, AND RECORDKEEPING

"SEC. 104. (a) In order to carry out the purposes of this Act, the Secretary or the Secretary of Health, Education, and Welfare, or an authorized representative of either, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

"(1) to enter without delay and at reasonable times any mine subject to this Act; and

"(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any mine and all pertinent conditions, structures, machines, apparatus devices, equipment, and materials therein, and to question privately any such operator, owner, agent, or miner. In carrying out the requirements of this section in each underground mine, the Secretary shall make inspections of the entire mine at least four times a year. Advance notice of any inspection shall not be given.

"(b) In making his inspections and investigations under this Act, the Secretary may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of a contumacy, failure, or refusal of any person to obey such an order, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, resides, or transacts business, upon the application by the Secretary, shall have jurisdiction to issue to such person an order requiring such person to appear to produce evidence if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as contempt thereof.

"(c)(1) Each operator shall make, keep and preserve, and make available to the Secretary or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses in the mines subject to this Act. In order to carry out the provisions of this paragraph such regulations may include provisions requiring operators to conduct periodic inspections.

"(2) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe regulations requiring operators to maintain accurate records of, and to make periodic reports on, work-related deaths, injuries, and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job in the mines subject to this Act.

"(3) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall issue regulations requiring operators to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under any applicable health and safety standard promulgated under this Act. Such regulations shall provide miners or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provision for each miner or former miner to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each operator shall promptly notify any miner who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable health and safety standard promulgated under section 6, or mandated under title II, and shall inform any miner who is being thus exposed of the corrective action being taken. Any miner transferred as a result of such exposure shall receive compensation for such work at not less than the regular rate of pay received by him immediately prior to his transfer.

"(4) All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents, roof falls, and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons.

"(d) Any information obtained by the Secretary, or by the Secretary of Health, Education, and Welfare under this Act shall be obtained in such a manner as to impose a minimum burden upon operators, especially those operating small business consistent with the underlying purposes of this Act. Unnecessary duplication of effort in obtaining information shall be reduced to the maximum extent feasible.

"(e) Subject to regulations issued by the Secretary, a representative of the operator and a representative authorized by his miners shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any mine under subsection (a) for the purpose of aiding such inspection. Where there is no authorized miner representative, the Secretary or his authorized representative shall consult with a reasonable number of miners concerning matters of health and safety in the mine. To the extent that the inspector determines that more than one representative from each party would further aid the inspection, he can permit each party to have an equal number of such additional representatives. Any representative of miners who is also an employee of the operator shall suffer no loss of pay as a result of his participation in the physical inspection made under this subsection. Compliance with this subsection shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

"(f)(1) Any miners or representatives of miners who believe that a violation of a health or safety standard exists that threatens harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the miners or representative of miners, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual miners referred to therein shall not appear in such copy or on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify the miners and representative of the miners in writing of such determination.

"(2) Prior to or during any inspection of a mine, any miners or representatives of miners employed in such mine may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act or of any imminent danger which they have reason to believe exists in such mine. The Secretary shall, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such alleged violation or order with respect to such danger and shall furnish the miners or representative of miners requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

"(g)(1) The Secretary and Secretary of Health, Education, and Welfare are authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section.

"(2) The Secretary and the Secretary of Health, Education, and Welfare shall each prescribe such rules and regulations as they may deem necessary to carry out their responsibilites under this Act, including rules and regulations dealing with the inspection of mines subject to this Act.

"(h) Whenever the Secretary finds that a mine liberates excessive quantities of methane or other explosive gases during its operations, or that a methane or other gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine other especially hazardous conditions, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine during every five working days at irregular intervals.

"(i) In the event of any accident (whether or not resulting in an injury or death) occurring in a mine, the operator shall promptly notify the Secretary thereof and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activity in such mine.

"(j) In the event of any accident occurring in a mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in the mine or to recover the mine or return affected areas of the mine to normal.

"CITATIONS AND ORDERS

"SEC. 105. (a)(1) If, upon inspection or investigation, the Secretary or his authorized representative believes that an operator of a mine subject to this Act has violated a safety or health standard prescribed by or under this Act, or any rule, order, or regulation promulgated pursuant to this Act, he shall, with reasonable promptness, issue a citation to the operator. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, standard, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation.

"(2) If a citation under section 105(a)(1) is issued for a violation which the Secretary or his authorized representative believes to have been willfully committed, or committed with gross negligence, and to have subjected a miner or miners to an imminent danger, the Secretary or his authorized representative shall include in the citation a charge that the violation was willfully committed, or committed wtih gross negligence, and that it subjetced a miner or miners to an imminent danger, with a specific description of the danger or dangers involved.

"(b) If upon any follow-up inspection of a mine, an authorized representative of the Secretary finds (1) that a violation described in a citation issued pursuant to subsection (a) has not been totally abated within the period of time as originally fixed therein or as subsequently extended, and (2) that the period of time for the abatement should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to immediately cause all persons to be withdrawn from, and to be prohibited from, entering such area until an authorized representative of the Secretary determines that such violation has been abated, except the following persons:

"(1) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, or an authorized representative of the Secretary, to eliminate the danger described in the order;

"(2) Any public official whose official duties required him to enter such area; or

"(3) Any legal or technical consultant, or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such areas is necessary, in the judgment of the operator of the mine or an authorized representative of the Secretary, for the proper investigation of the conditions described in the order.

"(c)(1) In the case of a violation of any safety or health standard which is of such nature as could significantly and substantially contribute to the cause and effect of a mine safety or health hazard, and which is caused by an unwarranted failure of such operator to comply with such safety or health standards, the citation shall include a statement to that effect. If, during the same inspection or any subsequent inspection of such mine within ninety days after the issuance of such citation, an authorized representative of the Secretary finds another violation of any safety or health standard and finds such violation to be also caused by an unwarranted failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (b) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

"(2) If a withdrawal order with respect to any area in a mine has been issued pursuant to paragraph (1) of this subsection, a withdrawal order shall promptly be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in the mine of other unwarranted violations until such time as an inspection of such mine discloses no such violations. Following an inspection of the mine which discloses no unwarranted violations, the provisions of paragraph (1) of this subsection shall again be applicable to that mine.

"(d) During the abatement period for a violation of the applicable limit on the concentration of respirable dust, the operator of the mine shall cause samples described in section 202(a) of this Act to be taken of the affected area during each production shift.

"As soon as possible after an order relating to failure to abate excessive dust concentrations is issued, the Secretary, upon request of the operator, shall dispatch to the mine involved a person or team of persons, to the extent such persons are available, who are knowledgeable in the methods and means of controlling and reducing respirable dust. Such person or team of persons shall remain in the mine involved for such time as they shall deem appropriate to assist the operator in reducing respirable dust concentrations. While at the mine, such persons may require the operator to take such actions as they deem appropriate to insure the health of any person in the mine.

"(e) Each citation or order issued under this section, or a copy or copies thereof, shall be prominently posted in accordance with section 110 of this Act, and as prescribed in regulations issued by the Secretary.

"(f) No citation may be issued under this section after the expiration of six months following the occurrence of any violation.

"(g) Any order issued under subsection (b) or (c) shall remain in effect until revoked by the Secretary or modified or vacated by the Commission or the courts pursuant to section 106(c) or 107(a).

"PROCEDURE FOR ENFORCEMENT

"SEC. 106. (a) If, after an inspection or investigation, the Secretary issues a citation under section 105(a)(1), he shall, within a reasonable time after the termination of such inspection or investigation, notify the operator by certified mail of the civil penalty proposed to be assessed under section 111(a) for the violation cited and that the operator has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If the citation contains a charge under section 105 (a)(2), the Secretary's notification under this subsection shall include a proposed civil penalty closure order under section 111(c) in addition to the proposed civil monetary penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the citation or the proposed penalty or penalties, and no notice is filed by any employee or representative of employees under subsection (c) of this section within such time, the citation and the penalty or penalties, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a notice under this subsection shall constitute receipt thereof within the meaning of this subsection.

"(b) If the Secretary has reason to believe that an operator has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Commission in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), the Secretary shall notify the operator by certified mail of such failure and of the penalty proposed to be assessed under section 111 by reason of such failure, and that the operator has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the Secretary, the operator fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency. Refusal by the operator or his agent to accept certified mail containing a notification issued under this subsection shall constitute receipt thereof within the meaning of this subsection.

"(c)(1) No person shall discharge or in any manner discriminate against or interfere with the exercise of the statutory rights of any mine employee or applicant for employment subject to this Act because such employee has filed or made a complaint under or related to this Act, including a complaint notifying his labor or safety representative of an alleged danger or safety or health violation in the mine, or because such employee has instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding, or because of the exercise by such employee on behalf of himself or others of any statutory right afforded by this Act.

"(2) Any mine employee or applicant for employment who believes that he has been

discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall immediately file a complaint with the Commission, with service upon the alleged violator and the mine employee or applicant for employment, alleging such discrimination or interference and proposing an order granting appropriate relief. The Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary's proposed order, or directing other appropriate relief; and such order shall become final thirty days after its issuance. The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation as the Commission deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee to his former position with back pay and interest.

"(3) Within ninety days of the receipt of a complaint filed under paragraph (2) of this subsection, the Secretary shall notify the mine employee or applicant for employment, in writing, of his determination whether a violation has occurred. If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within thirty days of notice of the Secretary's determination, to file an action in his own behalf before the Commission, charging discrimination or interference in violation of paragraph (1) of this subsection. The Commission shall afford an apportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based upon findings of fact, dismissing or sustaining the complainant's charges and, if the charges are sustained, granting such relief as it deems appropriate, including, but not limited to, an order requiring the rehiring or reinstatment of the mine employee or applicant for employment to his former position with back pay and interest. Such order shall become final thirty days after its issuance. Whenever an order is issued sustaining the employee's charges under this paragraph, a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) as determined by the Commission to have been reasonably incurred by the mine employee or applicant for employment for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation. Proceedings under this section shall be expedited by the Secretary and the Commission. Any order issued by the Commission under this paragraph shall be subject to judicial review in accordance with section 107 of this Act. Violations by any person of paragraph (1) of this subsection shall be subject to the provisions of section 109 and 111(a) of this title.

"(d) If an operator of a mine subject to this Act notifies the Secretary that he intends to contest a citation or order issued under section 105 or notification issued under subsection (a) or (b) of this section, or if, within fifteen working days of the issuance of a citation or order under section 105, any miner or representative of miners files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation, order, or proposed penalty, or directing other appropriate relief; such order shall become final thirty days after its issuance. The rules of procedure prescribed by the Commission shall provide affected miners or representatives of affected miners an opportunity to participate as parties to hearings under this subsection. The Commission shall take whatever action is necessary to expedite proceedings for hearing appeals of orders issued under section 105.

"JUDICIAL REVIEW

"SEC. 107. (a) Any person adversely affected or aggrieved by an order of the Commission issued under this Act may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the operator has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have exclusive jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside, in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to question of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Commission may modify or set aside its original order by reason of such modified or new findings of fact. Upon the filing of the record with it, after such remand proceedings, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(b) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in which the operator has its principal office or in the Court of Appeals for the District of Columbia Circuit, and the provision of subsection (a) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (a), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b) of section 106, the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the operator named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (a), the court of appeals may assess the penalties provided in section 111, in addition to invoking any other available remedies.

"PROCEDURES TO COUNTERACT DANGEROUS CONDITIONS

"SEC. 108. (a) If, upon any inspection or investigation of a mine which is subject to this Act, an authorized representative of the Secretary finds that conditions or practices in such mine are such that an imminent danger exists, such representative shall determine the extent of the area of such mine throughout which the danger exists, and issue an order requiring the operator of such mine to cause all persons, except those referred to in section 105(b), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger no longer exists. The issuance of an order under this subsection shall not preclude the issuance of a citizen under section 105 or the proposing of a penalty under section 111.

"(b)(1) If, upon any inspection or investigation of a mine, an authorized representative of the Secretary finds (A) that potentially dangerous conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exists, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representatives of the miners of such mine. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners to present information relating to such notice.

"(2) Upon the conclusion of such investigation and an opportunity for a public hearing upon request by any interested party, the Secretary shall make findings of fact, and shall by decision incorporating such findings therein, either cancel the notice issued under this subsection or issue an order requiring the operator of such mine to cause

all persons in the area affected, except those persons referred to in section 105(b), to be withdrawn from, and be prohibited from entering such area until the Secretary, after a public hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated. Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5 of the United States Code but without regard to subsection (a)(3).

"(c) Findings and orders issued pursuant to subsection (a) of this section shall contain a detailed description of the conditions or practices which cause and constitute a situation of imminent danger, and all orders issued pursuant to this section shall contain a description of the area of the mine throughout which persons must be withdrawn and prohibited.

"(d) Each finding made and order issued under this section shall be given promptly to the operator of the mine to which it pertains by the person making such finding or order, and all of such findings and orders shall be in writing, and shall be signed by the person making them. Any order issued pursuant to subsection (a) or (b) may be annulled, canceled, or revised by an authorized representative of the Secretary. Any order issued under subsection (a) or (b) shall remain in effect until revoked by the Secretary or modified or vacated by the Commission, or the courts pursuant to sections 107(a) or 108(e). "(e)(1) Any operator notified of an order under this section may apply to the Commission within ten days of such notification for annulment or revision of such order. The Commission shall forthwith afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, vacating, affirming, modifying, or terminating the Secretary's order.

"(2) The Commission shall take whatever action is necessary to expedite proceedings under this subsection.

"INJUNCTIONS

"SEC. 109. The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (a) violates or fails or refuses to comply with any order or decision issued under this Act, or (b) interferes with, hinders, or delays the Secrtary or his authorized representative, or the Secretary of Health, Education, and Welfare or his authorized representative, in carrying out the provisions of the Act, or (c) refuses to admit such representatives to the mine, or (d) refuses to permit the inspection of the mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine, or (e) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the provisions of this Act, or (f) refuses to permit access to, and copying of, such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out the provisions of this Act. The court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this title, unless, prior thereto, the district court granting such relief sets it aside or modifies it. In any action instituted under this section to enforce an order or decision issued by the Commission or the Secretary after a public hearing in accordance with section 554 of title 5 of the United States Code, the findings of the Commission or the Secretary, as the case may be, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"POSTING OF NOTICES, ORDERS, AND DECISIONS

"SEC. 110. (a) At each mine subject to this Act there shall be maintained an office with a conspicuous sign designating it as the office of the mine, and a bulletin board at such office or at some conspicuous place near an entrance of the mine, in such manner that notices, orders, citations, and decisions required by law or regulation to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. A copy of any notice, order, citation, or decision required by this Act to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent for not less than thirty days.

"(b) The Secretary shall (i) cause a copy of any notice, order, citation, or decision required by this Act to be given to an operator to be mailed immediately to a representative of the miners in the affected mine, and (ii) cause a copy thereof to be mailed to the public official or agency of the State charged with administering State laws, if any, relating to health or safety in such mine. Such notice, order, citation, or decision shall be available for public inspection.

"(c) In order to insure prompt compliance with any notice, order, citation, or decision issued under this Act, the authorized representative of the Secretary may deliver such notice, order, citation, or decision to an agent of the operator, and such agent shall immediately take appropriate measures to insure compliance with such notice, order, citation, or decision.

"(d) Each operator of a mine subject to this Act shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a mine subject to this Act shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine, and such official shall receive a copy of any notice, order, citation, or decision issued under this Act affecting such mine. In any case, where the mine is subject to the control of any person not directly involved in the daily operations of the mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any mine subject to the control of such person, and such official shall receive a copy of any notice, order, citation, or decision issued affecting any such mine. The mere designation of a health and safety official under this subsection shall not be construed as making such official subject to any penalty under this Act.

"PENALTIES

SEC. 111. (a) Any operator who violates a safety or health standard prescribed by or under this Act, or any rule, order, or regulation promulgated pursuant to this Act, shall be assessed a civil penalty of not more than $10,000 for each such violation.

"(b) Any operator who fails to correct a violation for which a citation has been issued under section 105(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the Commission in the case of any review proceeding under section 106 initiated by the employer in good faith and not solely for delay or avoidance of penalities), may be assessed a civil penalty of not more than $1,000 for each day during which such failure or violation continues.

"(c) Whenever a corporate operator violates a safety or health standard prescribed by or under this Act, or any rule, order, or regulation promulgated pursuant to this Act, any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsection (a), (b), (e), (f), or (g) of this section.

"(d) Any operator who willfully, or with gross negligence, violates a safety standard prescribed by under this Act, and thereby causes a miner or miners to be subjected to imminent danger, shall be subject to a civil penalty closure order by the Commission, which order shall: (i) order the mine closed for a minimum specified period not to exceed thirty working days, (ii) provide that the mine may not be reopened except upon a subsequent order and finding by the Commission that no unabated safety or health violations exist at such mine (except violations for which the period for abatement has not expired), and (iii) provide that during the period of closure the operator shall pay the miners at their regular hourly rates for the hours they would have worked had the mine not been ordered closed, exscept any miner or miners found by the Commission to have willfully or with gross negligence contributed to the violation or violations which gave rise to the closure order.

"(e) Any operator who willfully violates a safety or health standard prescribed by or under this Act, or any rule, order, or regulation promulgated pursuant to this Act, shall, upon conviction, be punished by a fine of not more than $25,000 or by imprisonment for not more than one year, or by both; except that if the conviction is for a violation committed after a first conviction of such person for any violation of this Act, punishment shall be a fine of not more than $50,000 or imprisonment for not more than five years, or both.

"(f) Any person who gives advance notice of any inspection to be conducted under this Act shall, upon conviction, be punished by a fines of not more than $1,000 or by imprisonment for not more than six months, or by both.

"(g) Whoever knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $1,000, or by imprisonment for not more than six months, or by both.

"(h) Any operator who violates any of the posting requirements, as prescribed under the provisions of this Act, shall be assessed a civil penalty of up to $1,000 for each violation.

"(i) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Commission of not more than $250 for each occurrence of such violation.

"(j) Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in

commerce any equipment for use in a mine, including, but not limited to, components and accessories of such equipment, which is represented as complying with the provisions of this Act, or with any specification or regulation of the Secretary applicable to such equipment, and which does not so comply, shall, upon conviction, be punished by a fine of not more than $25,000 or by imprisonment for not more than one year, or by both.

"(k) The Commission shall have authority to assess all civil penalties and to issue all civil penalty closure orders provided in this Act. In assessing civil monetary penalties, the Commission shall give due consideration to the gravity of the violation, the good faith of the person charged, the history of previous violations, and the appropriateness of the penalty with respect to the size of the business of any mine operator being charged: *Provided*, That, in proposing civil penalties under this Act, the Secretary may rely upon a summary review of the information available to him and shall not be required to make findings of fact concerning the above factors.

"(l) Civil penalties owed under this Act shall be paid to the Secretary for deposit into the Treasury of the United States and shall accrue to the United States and may be recovered in a civil action in the name of the United States brought in the United States district court for the district where the violation is alleged to have occurred or where the employer resides or maintains a place of business.

"ENTITLEMENT OF MINERS

"SEC. 112. (a) If a mine or area of a mine is closed by an order issued under section 105 or section 108 of this title, all miners working during the shift when such order was issued who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a mine or area of a mine is closed by an order issued under section 105 or section 108 of this title for a failure of the operator to comply with any health or safety standard, all miners who are idled due to such order shall be fully compensated by the operator for lost time at their regular rates of pay for such time as the miners are idled by such closing, or for one week, whichever is the lesser. Whenever an operator violates or fails or refuses to comply with any order issued under section 105 or section 108 of this Act, all miners employed at the affected mine who would be withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated. The Commission shall have authority to order compensation due under this section, upon the filing of a complaint by a miner or his representative and after opportunity for hearing subject to section 554 of title 5, United States Code.

"ADMINISTRATIVE PROVISIONS

"SEC. 113. (a) The Secretary is authorized and directed to administer the provisions of this Act through a Mine Safety and Health Administration established under section 402 of the Federal Mine Safety and Health Act of 1975. The Secretary, acting through the Administration, shall have authority to appoint, subject to the civil service laws, such officers and employees as he may deem necessary for the administration of this Act, and to prescribe powers, duties, and responsibilities of all officers and employees engaged in the administration of this Act.

"(b) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 114. There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this title."

AMENDMENTS WITH RESPECT TO INTERIM MANDATORY HEALTH STANDARDS

SEC. 202. (a)(1) Section 201(a) of the Federal Mine Safety and Health Act of 1975 (as redesignated by this Act) is amended by striking out "coal mines" and inserting in lieu thereof "mines".

(2) Section 201(b) of such Act is amended by striking out "coal mine" and inserting in lieu thereof "mine".

(b) Section 202 of such Act is amended by striking out "coal mine" and inserting in lieu thereof "mine".

(c)(1) Section 203 of such Act is amended by striking out "coal mine" each time it appears therein and inserting in lieu thereof "mine".

(2) Section 203(d) of such Act is amended by striking out "coal mine" and inserting in lieu thereof "mine".

(d) Section 205 of such Act is amended by striking out "coal mining" and inserting in lieu thereof "mining".

(e) Section 206 of such Act is amended by striking out "coal mine" each time it appears therein and inserting in lieu thereof "mine".

TITLE III—RELATIONSHIP TO OCCUPATIONAL SAFETY AND HEALTH PROGRAM

APPLICABILITY OF THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

SEC. 301. Except as otherwise specifically provided, nothing in this Act or in the amendments made by this Act shall be construed to apply the provisions of the Occupational Safety and Health Act of 1970 to working conditions in the mines subject to the Federal Mine Safety and Health Act of 1975.

THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SEC. 302. (a) The Occupational Safety and Health Review Commission created by section 12(a) of the Occupational Safety and Health Act of 1970 is hereby continued as an agency of the United States, except that the Commission shall consist of five members instead of three members, appointed by the President by and with the advice and consent of the Senate. Three of the members shall be appointed from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under the Occupational Safety and Health Act of 1970. The two additional members of the Commission shall be appointed from among persons who by reason of training, education, or experience are especially qualified in the field of mine safety and health. The President shall designate one of the members of the Commission to serve as Chairman. Not more than three Commissioners, including the Chairman, shall be of the same political party.

(b) The terms of the two additional members shall be six years, except that—

(1) such additional members of the Commission, first taking office after the date of enactment of the Federal Mine Safety and Health Amendments of 1975, shall serve, as redesignated by the President at the time of appointment, one for a term of two years, and one for a term of six years; and

(2) a vacancy caused by the death, resignation, or removal of any such member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term.

Any such member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(3) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission. The Commission shall appoint such employees as it deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and general pay rates. The Commission shall appoint a chief administrative law judge and such administrative law judges as it deems necessary to carry out the functions of the Commission: *Provided*, That assignment, removal, and compensation of administrative law judges and a chief administrative law judge shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code.

(c) Three members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of a majority of those present and voting: *Provided*, That, pursuant to such rules as the Commission may establish for proceedings arising under the Federal Mine Safety and Health Act of 1975, the Commission may fix a quorum at two members. In any review by the Commission, or upon any petition for review before it, an equally divided vote of the Commissioners shall operate as an affirmance of the order or decision being reviewed or for which review is petitioned.

(d)(1) Pursuant to such rules as the Commission may establish, proceedings held pursuant to the Federal Mine Safety and Health Act of 1975 may be had before a special mine safety and health panel established in the Commission composed of both members who are especially qualified in the field of mine safety and health and one additional member. In any such proceeding two members shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

(2) Notwithstanding any other provision of this section, the Commission is authorized, consistent with the rights of the parties to an opportunity for a hearing, to expedite in every way proceedings held pursuant to the Federal Mine Safety and Health Act of 1975.

(e)(1) An administrative law judge appointed by the Commission to hear matters under this Act and the Occupational Safety and Health Act of 1970, shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the chief administrative law judge of the Commission or by the Commission, and shall make a decision which constitutes his final disposition of the proceedings. The decision of the administrative law judge of the Commission or by the Commission, thirty days after its issuance unless within such period the Commission has directed that such decision shall be reviewed by the Commission in accordance with paragraph (2) of this subsection. An administrative law judge shall not be assigned to prepare a recommended decision under this Act or under the Occupational Safety and Health Act of 1970.

(2) The Commission shall prescribe rules of procedure for its review of the decisions of administrative law judges in cases under this Act and under the Occupational Safety and Health Act of 1970 which shall meet the

following standards for review (the provisions of section 557(b) of title 5, United States Code, with regard to the review authority of the Commission are hereby expressly superseded to the extent that they are inconsistent with the provisions of paragraphs (i) (a) (b) and (c), (ii) and (iii) of this subsection):

(i) (a) PETITIONS FOR DISCRETIONARY REVIEW.—Any party may file and serve a petition for discretionary review by the Commission of a decision of an administrative law judge within thirty days after the issuance of such decision. Review by the Commission shall not be a matter of right but of the sound discretion of the Commission.

(b) Petitions for discretionary review shall be filed only upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by substantial evidence.

(2) A necessary legal conclusion is erroneous.

(3) The decision is contrary to law or to the duly promulgated rules or decisions of the Commission.

(4) A substantial question of law, policy, or discretion is involved.

(5) A prejudicial error of procedure was committed.

(c) Each issue shall be separately numbered and plainly and concisely stated, and shall be supported by detailed citations to the record when assignments of error are based on the record, and by statutes, regulations, or principal authorities relied upon. Except for good cause shown, no assignment of error by any party shall rely on any question of fact or law upon which the administrative law judge had not been afforded an opportunity to pass. Review by the Commission shall be granted only by majority vote of the Commissioners present and voting. If granted, review shall be limited to the questions raised by the petition.

(ii) REVIEW BY COMMISSION AT ITS OWN INITIATIVE.—At any time within thirty days after the issuance of a decision of an administrative law judge, the Commission may in its discretion (by majority vote of the Commissioners present and voting) order the case before it for review but only upon the ground that the decision may be contrary to law or Commission policy, or that a novel question of policy has been presented. The Commission shall state in such order the specific issue of law, Commission policy or novel question of policy involved. If a party's petition for discretionary review has been granted, the Commission shall not raise or consider additional issues in such review proceedings except in compliance with this paragraph.

(iii) SCOPE OF REVIEW.—For the purpose of review by the Commission under paragraph (i) or (ii) of this subsection, the record shall include (1) all matters constituting the record upon which the decision of the administrative law judge was based, (2) the rulings upon proposed findings and conclusions, (3) the decision of the administrative law judge, (4) the petition or petitions for discretionary review, responses thereto, and the Commission's order for review, and (5) briefs filed on review. No other material shall be considered by the Commission upon review. The administrative law judge's findings and conclusions of fact, as distinguished from policy determinations, shall not be set aside by the Commission unless such findings or conclusions of fact are unsupported by substantial evidence of record. The Commission either may remand the case to the administrative law judge for further proceedings as it may direct or it may affirm, set aside, or modify the decision or order of the administrative law judge in conformity with the record. If the Commission determines that further evidence is necessary on an issue of fact it shall remand the case for further proceedings before the administrative law judge.

(f) In connection with hearings before the Commission, or its administrative law judges, under this Act or the Occupational Safety and Health Act of 1970, the Commission and its administrative law judges may compel the attendance and testimony of witnesses and the production of books, papers, or documents or objects, and to order testimony to be taken by deposition at any stage of the proceedings before them. Any person may be compelled to appear and depose and produce like documentary or physical evidence, in the same manner as witnesses may be compelled to appear and produce evidence before the Commission and its administrative law judges. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States and at depositions ordered by such courts. In case of a contumacy, failure, or refusal of any person to obey a subpena or order of the Commission or an administrative law judge, respectively, to appear, to testify, or to produce documentary or physical evidence, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which such person is found, or resides, or transacts business, shall, upon the application of the Commission, or the administrative law judge, respectively, have jurisdiction to issue to such person an order requiring such person to appear, to testify, or to produce evidence as ordered by the Commission or the administrative law judge, respectively, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(g) Except as otherwise specifically provided in this section, the provisions of section 12 of the Occupational Safety and Health Act of 1970 with respect to the Occupational Safety and Health Review Commission shall continue in effect.

NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

SEC. 303. The National Institute for Occupational Safety and Health established under section 22 of the Occupational Safety and Health Act of 1970 is authorized to conduct research related to the development of safety and health standards under the Federal Mine Safety and Health Act of 1975 and to perform all functions with respect to mines that it performs with respect to employments subject to the Occupational Safety and Health Act of 1970.

STATISTICS

SEC. 304. The Secretary of Labor in carrying out his functions under section 24 of the Occupational Safety and Health Act of 1970 shall include accurate statistics on the work injuries and illnesses occurring in the mines subject to the Federal Mine Safety and Health Act of 1975.

SAND AND GRAVEL MINES

SEC. 305. Nothing in this Act shall be construed to prohibit the application of the Occupational Safety and Health Act of 1970 to sand and gravel mines.

TERMS OF PRESENT MEMBERS OF THE REVIEW COMMISSION

SEC. 306. Nothing contained in this title shall affect the terms of the members of the Occupational Safety and Health Review Commission serving on the date of enactment of this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

TRANSFER MATTERS

SEC. 401. (a) The functions of the Secretary of the Interior under the Federal Coal Mine Health and Safety Act of 1969, and the Federal Metallic and Non-Metallic Mine Safety Act of 1966 are transferred to the Secretary of Labor, except those which are expressly transferred to the Commission by this Act.

(b) (1) The mandatory and advisory standards relating to mines, issued by the Secretary of the Interior under the Federal Metallic and Nonmetallic Mine Safety Act of 1966 and standards under the Federal Coal Mine Health and Safety Act of 1969 which are in effect on the date of enactment of this Act shall remain in effect as standards under title I of the Federal Mine Safety and Health Act of 1975 until such time as the Secretary shall issue new or revised standards under that title, or, with respect to sand or gravel standards, until new or revised standards are issued by the Secretary of Labor under section 6 of the Occupational Health and Safety Act of 1970.

(2) All interpretation, regulations, and instructions of the Secretary of the Interior or the Director of the Bureau of Mines, in effect on the date of enacement of this Act and not inconsistent with any provision of this Act or any amendment made by this Act, shall be published in the Federal Register and shall continue in effect until modified or superseded in accordance with the provisions of this Act.

(c) (1) All unexpended balances of appropriations, personnel, property, records, obligations, and commitments which are used primarily with respect to any function transferred under the provisions of subsection (a) of this section to the Secretary shall be transferred to the Department of Labor. The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary of Labor shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this Act.

(2) All orders, decisions, determinations, rules, regulations, permits contracts certificates licenses and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency, any functions of which are transferred by this section, and (B) which are in effect at the time this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary of Labor, the Occupational Safety and Health Review Commission by any court of competent jurisdiction, or by operation of law.

(3) The provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Secretary of Labor or the Occupational Safety and Health Review Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary of Labor, the Occupational Safety and Health Review. Commission, by a court of competent jurisdiction, or by operation of law.

(4) The provisions of this section shall not affect suits commenced prior to the date this section takes effect and in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this section had not been enacted; except that if before the date on which this section takes effect, any department or agency (or officer thereof in his official capacity) is a party to a suit involv-

ing functions transferred to the Secretary, then such suit shall be continued by the Secretary. No cause of action, and no suit, action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity) functions of which are transferred by this section, shall abate by reason of the enactment of this section. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

(d) For purposes of this section, (1) the term "function" includes power and duty, and (2) the transfer of a function, under any provision of law, of an agency or the head of a department shall also be a transfer of all functions under such law which are exercised by any officer or officer of such agency or department.

MINE SAFETY AND HEALTH ADMINISTRATION

SEC. 402. (a) There is established in the Department of Labor, a Mine Safety and Health Administration to be headed by an Administrator appointed by the President, by and with the advice and consent of the Senate. The Secretary is authorized and directed, except as specifically provided otherwise, to carry out his functions under the Federal Mine Safety and Health Act of 1975 through the Mine Safety and Health Administration.

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following paragraph:

"(98) Administrator of the Mine Safety and Health Administration".

AMENDMENTS WITH RESPECT TO MINE SAFETY AND HEALTH ADMINISTRATION

SEC. 403. (a) (1) Section 501(a) of the Federal Mine Safety and Health Act of 1975 (as redesignated by this Act) is amended by striking out the word "coal" wherever it appears therein.

(2) Section 501(b) of such Act is amended by striking out the word "coal" each time it appears therein and by adding after the word "Welfare" the following: "through the National Institute for Occupational Safety and Health established under the Occupational Safety and Health Act of 1970".

(3) Section 501(d) of such Act is amended by striking out the word "coal".

(b) Section 502 of such Act is amended by striking out the word "coal" each time it appears therein.

(c) (1) Section 503(a) of such Act is amended by striking out the word "coal" each time it appears therein.

(2) Section 503(b) of such Act is amended by striking out the word "coal" each time it appears therein.

(d) (1) Section 503(f) of such Act is amended by striking out the word "coal".

(2) Section 503(g) of such Act is amended by striking out the word "coal".

(e) Section 505 of such Act is amended by striking out "the mining of coal" and inserting in lieu thereof "in mining".

(f) Section 506(b) of such Act is amended by striking out the word "coal" each time it appears therein.

(g) (1) Section 511(a) of such Act is amended by striking out the word "coal".

(2) Section 511(b) of such Act is amended by striking out the word "coal".

(h) Section 7(b)(5) of the Small Business Act is amended by striking out the word "coal".

SAVINGS PROVISION

SEC. 404. Nothing contained in this Act or any amendment made by this Act shall be construed to reduce the number of inspectors engaged in enforcing the provisions of the Coal Mine Safety and Safety Act of 1969 and Metallic and Nonmetallic Mine Safety Act of 1969 as in effect prior to the effective date of this Act or to reduce the number of inspectors engaged in the enforcement of the Occupational Safety and Health Act of 1970.

BUDGET PROVISION

SEC. 405. In the preparation of the Budget message required under section 201 of the Budget and Accounting Act, 1927 (1931 U.S.C. 11), the President shall set forth as separate appropriation accounts amounts required for appropriation for mine health and safety pursuant to the Federal Mine Health and Safety Act of 1975 and for occupational safety and health pursuant to the Occupational Safety and Health Act of 1970.

REPEALER

SEC. 406. The Federal Metal and Nonmetallic Mine Safety Act of 1966 is repealed.

EFFECTIVE DATE

SEC. 407. This Act and the amendments made by this Act shall take effect on the first day of the second month after the date of enactment of this Act, except that the Secretary of Labor is authorized to establish such rules and regulations as may be necessary for the efficient transfer of functions provided under this Act.

FEDERAL MINE SAFETY AND HEALTH AMENDMENTS OF 1975

ANALYSIS OF FEDERAL MINE SAFETY AMENDMENTS OF 1975

The legislation has three principal features. First, the bill would merge the safety and health protection for metallic and nonmetallic miners with the protection for coal miners under the Coal Mine Health and Safety Act of 1969 into a Federal Mine Safety and Health Act.

Second, the functions of the Secretary of the Interior under the present Coal Mine and Metal Mine Acts be transferred to the Secretary of Labor in a separate mine safety and health administration with an administrator, subject to Senate confirmation.

Third, the bill provides for standard setting and enforcement procedures under the new Federal Mine Safety and Health Act of 1975 which would conform to the Administrative Procedure Act and provide for appellate court review.

MERGER OF METALLIC AND NON-METALLIC AND COAL MINE SAFETY AND HEALTH

The merger provision is accomplished by eliminating all references to coal under Titles I, II, and V of the 1969 Coal Mine Health and Safety Act, and by repealing the 1966 Metallic and Non-Metallic Act. The definitions of the Coal Mine Health and Safety Act are revised to make clear their application to all forms of underground mining but specifically exclude sand and gravel operations. This approach is predicated on an assumption that the essentials of safety in underground mining are similar and that a unified statutory approach would make for a much more efficient operation. Moreover, existing metal mine statutes are seriously deficient with respect to administrative and enforcement procedures (see below.)

TRANSFER OF MINE SAFETY FUNCTIONS TO THE SECRETARY OF LABOR

The transfer of mine safety enforcement to the Secretary of Labor is accomplished by substituting Secretary of Labor for Interior or Bureau of Mines in the Amendments to the 1969 Act. Additional provisions are made for a separate mine safety and health administration in order to provide a continuity and maintenance of effort. The bill has legislative language requiring a maintenance of the separate inspection forces and separate budget submissions designed to make sure that existing cases and decisions are maintained in force regardless of the transfer. The rationale for this transfer function is that the Bureau of Mines has failed as the governmental agency responsible for mine safety. The Subcommittee's oversight activities coupled with the disaster investigations reflects an inability of the Bureau of Mines to develop the strong enforcement program needed in this area.

The over-riding need for the transfer is that the Secretary of the Interior with his primary charge of responsibility to ensure adequate energy sources for our country is presented with an irreconcilable conflict in also being changed to ensure maximum safety of workers in the mines. A transfer of this function to the Secretary of Labor will allow him to concentrate his efforts on workers protection and avoid the Interior Department's continuing schizophrenic conflict on energy v. safety.

Health research matters are transferred to the Secretary of Health, Education, and Welfare under the National Institute of Occupational Safety and Health.

The elimination of the jurisdiction of sand and gravel pits is done because that coverage closely relates to construction work rather than mining operations and accordingly a more efficient operation can be accomplished by letting that be handled by the Occupational Safety and Health Act of 1970. Moreover, the ability of the Bureau of Mines to focus on the more dangerous underground mining operation is diminished by having the jurisdictional responsibility of the vastly large sand and gravel operations.

REVISION OF ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

The bill revises the standard making procedures, enforcement and inspection procedure, and penalty provisions of the 1969 Coal Mine Act under a basic framework of operation within the Administrative Procedure Act while retaining some of the more viable features of the 1969 Coal Mine Act. This is accomplished legislatively by rewriting the entire Title I of the 1969 Act. The Secretary of Labor is given stronger independence on promulgating standards, advisory committees are strengthened in their operation and given a definite time frame within which to deliver. However, Advisory Committees are left optional with respect to the Secretary's decision to appoint them. Existing coal mine and metallic mine safety and health standards are retained in place until better substitutes are promulgated. One feature will be to make all of the metallic mine safety standards mandatory and eliminate the present situation where some of the metal mine standards are mandatory and some advisory. There seems to be no rational basis for devising a standard which is necessary to life and safety as being advisory. The Secretary is given authority to issue future temporary noncompliance orders and variances.

The procedures for inspection enforcement are likewise based on making clear the strong inspection requirements of the Coal Mine Act but eliminating certain of the bureaucratic problems that the Bureau of Mines has had in conducting inspections. The closure for imminent danger situations are stronger under the 1969 Coal Mine Act and therefore have been retained.

The penalties of the 1969 Coal Act are retained. The Occupational Safety and Health Review Commission is given jurisdiction for appeals from the Secretary under the new Act. The review commission is expanded for this purpose.

SECTION-BY-SECTION ANALYSIS

TITLE I—AMENDMENTS TO THE GENERAL PROVISIONS OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Section 101—This section amends section 1 of the Federal Coal Mine Health and Safety Act of 1969 such that it is now cited as the

"Federal Mine Safety and Health Act of 1975."

Section 102—Definitions and applicability.

Section 102(a)(1)—provides that Section 2 of the Federal Mine Safety and Health Act of 1975 is amended by striking out "coal" wherever it appears.

Section 102(a)(1)—provides that the functions of the Secretary of the Interior in developing and promulgating improved mandatory health and safety standards under Section 2(g)(1) are transferred to the Secretary of Labor.

Section 102(b)(1)—changes the definition of "Secretary" in section 3(a) from Secretary of the Interior to Secretary of Labor.

Section 102(b)(2)—enlarges the definition of "mine" in section 3(h) to include those mines previously covered by the Federal Metal and Non-Metallic Mine Safety Act (except sand and gravel mines).

Section 102(b)(3)—expands the definitions of "operator," "agent," "miner," and "imminent danger" in sections 3(d), (e), (g), and (j), respectively, to apply to all mines now covered by the Act.

Section 102(b)(4)—amends section 3 to add a new section 3(n) defining "Administration" which means the Mine Safety and Health Administration established under section 402 of this Act and a new section 3(o) defining "Commission" which means the Occupational Safety and Health Review Commission established under section 12 of the Occupational Safety and Health Act of 1970.

Section 102(c)—amends section 4, "Mines Subject to Act," to include in addition to coal miners, mines newly covered by this Act.

Section 102(d)(1)—amends Section 5(c) to conform the wording thereof to the new definition of "Secretary," but the meaning is unchanged.

Section 102(d)(2)—includes operators and miners' representatives of mines newly covered by this Act among those that may ask the Interim Compliance Panel for a public hearing under Section 5(f), and changes the wording of that section to conform to the new section number for "Judicial Review."

Section 102(e)—transfers authority to modify application of mandatory standards from the Secretary of the Interior to the Commission.

TITLE II—MINE SAFETY AND HEALTH STANDARD AMENDMENTS

Amendment to title I

Section 202—This section amends Title I of 1969 so that it includes:

Section 101—Duties.

Section 101(a)—establishes the duty of each mine operator to comply with the health and safety standards, all rules, regulations, and orders promulgated under this Act and to furnish a place of employment free from recognized hazards causing or likely to cause death or physical harm.

Section 101(b)—establishes the duty of each miner to comply with the health and safety standards, all rules, regulations, and orders promulgated under this Act which are applicable to his own conduct.

Section 102.—Safety and Health Standards.

Section 102(a)—establishes that the Secretary may by rule promulgate, modify, or revoke any health and safety standard.

Section 102(a)(1)—provides that the Secretary may request the recommendations of an advisory committee appointed under section 103 whenever he determines from information submitted to him in writing or on the basis of his own information that a rule should be promulgated. Where an advisory committee is appointed, the Secretary must provide such committee with any proposal of his own or of the Secretary of Health, Education, and Welfare as well as any factual information that has been developed. The advisory committee must submit to the Secretary its recommendations within 90 days from the date of its appointment or a longer or shorter period of time prescribed by the Secretary, but no longer than 270 days.

Section 102(a)(2)—requires the Secretary to publish a proposed rule in the Federal Register and afford interested persons a period of 30 days after publication to submit written comments. Where an advisory committee is appointed and the Secretary decides to issue a rule, he must publish the proposed rule within 60 days after submission of the committee's recommendations or the expiration of the period prescribed by the Secretary for those recommendations.

Section 102(a)(3)—permits any interested person to file with the Secretary written objections to the proposed rule and request a public hearing before the expiration of the comment period provided for in section 102(a)(2). Within 30 days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the standard objected to and the time and place for a hearing.

Section 102(a)(4)—provides that within 60 days after expiration of the comment period under section 102(a)(2) or within 60 days after completion of a hearing under section 102(a)(3), the Secretary shall issue a rule or determine that a rule should not be issued. In order to insure that affected employers and their employees are informed of the existence of the standard and its requirements, an issued rule may contain a provision delaying its effective date for a period determined by the Secretary, but not longer than 90 days.

Section 102(a)(5)—requires the Secretary, in promulgating standards, to set the standard which assures that miners will not suffer impairment of health, functional capacity, or diminished life expectancy even if regularly exposed to the hazards throughout their working lives. Development of standards is to be based on research, demonstration, experiment, and other appropriate information. In addition to the attainment of the highest degree of safety and health protection for the miner, other considerations shall be the latest available scientific data in the field, the feasibility of the standards and experience gained under this and other health and safety statutes. Wherever practicable, the standard should be expressed in terms of objective criteria and performance desired.

Section 102(a)(6)—provides that any standard promulgated under section 102(a) must prescribe the use of labels or other warnings necessary to ensure that miners are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment and proper conditions and precautions of safe use or exposure. A standard, when appropriate, shall prescribe protective equipment, control or technological procedures to be used, and shall provide for monitoring or measuring miners exposure as may be necessary for the protection of the miners. Where appropriate, such standard shall prescribe the type and frequency of medical examination or tests which the miners shall provide, at his cost, in order to determine whether the miner exposed to such hazards is adversely affected by such exposure.

The medical examination may be furnished at the expense of the Secretary of Health, Education, and Welfare if he determines them to be in the nature of research. The results of such examination or tests shall be furnished only to the Secretary, the Secretary of Health, Education, and Welfare, and at the miners request, to his designated physician. The Secretary, in consultation with the Secretary of Health, Education and Welfare, may by rule promulgated pursuant to section 554 of title 5, United States Code, modify the foregoing requirements relating to labels, warning, monitoring and medical examination as subsequently acquired experience, information or medical and technical developments warrant.

Section 102(a)(7)—requires that no safety or health standard promulgated under Title I shall reduce the protection afforded miners below that are provided by any safety or health standard previously in effect.

Section 102(b)(1)—provides that where the Secretary determines that miners are potentially subjected to physical or mental impairment from exposure to substances or agents determined to be toxic or physically harmful or from new hazards and that an emergency standard is necessary to protect the miners, he may promulgate an emergency standard effective upon publication in the Federal Register without regard to the rule making procedures of the Administrative Procedure Act.

Section 102(b)(2)—provides that an emergency temporary standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in section 102(b)(3).

Section 102(b)(3)—requires the Secretary to begin a proceeding for promulgating a standard in accordance with section 102(a) upon publication of the emergency temporary standard. The emergency temporary standard shall serve as the proposed rule in such a proceeding and the Secretary shall promulgate the permanent standard no later than six months after publication of the emergency temporary standard.

Section 101(c)—authorizes the Secretary to grant a variance if he determines or the Secretary of Health, Education, and Welfare certifies that such a variance is necessary for the operator to participate in an experiment approved by one of the Secretaries designed to improve techniques of safeguarding the health or safety of the workers.

Section 102(d)(1)—provides that any operator may apply to the Secretary for a temporary order permitting limited noncompliance with a standard or any of its provisions promulgated under section 102. Such a temporary order shall be granted only if the operator's application meets the requirements of paragraph (2) and establishes that (A) he is truly unable to come into compliance with the standard by its effective date, (B) he is taking all available steps to safeguard his miners against the hazards covered by the standard, and (C) he has an effective program for coming into compliance with the standard as quickly as practicable. Any temporary order issued under the above subsection must prescribe the practices the operator must use while the order is in effect and describe his program for coming into compliance with the standard. A temporary order may be granted only after notice to miners and an opportunity for a public hearing but the Secretary may issue one interim order to be effective until a decision is made on the basis of the hearing. A temporary order may be in effect only long enough for an employer to achieve compliance with the standard or 6 months, whichever is shorter, except that such an order may be renewed not more than twice if (i) the requirements of this subsection are met and (ii) an application for renewal is filed at least 90 days prior to the expiration date of the order. No interim renewal of an order may remain in effect longer than 180 days.

Section 102(d)(2)—requires that an application for a temporary order contain:

(A) a specification of the standard or portion thereof from which the employer seeks a non-compliance.

(B) a representation by the operator, supported by qualified persons, that he is unable to comply with the standard or portion thereof and the detailed reasons for such inability to comply.

(C) a statement of steps he has taken and

will take to protect employees against the hazard covered by the standard.

(D) a statement of when he expects to be able to comply with the standards, and what steps he has taken and will take to comply with the standard, and

(E) a certification that he has informed his employees of the application and their right to petition the Secretary for a hearing; a description of how miners have been informed shall be contained in the certification.

Section 102(e)—allows operators to apply to the Secretary for a variance from a standard promulgated under Section 102. Affected miners and their representative must be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue a variance if he determines on the record, after opportunity for an inspection where appropriate and a public hearing, that the operator will provide conditions as safe and healthful as those which would prevail if he complied with the standard. The order of variance shall prescribe the conditions the operator must maintain and the practices he must use to the extent they differ from the standard. Such an order may be modified or revoked upon application by an operator, miners, miners' representative, or by the Secretary in the manner prescribed for its issuance.

Section 102(f) provides that subsections (d) and (e) shall not apply with respect to any standard in effect on the effective date of the Federal Mine Safety and Health Amendments of 1973 other than the standards in sections 202(b) and (c) and 305(a) of this Act.

Section 102(g) provides that hearings held under this section shall be of record and subject to 5 U.S.C. 554.

Section 102(h) allows persons adversely affected by a standard to challenge its validity, within 60 days of its promulgation, in the appropriate U.S. court of appeals. Unless ordered by the court, such challenge shall not operate as a stay of the standard. The Secretary's determination shall be conclusive if supported by substantial evidence in the record, as a whole.

Section 103—Advisory Committees.

Section 103(a)—allows the Secretary to appoint advisory committees to assist him in his standard setting functions under section 102(a) and advise him on other health and safety matters. Each committee shall include one or more designees of the Secretary of Health, Education, and Welfare, The National Bureau of Standards, Department of Commerce, and the National Science Foundation, operator and miner representatives in equal numbers, one or more representatives of State mine inspection or safety agencies. It may include other members qualified by knowledge and experience but shall not exceed in number the members from Federal and State agencies. Committee meetings must be open to the public and the record thereof must be made available to the public. No committee member, except representatives of the operators and miners, shall have an economic interest in any proposed rule.

Section 103(b)—provides for the compensation for committee members from private life according to the provisions for section 3109 of title 5, United States Code for consultants or experts. The Secretary shall pay to the States the actual costs to them of their representatives' membership on the Committee.

Section 104—Inspections, Investigations, and Recordkeeping.

Section 104(a)—authorizes the Secretary or the Secretary of HEW or the authorized representative of either, upon presenting appropriate credentials to the owner, operator, or agent in charge, (1) to enter without delay and at reasonable times any mine subject to the Act and (2) to make reasonable inspections and investigations and to question privately employers, owners, operators, agents, or employees. With respect to underground mines, the Secretary is required to make inspections of the entire mine at least four times a year. No advance notice of inspections shall be given.

Section 104(b)—allows the Secretary to require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses will be paid the same as witnesses in U.S. courts. The appropriate district courts, upon application by the Secretary shall have jurisdiction over witnesses failing to appear and may issue orders requiring such appearance. Failure to obey such an order may be punished as contempt.

Section 104(c)(1)—requires each operator to maintain and make available to the Secretaries such records that the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, prescribes as appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational accidents and illnesses in the mines. Regulations issued pursuant to this paragraph may include provisions requiring operators to conduct periodic inspections.

Section 104(c)(2)—provides that the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall require operators to maintain records of and make periodic reports on work-related deaths, injuries, and illness except for minor injuries requiring only first aid treatment.

Section 104(c)(3)—requires the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, to issue regulations requiring operators to maintain records of minor exposures to potentially toxic or harmful physical agents that must be monitored or measured under the Act's health and safety standards. The regulations are to give miners or their representatives an opportunity to observe the monitoring or measuring and to give miners and former miners access to such records of individual exposure. Operators are to notify miners of overexposure and shall inform overexposed miners of the corrective action being taken. Any miner transferred due to such exposure shall receive compensation at not less than the rate he received immediately prior to his transfer.

Section 104(c)(4)—provides that all accidents, except some unintentional roof falls, shall be investigated by the operator or his agent to determine the cause and means of preventing recurrence. Records of accidents and investigations shall be maintained and made available to the Secretary and the appropriate State agency. Such records shall be open for inspection by interested persons.

Section 104(d)—requires that information obtained under the Act must be obtained with a minimum burden upon operators, especially those operating small businesses. Unnecessary duplication of effort in obtaining information is to be reduced as much as possible.

Section 104(e)—provides that subject to regulations issued by the Secretary a representative of the operators and a representative of the miners shall be given an opportunity to accompany the inspecting official during the inspection of a mine under section 104(a). Where there is no authorized miner representative the inspector shall consult with a reasonable number of miners. If he determines more than one representative from each party would aid the inspection, the inspector may permit each party an equal number of additional representatives. A miner representative who is also employed by the operator shall not lose pay for his participation in the inspection. Compliance with this subsection shall not be a jurisdictional prerequisite to the enforcement of any provision of this Act.

Section 104(f)(1)—provides that if any miner or his representative believes that a standard violation exists that threatens physical harm or that an imminent danger exists, he may request an inspection by giving written notice with his signature to the Secretary or his authorized representative of such violation or danger. A copy of such notice shall be provided to the employer or his agent no later than at the time of inspection but, upon request, the name of the person giving such notice and the names of the miners referred to therein shall be deleted.

If the Secretary determines there are reasonable grounds to believe that a violation or danger exists, he shall make a special inspection as soon as practicable. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists, he shall so notify in writing the miners or their representative.

Section 104(f)(2)—provides that prior to or during any inspection any miners or their representative may notify the federal inspector, in writing, of any violation of this Act or of any imminent danger they believe exists. The Secretary shall, by regulation, establish informal review procedures for any refusal by an inspector to issue a citation with respect to such alleged violation or order with respect to such danger and shall furnish the miners or their representative requesting such review a written statement of the reasons for his final disposition of the case.

Section 104(g)(1)—authorizes the Secretary and the Secretary of Health, Education and Welfare to publish information obtained under this section.

Section 104(g)(2)—provides that the Secretary and the Secretary of Health, Education, and Welfare shall each prescribe regulations necessary to carry out their responsibilities under this Act.

Section 104(h)—requires the Secretary to provide a minimum of one spot inspection of all or part of a mine during every 5 working days at irregular intervals, if the mine contains some especially hazardous conditions.

Section 104(i)—provides that if there is a mine accident, the operator shall notify the Secretary and preserve any evidence that would aid an investigation of the cause. The Secretary may supervise rescue and recovery activity in such mine, if such activity is necessary, and take other appropriate action to preserve life.

Section 104(j)—provides that if there is a mine accident, and the Secretary's representative is present, he may issue appropriate orders to insure the safety of persons in the mine, and the operator must obtain his approval, in consultation with appropriate State representatives, when feasible, of any recovery plan or of any plan to return affected areas to normal operation.

Section 105—Citations and Orders.

Section 105(a)(1)—provides that if, upon inspection or investigation, the Secretary or his representative believes an operator has violated any standard, rule, order or regulation pursuant to this Act, he shall with reasonable promptness issue a citation to the operator. The citation shall be written, describe with particularity the nature of the violation, and fix a reasonable time for the violation's abatement.

Section 105(a)(2)—provides that, if a citation is issued under paragraph (1) for a violation the Secretary believes was committed willfully or with gross negligence and which subjected miners to an imminent danger, the citation shall include such charge with a specific description of the danger involved.

Section 105(b)—provides that, if upon any follow-up inspection, the Secretary's representative finds (1) the cited violations have not been totally abated within the original or subsequently extended abatement period, and (2) the abatement period should not be further extended, he shall find the area

affected by the violation and promptly issue an order requiring the operator to withdraw from the affected area all persons (until the Secretary's representative determines the violation has been abated), except the following:

(1) Any person whose presence is necessary to eliminate the danger, in the judgment of the operator or the Secretary's representative;

(2) Any public official whose official duties require his presence, or

(3) Any legal or technical consultant or representative, qualified to make mine examinations or accompanied by such a person, and whose presence is necessary for the proper investigation of the conditions described in the order, in the judgment of the operator or the Secretary's representative.

Section 105(c)(1)—provides that, if an inspector finds a standard violation that could significantly contribute to the cause and effect of a mine health or safety hazard and which is caused by an unwarranted failure of the operation, he shall issue an order withdrawing all persons, except those referred to in section 15(b), from the affected area until the Secretary's representative determines that the violation has been abated.

Section 105(c)(2)—provides that, if a withdrawal order has been issued pursuant to section 105(c)(1), a withdrawal order shall be issued by the Secretary's representative who finds other unwarranted violations. The order shall be effective until an inspection discloses no similar violations. Following such an inspection, the provisions of section 105(c)(1) shall again be applicable to the affected mine.

Section 105(d)—requires that during the abatement period for a violation of the respriable dust concentration limit, the operator must take samples described in section 202(a) during each production shift. The section also provides that, after a withdrawal order has been issued for failure to abate a violation of the respirable dust concentration limit, the Secretary, upon request of the operator, shall provide technical assistance to aid in reducing such dust concentrations. Those persons sent by the Secretary may require the operator to take actions they deem appropriate to insure the health of persons in the mine.

Section 105(e)—requires that each citation or order or copy thereof issued under this section must be posted in accordance with section 110 and as prescribed by the Secretary's regulations.

Section 105(f) provides that no citation may be issued under this section after 6 months following any violation.

Section 105(g) provides that any order issued under sections 105 (b) or (c) is effective until revoked by the Secretary or modified or vacated by the Commission or the courts pursuant to sections 106(c) or 107(a).

Section 106. Procedures for Enforcement.

Section 106(a)—requires the Secretary to notify within a reasonable time an operator issued a citation under section 105(a)(1) of any penalty to be assessed under section 111(a) and that the operator has 15 working days to notify the Secretary that he wishes to contest the citation or proposed penalty. If the citation contains a charge under section 105(a)(2), the Secretary's notification shall include a proposed civil penalty closure order under section 111(c) in addition to the proposed civil monetary penalty.

If the operator fails to notify the Secretary within the 15 working days that he intends to contest the citation or proposed penalty or penalties and if no notice is filed by any miner or miner representative under subsection (c) within such time, the citing penalty or penalties as proposed shall be deemed a final order of the Commission and not subject to review by any court or agency.

Section 106(b)—provides that, if the Secretary believes an employer has failed to correct a cited violation within the abatement period (which period begins on the entry of the Commission's final order in the case of any review proceedings under this section initiated in good faith and not solely for delay), the Secretary shall notify the operator of such failure, of the proposed penalty under section 111 for that failure, and that the operator has 15 working days to contest the notification or proposed penalty. If the operator does not so notify the Secretary within the 15 working days, the notification and proposed assessment shall be deemed a final order of the Commission and not subject to review by any court or agency.

Section 106(c)(1) prohibits discharging, discriminating against, or interfering with the exercise of statutory rights by any mine employee or applicant for employment because he filed a complaint or instituted or caused to be instituted any proceeding under or related to this Act, or testified or is about to testify in any such proceeding, or exercised for himself or others any statutory right afforded by this Act.

Section 106(c)(2) authorizes any mine employee or applicant who believes that he has been discharged or otherwise discriminated against or interfered with by any person in violation of this subsection to, within 30 days after such violation, file a complaint with the Secretary, who shall then make any appropriate investigation. If upon such investigation, the Secretary determines there has been such violation, he shall immediately file a complaint with the Commission. The Commission shall afford an opportunity for a hearing and, based on findings of fact, issue an order affirming, modifying, or vacating the Secretary's proposed order or directing other appropriate relief. Such order is final 30 days after its issuance. The Commission shall have the authority to order all appropriate relief, including rehiring or reinstatement of the miner to his former position with back pay and interest.

Section 106(c)(3) requires the Secretary, within 90 days of the receipt of a complaint filed under this subsection, to notify the complainant of his determination whether a violation has occurred. If the Secretary determines there is no violation the complainant may file, within 30 days of such notice, before the Commission charging discrimination under paragraph (1). The Commission shall afford an opportunity for a hearing and thereafter shall issue an order dismissing or sustaining the complainant's charges and, if sustained, granting appropriate relief. Such an order becomes final 30 days after its issuance. When such order sustains the miner's charges, all reasonable expenses (as determined by the Commission) incurred by the miner related to such proceedings shall be assessed against the violator. Proceedings under this section shall be expedited by the Secretary and the Commission. A Commission order under this paragraph shall be subject to judicial review under section 107. Violations of paragraph (1) by any person shall be subject to the provisions of sections 109 and 111(a).

Section 106(d)—provides that, if an operator notifies the Secretary that he intends to contest a citation or order under section 105 a miner or miner representative alleges that the abatement period for a cited violation is unreasonable, the Secretary shall immediately so advise the Commission. The Commission must then provide an opportunity for a hearing and thereafter issue an order affirming, modifying, or vacating the Secretary's citation, order, or proposed penalty or directing other appropriate relief. Such an order becomes final 30 days after its issuance.

The rules of procedure prescribed by the Commission shall provide affected miners or their representatives an opportunity to participate as parties to Commission hearings under this subsection. The Commission shall take whatever action is necessary to expedite proceedings for hearing appeals of orders issued under section 105.

Section 107. Judicial Review.

Section 107(a)—permits any person adversely affected or aggrieved by an order of the Commission issued under this Act to obtain review of such order or decision in any appropriate U.S. Court of Appeals by filing a written petition within 60 days of the issuance of the order. The subsection specifies those procedures to be followed after a petition for review is filed, including:

(1) The clerk of the court transmits a copy of the petition to the Commission and other parties.

(2) The Commission files in court the proceeding record pursuant to 28 United States Code 2112 and the court shall then have exclusive jurisdiction.

(3) The court is authorized to grant appropriate temporary relief or restraining orders and may enter and enforce a decree affirming, modifying, or setting aside in whole or in part the Commission's order.

(4) Unless ordered by the court, the commencement of proceedings shall not stay the Commission's order.

(5) Objections not urged before the Commission will not be considered by the court unless the failure to urge such objection is excused because of extraordinary circumstances. The Commission's findings of fact shall be conclusive when supported by substantial evidence on the record as a whole.

(6) Any party may apply for leave to adduce additional evidence and if such evidence is material and there were reasonable grounds for not adducing such evidence before the Commission, the court may order the evidence taken before the Commission and made part of the record. The Commission may then modify its findings of fact or make new findings and shall file such findings, which shall be conclusive if supported by substantial evidence on the record as a whole. The Commission may modify or set aside its original order due to such modified or new findings of fact.

(7) The judgment and decree of the court shall be final except subject to review by the Supreme Court of the United States, pursuant to 28 United States Code 1254.

(8) Petitions filed under this subsection shall be heard expeditiously.

Section 107(b)—permits the Secretary to petition an appropriate United States Court of Appeals for review or enforcement of the Commission's final order and, to the extent applicable, the provisions of section 107(a) shall govern such proceedings. If no review petition pursuant to section 107(a) is filed within 60 days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any enforcement petition filed by the Secretary after such 60 day period. In any such case, or in the case of a final order by the Commission under section 106 (a) or (b), the clerk of the court, unless otherwise ordered by the court, shall enter a decree enforcing the order and shall transmit copies to the Secretary and operator. In any contempt proceeding to enforce a court of appeal's decree pursuant to section 107 (a) and (b), the court of appeals may assess penalties provided in section 111 and other available remedies.

Section 108. Procedures to Counteract Dangerous Conditions.

Section 108(a)—provides that, if upon any inspection or investigation, the Secretary's representative finds an imminent danger exists, he shall determine the affected area and issue a withdrawal order barring all persons except those referred to in section 105 (b) from such area. The issuance of an order

under this subsection shall not preclude the issuance of a citation under section 105 or the proposing of a penalty under section 111.

Section 108(b)(1)—provides that, if upon any inspection, the Secretary's representative finds (A) conditions exist which have not resulted in an imminent danger, (B) such conditions cannot be effectively abated with existing technology, and (C) reasonable assurance cannot be provided that continued mining will not result in an imminent danger, he shall determine the affected area and issue a notice to the operator or his agent of such conditions, and file a copy with the Secretray and miners' representative. Upon receipt of such copy, the Secretary shall make appropriate investigations, including an opportunity for the operator or miners' representative to present information relating to such notice.

Section 108(b)(2)—provides that upon conclusion of such investigation and an opportunity for a pubilc hearing (when requested by an interested party), the Secretary shall make findings of fact and, by decision, either cancel the notice or issue a withdrawal order barring all persons from the affected area except those referred to in section 105(b) until the Secretary, after a public hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated. Hearings under this paragraph shall be of record and subject to 5 United States Code 554 but without regard to subsection (a)(3).

Section 108(c) requires findings and orders issued under section 108(a) to contain a detailed description of the conditions which constitute an imminent danger, and all orders issued under this section to contain a description of the area of the mine throughout which persons must be withdrawn.

Section 108(d)—requires that each finding made and order issued under this section be in writing, signed by the person making them, and given promptly to the affected operator. Any order issued pursuant to sections 108 (a) or (b) may be annulled, canceled, or revised by the Secretary's representative. Any order issued under sections 108 (a) or (b) shall remain in effect until annulled by the Secretary or revised or canceled by the Commission or the courts pursuant to sections 107(a) or 108(e).

Section 108(e)—provides that any operator notified of an order under this section may apply to the Commission within ten days for its annulment or revision. The Commission shall afford an opportunity for a hearing (in accordance with 5 United States Code 554, but without regard to subsection (a)(3) of such section) and thereafter issue an order, based on findings of fact, vacating, affirming, modifying, or terminating the Secretary's order.

Section 108(e)(2)—provides that the Commission shall take appropriate action to expedite proceedings under this subsection.

Section 109. Injunctions.

Section 109(a)—authorizes the Secretary to institute civil action for relief, including a permanent or temporary injunction or any appropriate order, in any appropriate United States district court whenever an operator or his agent (a) violates or does not comply with any order or decision issued under this Act, (b) hinders the Secretary or the Secretary of Health, Education, and Welfare or their representatives in carrying out the provisions of the Act, (c) refuses to admit such representatives to the mine, (d) refuses to permit the inspection of the mine, or the investigation of an accident or occupational disease related to such mine, (e) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the Act's provisions, or (f) refuses to permit access to and copying of such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out provisions of the Act. Each court shall have jurisdiction to provide appropriate relief. Temporary restraining orders must be issued in accordance with rule 65 of the Federal Rules of Civil Procedure, as amended, but seven days from the date of entry shall be the time limit when issued without notice. Except as otherwise provided, relief granted by the court to enforce an order under clause (a) of this section is effective until completion of all review proceedings for the order under this title, unless prior thereto, the district court granting such relief sets it aside or modifies it. In any action instituted under this section to enforce an order or decision by the Commission or the Secretary after a public hearing in accordance with 5 United States Code 554, the Commission's or Secretary's findings, if supported by substantial evidence on the record as a whole, shall be conclusive.

Section 110. Posting of Notices, Orders, and Decisions.

Section 110(a)—requires that at each mine there be a mine office and a bulletin board at such office or at or near a conspicuous place near the mine entrance so that notices, orders, citations, or decisions required to be posted thereon are easily seen, and protected against damage by the weather and unauthorized removal. A copy of any notice, order, citation, or decision required to be given to the operator must be delivered to the mine office and immediately posted on the bulletin board, for not less than 30 days.

Section 110(b)—requires the Secretary to mail a copy of any notice, order, citation or decision given to an operator to the affected miners' representative and to the State official or agency that administers State laws relating to health or safety in the affected mine. Such notice, order, citation, or decision shall be available for public inspection.

Section 110(c)—provides that in order to insure prompt compliance, the Secretary's representative may deliver any notice, order, citation, or decision to the operator's agent who shall immediately take appropriate measures to comply.

Section 110(d)—requires the name and address of each mine and each person who controls or operates such mine to be filed with the Secretary. Each operator must designate an official responsible for health and safety at the mine and that official shall receive copies of any notice, order, citation, or decision affecting that mine. The designation of a health and safety official does not make him subject to any penalty under this Act.

Section 111. Penalties.

Section 111(a)—provides that a civil penalty of up to $10,000 shall be assessed for each violation of any standard, rule, order, or regulation promulgated pursuant to this Act.

Section 111(b) provides that an operator who fails to correct a violation cited under section 105(a) within the abatement period (which period shall not begin until the date of the Commission's final order in any review proceeding under section 106 initiated by the operator in good faith and not solely for delay or avoidance of penalties) may be assessed a maximum civil penalty of $1,000 for each day the violation continues.

Section 111(c) provides that, whenever a corporate operator violates any standard, rule, order, or regulation promulgated pursuant to this Act, any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a), (b), (e), (f), or (g).

Section 111(d) provides that any operator who willfully or with gross negligence violates any standard under this Act and thereby subjects miners to imminent danger, shall be subject to a civil penalty close order by the Commission which shall:

(i) order the mine closed for minimum specified period not to exceed 30 working days;

(ii) provide that the mine not be reopened except upon a subsequent order and finding by the Commission that no unabated safety or health violations exist at such mine (except those for which the abatement period has not expired), and

(iii) provide that during the period of closure the operator shall pay the miners at their regular hourly rates, except miners found by the Commission to have willfully or with gross negligence contributed to the violation which gave rise to the closure order.

Section 111(e) provides that any operator who willfully violates any standard, rule, order, or regulation promulgated pursuant to this Act shall upon conviction be punished by a fine of not more than $25,000 or imprisonment for not more than 1 year, or both. For any subsequent conviction, punishment shall be a fine of not more than $50,000 or imprisonment for not more than 5 years, or both.

Section 111(f) requires that any person convicted of giving advance notice of any inspection shall be punished by a fine of not more than $1,000 or imprisonment for not more than 6 months, or both.

Section 111(g) provides that whoever knowingly makes false statements, representations, or certifications in any document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than $1,000 or imprisonment for not more than 6 months, or both.

Section 111(h) provides that any operator who violates any of the posting requirements under the Act shall be assessed a civil penalty of up to $1,000 for each violation.

Section 111(i) provides that any miner who willfully violates smoking related safety standards related to smoking or the carrying of smoking materials shall be subject to a civil penalty of not more than $250 for each violation assessed by the Commission.

Section 111(j) provides that whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a mine, which is represented as complying with the provisions of this Act, or with any specification or regulation of the Secretary and which does not so comply, shall upon conviction be punished by a fine of not more than $25,000 or by imprisonment for not more than one year, or both.

Section 111(k) authorizes the Commission to assess all civil penalties and to issue all civil penalty closure orders provided in this Act, giving consideration in assessing civil monetary penalties to (a) the gravity of the violation, (b) the good faith of the person charged, (c) the history of previous violations, and (d) the appropriateness of the penalty with respect to the size of business of any operator being charged, provided that, in proposing civil penalties under this Act, the Secretary may rely upon a summary review of the information available to him and shall not be required to make findings of fact concerning the above factors.

Section 111(l) provides that civil penalties owed under this Act shall be paid to the Secretary for deposit into the U.S. Treasury, shall accrue to the United States, and may be recovered in a civil action in the name of the United States brought in the appropriate United States district court.

Section 112. Entitlement of Miners.

Section 112(a)—provides that if a mine or an area of a mine is closed by an order issued under section 105 or 108, all miners working during the shift when the order was issued who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the

period they are idled, but not more than for the balance of the shift. If the order is not terminated before the next working shift, all miners on that shift shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but not for more than four hours. If the closure results from an order for failure of the operator to comply with a health or safety standard, all miners idled by the order shall be fully compensated by the operator at their regular rates of pay for such time as they remain idled by the closing or for one week, whichever is lesser. When an operator fails to comply with an order issued under section 105 or 108, all miners employed at the affected mine who would, by such order, be barred from such mine or area thereof shall be entitled to full compensation at their regular rates of pay, in addition to pay received for work performed after the order was issued, for the period beginning when the order was issued and ending when the order is complied with, vacated, or terminated. The Commission shall have authority to order such compensation under this section when a miner or his representative files a complaint and after an opportunity for a hearing subject to 5 USC 554.

Section 113. Administrative Provisions.

Section 113(a) authorizes and directs the Secretary to administer this Act through the Administration. Acting through the Administration, the Secretary shall have authority to appoint, subject to civil service laws, such officers and employees as he deems necessary for the administration of this Act, and to prescribe powers, duties, and responsibilities of all officers and employees engaged in administering this Act.

Section 113(b) authorizes the Solicitor of Labor to appear for and represent the Secretary in any civil litigation brought under this Act, except as provided in 28 U.S. Code 518(a) relating to litigation before the Supreme Court.

Section 114. Authorization of Appropriations.

Section 114—authorizes appropriations of any moneys in the Treasury not otherwise appropriated that may be necessary to carry out the provisions of this title.

Section 202. Amendments with respect to Interim Mandatory Health Standards.

Section 202(a)(1) makes all mines covered by this Act subject to the interim mandatory health standards of section 201(a).

Section 202(a)(2)—applies to all mines subject to this Act the provisions of section 201(b).

Section 202(b) applies the dust standard and respiratory equipment requirements of section 202 to all mines subject to the Act.

Section 202(c)—applies the medical examination requirements of section 203 to all mines covered by this Act.

Section 202(d)—applies the dust standard of section 205 to all mines covered by the Act.

Section 202(e)—applies the noise standard of section 206 to all mines subject to this Act.

TITLE III—RELATIONSHIP TO OCCUPATIONAL SAFETY AND HEALTH PROGRAM

Section 301. Applicability of the Occupational Safety and Health Act of 1970. This section provides that nothing in this Act applies the provisions of the Occupational Safety and Health Act of 1972 to the working conditions in the mines, unless specifically provided under this Act.

Section 302. The Occupational Safety and Health Review Commission.

Section 302(a)—increases the Commission from 3 to 5 members appointed by the President with the Senate's consent, one of whom shall be designated by the President as Chairman. The two additional members shall be qualified by reason of training, education, or experience in mine safety and health. Not more than 3 commissioners, including the Chairman, shall be of the same political party.

Section 302(b)—provides that the terms of the 2 additional members shall be 6 years except—

(1) the first 2 additional members taking office after this Act's enactment shall serve, as redesignated by the President at the time of appointment, one for 2 years and one for 6 years; and

(2) a vacancy prior to the expiration of the term for which such member was appointed shall be filled only for the remainder of such unexpired term.

Any such member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(3) the Chairman shall be responsible for the Commission's administrative operations. The Commission shall appoint such employees as it deems necessary, including a chief administrative law judge and other necessary administrative law judges. Employee compensation shall be in accordance with chapter 51 and subchapter III of chapter 53 of title 5, U.S.C., and assignment, removal, and compensation of administrative law judges shall be in accordance with sections 3105, 3344, 5362, and 7521 of the same title and section 12(k) of this Act.

Section 302(c)—provides that 3 members of the Commission constitute a quorum and official action can be taken only on the affirmative vote of at least three members, except pursuant to rules the Commission may establish for proceedings arising under this Act, the Commission may fix a quorum at 2 members. In any review by the Commission or upon any petition for review before it, an equally divided vote shall be an affirmative of the order or decision being reviewed or for which review is asked.

Section 302(d)(1)—provides that pursuant to rules the Commission may establish proceedings held under this Act may be held before a special mine safety panel established in the Commission, composed of both members especially qualified in mine safety and health and one additional member.

Section 302(d)(2)—authorizes the Commission to expedite the proceedings held pursuant to this Act in ways consistent with the rights of the parties to an opportunity for a hearing.

Section 302(e)(1) provides that the Commission shall appoint an administrative law judge to hear matters under this Act and the Occupational Safety and Health Act of 1970 assigned to him by the Commission or its chief administrative law judge. The decisions of the administrative law judge become the final Commission order 30 days after its issuance unless within such period the Commission directs the decision to be reviewed by the Commission pursuant to paragraph (2) of this subsection. An administrative law judge shall not be assigned to prepare a recommended decision under this Act or under the Occupational Safety and Health Act of 1970.

Section 302(e)(2) directs the Commission to prescribe rules of procedures for its review of the administrative law judges' decisions in cases under this Act and the Occupational Safety and Health Act of 1970 which shall meet the following standards for review:

(i)(a) Petitions for Discretionary Review—Within 30 days of its issuance, any party may file a petition for discretionary review by the Commission of an administrative judge's decision. Such review is not a matter of right but the Commission's sound discretion.

(i)(b) Such petitions shall be filed only upon one or more of the following grounds:

(1) A finding or conclusion of material fact is not supported by substantial evidence.

(2) A necessary legal conclusion is erroneous.

(3) The decision is contrary to law, or to the Commission's promulgated rules and decisions.

(4) A substantial question of law, policy, or discretion is involved.

(5) A prejudicial error was committed in the proceedings.

(i)(c) Indicates some technical requirements of such petitions. Also, except for good cause shown no assignment of error shall rely on questions of fact or law upon which the administrative law judge has not had opportunity to pass. The Commission's review shall be granted by majority vote of those present and voting. If granted review shall be limited to questions raised by the petitioner.

(ii) Review by the Commission at its own Initiative—Within 30 days after the issuance of a decision of an administrative law judge, the Commission, by majority vote of those present and voting, may review such case but only on the grounds that the decision may be contrary to law or Commission policy or that a novel question of policy has been presented. Such grounds shall be specifically in the order to review. If a party's petition for discretionary review has been granted, the Commission shall not raise or consider additional issues in such review proceedings except in compliance with this paragraph.

(iii) Scope of Review—For purposes of Commission review under paragraphs (i) or (ii) of this subsection, the record shall include (1) all matters constituting the record upon which the decision of the administrative law judge was based, (2) rulings upon proposed findings and conclusions, (3) the decision of the administrative law judges, (4) any petition for discretionary review, responses thereto, and the Commission's order for review, and (5) briefs filed on review. No other material shall be considered by the Commission upon review. The administrative law judge's findings and conclusions of fact shall be set aside only if unsupported by substantial evidence of record. The commission may remand the case to the administrative law judge or affirm, set aside, or modify his decision or order.

Section 302(f) provides that in hearings before the Commission, the Commission or its administrative law judge may compel the appearance and testimony of witnesses and the production of physical evidence. They may order depositions. In case of failure to obey such order of the Commission or an administrative law judge, any appropriate U.S. district court, upon application by the Commission or the administratvie law judge, may order such person to appear, testify, or produce evidence and failure to obey such an order may be punished as contempt.

Section 302(g) provides that, except as specifically provided in this section, the provisions of section 12 of the Occupational Safety and Health Act of 1970 with respect to the Commission shall continue in effect.

Section 303. National Institute for Occupational Safety and Health. This section authorizes the National Institute for Occupational Safety and Health established under section 22 of the Occupational Safety and Health Act of 1970 to conduct research related to the development of safety and health standards under this Act and to perform all functions with respect to mines that it performs with respect to employments subject to the Occupational Safety and Health Act of 1970.

Section 304. Statistics. This section provides that the Secretary, in carrying out his functions under section 24 of the Occupational Safety and Health Act of 1970, shall include accurate statistics on the work injuries and illnesses occurring in the mines.

Section 305. Sand and Gravel Mines. This section provides that nothing in this Act prohibits the application of the Occupational Safety and Health Act of 1970 to sand and gravel mines.

Section 306. Terms of Present Members of the Review Commission. This section provides that nothing in this title shall affect the terms of the members of the Commission serving on the date of enactment of this Act.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401. Transfer Matters.

Section 401(a)—transfers the functions of the Secretary of the Interior under the Federal Coal Mine Health and Safety Act of 1969, and the Federal Metallic and Nonmetallic Mine Safety Act of 1966 to the Secretary of Labor, except those expressly transferred to the Commission by this Act.

Section 401(b)(1)—provides that the mandatory and advisory standards relating to mines, issued by the Secretary of the Interior under the Federal Metal and Nonmetallic Mine Safety Act of 1966 and standards under the Federal Coal Mine Health and Safety Act of 1969 which are in effect on the date of enactment of this Act shall remain in effect as mandatory standards under Title I of this Act until the Secretary issues new or revised standards under that Title, or with respect to sand and gravel standards, until new or revised standards are issued by the Secretary under Section 6 of the Occupational Safety and Health Act of 1970.

Section 401(b)(2) provides that all interpretations, regulations, and instructions of the Secretary of the Interior or the Director of the Bureau of Mines, in effect on the date of enactment of this Act and not inconsistent with any provision of this Act or any amendment made by this Act, shall be published in the Federal Register and shall continue in effect until modified or superseded in accordance with the provisions of this Act.

Section 401(c)(1)—transfers to the Department of Labor all personnel, property, records, obligations, unexpended balances of appropriations, and commitments which are used primarily with respect to any transferred function under section 401(a). The transfer of personnel pursuant to this paragraph shall be without reduction in classification or compensation for one year after such transfer, except that the Secretary shall have full authority to assign personnel during such one-year period in order to efficiently carry out functions transferred to him under this Act.

Section 401(c)(2)—provides that all orders, decisions, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges (A) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this section by any department or agency or any functions of which are transferred by this section and (B) which are in effect when this section takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, the Commission, any court of competent jurisdiction, or operation of law.

Section 401(c)(3)—provides that the provisions of this section shall not affect any proceedings pending at the time this section takes effect before any department or agency, functions of which are transferred by this section; except that such proceedings as they relate to transferred functions shall be continued before the Secretary or the Commission. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, the Commission, a court of competent jurisdiction, or operation of law.

Section 401(c)(4)—provides that the provisions of this section shall not affect suits commenced prior to this section's effective date and in all such suits proceedings shall be had, appeals taken, and judgments rendered, as if this section had not been enacted; except that if before this section's effective date, any department or agency (or officer thereof in his official capacity) is a party to a suit involving functions transferred to the Secretary, then such suit shall be continued by the Secretary. No cause of action, and no suit action, or other proceeding, by or against any department or agency (or officer thereof in his official capacity), functions of which are transferred by this section, shall abate by reason of this section's enactment. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States or the Secretary as appropriate and in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this paragraph.

Section 401(d)—provides that for purposes of this section, the term "function" includes power and duty, and the transfer of a function of an agency or the head of a department shall also be a transfer of all functions which are exercised by any office or officer of such agency or department.

Section 402. Mine Safety and Health Administration.

Section 402(a)—establishes in the Labor Department, a Mine Safety and Health Administration to be headed by an Administrator appointed by the President, with the Senate's advice and consent. The Secretary is authorized and directed to carry out his functions under this Act through the Administration.

Section 402(b) amends 5 United States Code 5315 by adding "(98) Administrator of the Mine Safety and Health Administration" to Level IV of the Executive Schedule.

Section 403. Amendments with respect to Mine Safety and Health Administration.

Section 403(a)(1) applies the research provisions of section 501(a) to all mines covered by this Act.

Section 403(a)(2) amends section 501(b) such that research activities relating to mine health will be carried out by the Secretary of Health, Education, and Welfare through the National Institute for Occupational Safety and Health, and the Secretary's research activities relating to safety are extended to all mines now covered by this Act.

Section 403(a)(3) extends to all mines covered by this Act the Secretary of Health, Education, and Welfare's authorization under section 501(d) to conduct studies and research involving the protection of life and prevention of diseases relating to certain nonminers who work with or around mine products.

Section 403(b) extends the training and education provisions of section 502 to all mines now covered by the Act.

Section 403(c)(1) amends section 503(a) to authorize the Secretary, in coordination with the Secretary of Health, Education, and Welfare, to make grants to any State in which mining takes place.

Section 403(c)(2) applies the criteria for approval of State grant applications to all mines now covered by this Act.

Section 403(d)(1) expands the exchange of State and Federal inspection reports provided for in section 503(i) to include inspection reports of all mines covered by this Act.

Section 403(d)(2) extends to any mining State the 80 percent limit on State grants in any fiscal year provided for in section 503(g).

Section 403(e) revises the qualifications for mine inspectors under section 505 to include practical experience in mining in lieu of "practical experience in the mining of coal."

Section 403(f) amends section 506(b) such that any State law or regulation providing for health and safety standards applicable to any mine now covered by this Act and that (1) are more stringent than Federal law, or (2) apply to any area not covered by Federal law, shall not be held to be in conflict with this Act.

Section 403(g)(1) amends section 511(a) such that the Secretary's annual report shall cover health and safety relating to all mines now covered by this Act.

Section 403(g)(2) amends section 511(b) such that the annual report of the Secretary of Health, Education, and Welfare shall cover health matters relating to all mines covered by this Act.

Section 403(h) amends section 7(b)(5) of the Small Business Act such that appropriate loans are available to small business concerns that operate any mine subject to this Act.

Section 404. Savings Provision.

This section provides that nothing in this Act or the amendments made by this Act shall be construed to reduce the number of inspectors enforcing the provisions of the Coal Mine Health and Safety Act of 1969 and the Federal Metal and Nonmetallic Mine Safety Act of 1966 as in effect prior to the effective date of this Act or to reduce the number of inspectors enforcing the Occupational Safety and Health Act of 1970.

Section 405. Budget Provision.

This section provides that in the preparation of the Budget message required under section 201 of the Budget and Accounting Act of 1927, the President shall set forth as separate appropriation accounts those amounts required for appropriations for mine health and safety pursuant to this Act and for occupational safety and health pursuant to the Occupational Safety and Health Act of 1970.

Section 406. Repealer.

This section repeals the Federal Metal and Nonmetallic Mine Safety Act of 1966.

Section 407. Effective Date.

This section establishes the effective date of this Act and the amendments made by this Act as the first day of the second month after the date of enactment of this Act, except that the Secretary is authorized to establish rules and regulations necessary for the efficient transfer of functions provided under this Act.

Mr. McGEE. Mr. President, today I have again joined in sponsoring the proposed Federal Mine Safety and Health Amendments Act which was first introduced in 1973. Mine safety, of course, is a constant concern of all of us. The health and safety of the men who labor in our mines, indeed, deserves a top priority. The passage of the 1969 Coal Mine Health and Safety Act was a needed step in the right direction, and conditions did improve with its implementation, but we can and must do better.

While I am not particularly wedded to each and every provision in the bill which we introduce today, I wholeheartedly support its objectives. I am pleased that I have this opportunity to participate in the formulation and enactment of this legislation, which I am hopeful will serve well both labor and management in their efforts to substantially reduce injury and death in all types of mines in this country.

Mr. President, I want to take this opportunity to draw attention to a particular concern which I have—a concern to which we must address ourselves as we consider this legislation here in the Senate, and particularly in the Subcommittee on Labor, which will be taking testimony and gathering evidence upon which we formulate a final mine safety

and health program. Of particular interest to me in this regard is a unique mining industry in my State. Near Green River, Wyo., we have vast deposits of trona, a mineral used for the production of soda ash. The trona mining which is carried on by several separate companies in this area is vitally important to this Nation. Wyoming trona currently provides over 50 percent of the Nation's soda ash production, and expansion plans now being contemplated would raise this production to almost 75 percent of all of the soda ash produced in the United States.

This is, indeed, an important industry to my State, and the entire Nation, as well.

Mr. President, I wish to draw this matter to my colleagues' attention at this time because the trona mining operations in Wyoming are unique—they differ drastically, for instances, from coal mining. It naturally follows that health and safety regulation and standards governing trona mines must, therefore, be fundamentally different. For instance, trona is nonexplosive and nonflammable. In fact, trona is a fire retardant. Trona is nontoxic, while coal causes black lung. The trona beds are thick enough to avoid problems encountered in thin seam underground coal mining. And, finally, ignition hazards from methane gas are greatly reduced in trona mines due to the nonexplosive nature of the trona dust.

Mr. President, we must, therefore, direct our attention to these and other fundamental differences as this omnibus mine safety legislation is being formulated. Failure to do so would most certainly result in cumbersome and unworkable regulations from the viewpoint of management, and even more importantly, a diminished safety and health record within this industry. Statistics reveal that disabling injury frequency rates for trona underground mines is substantially below—even miniscule—in comparison with the frequency rates in other nonmetallic, metal, and coal mines. The trona companies in Wyoming, however do not regard their present safety record as a resting place and have set their goal to achieve an even greater safety and health record in the years ahead.

Mr. President, I met with several representatives of the trona industry from Wyoming regarding pending mine safety legislation. During this meeting we discussed the many reservations and objections which these representatives had to the proposed Federal Mine Safety and Health Act of 1973, the forerunner of the bill which is being introduced today. This meeting was very productive for me and provided a great deal of insight into some of the problems which we are going to encounter in formulating this legislation. I am, therefore, pleased that the distinguished chairman of the Senate Committee on Labor and Public Welfare has given me his assurance that representatives of the Wyoming trona industry will be given full opportunity to present their views at the committee hearings on this legislation. Furthermore, the trona mining representatives have extended an invitation to members of the Subcommittee on Labor or their staff people to visit the trona mining operation in Wyoming. Indeed, I hope that this can be arranged so that there will be a healthy exchange of viewpoints and a firsthand observation by members of the committee of this unique mining operation in southwest Wyoming.

By Mr. INOUYE (for himself, Mr. PEARSON, Mr. ALLEN, Mr. BAYH, Mr. HUDDLESTON, Mr. METCALF, and Mr. STONE):

S. 1303. A bill to regulate the foreign commerce of the United States by providing means to assure full disclosure of significant foreign investment in the United States, and for other purposes. Referred, by unanimous consent, to the Committee on Commerce; and, if and when reported from that committee, to the Committee on Banking, Housing and Urban Affairs.

Mr. INOUYE. Mr. President, I am introducing today for appropriate reference the Foreign Investment Disclosure Act of 1975. Joining me as cosponsors are Senators JAMES PEARSON, ranking minority member of the Commerce Committee, JAMES ALLEN, BIRCH BAYH, WALTER HUDDLESTON, LEE METCALF, and RICHARD STONE.

This bill is being introduced at a time of rising concern about foreign investment in the United States. This concern has been compounded by events of the last year, during which time member nations of the Organization of Petroleum Exporting Countries—OPEC—quadrupled prices and began to accumulate large monetary surpluses. These surpluses were estimated to be approximately $60 billion in 1974 and may peak at $200 to $250 billion by the end of the decade. This range, while still large, is a great reduction in the earlier estimates and should, I believe, ease some of the anxiety which accompanied initial reports of vast pools of investible funds.

Much of the discussion about foreign investment in the United States has been unsophisticated and emotional and has focused too closely on absolute figures, with inadequate attention given to questioning the potential impact of foreign investment in the United States and the implications of the policy we are currently following. Today I would like to discuss the background of foreign investment in the United States, the policy we are currently pursuing, and the reasons why this bill is needed, notwithstanding the position of the administration and some members of the financial community.

The bill is based in part on S. 3955, which former Senator Metzenbaum introduced in the last Congress. He has worked diligently on this subject, and his contribution is gratefully acknowledged.

BACKGROUND

The Department of Commerce is the agency currently responsible for collecting information on foreign investment in the United States, a function it discharges through the Bureau of Economic Analysis, under authority of the Bretton Woods Agreement Act. Additional information on foreign investment is provided by the Department of the Treasury, which keeps track of capital flows. Other agencies collect information, but this data is not systematically kept or analyzed. Nor is this data easily obtainable by Congress or the public.

Long-term investment is divided for analytical purposes into direct and portfolio investment. Direct investment is defined as investment which is made with the actual or potential objective of obtaining a voice in management, while portfolio investment is considered investment made simply for the sake of financial yields. In practice, however, the distinction between the two is arbitrary, and an investment officially categorized as "portfolio" may be direct and vice-versa.

Although the definition is somewhat arbitrary, it does focus on an important concept; namely, that we should be considered not with simple financing but rather with control of corporations. It matters less where capital originated than how the investor uses his investment.

Assuming for the sake of argument that this distinction accurately reflects the division of direct and portfolio investments in the United States, according to Department of Commerce figures at the end of 1973 the book value of foreign direct investments in this country totaled $17.75 billion, while portfolio investment totaled approximately $37 billion. Comparable figures for U.S. investment abroad were $107 billion and $25 billion. Thus although the total U.S. long-term investment abroad is substantially larger than foreign investment in the United States, the difference is by no means as large as suggested simply by comparing the figures for direct investment.

Second, it cannot be emphasized too strongly that the figures on foreign investment in the United States are acknowledged by the administration to be inadequate. Yet they are freely used by some individuals to buttress their case proving the small amount of foreign investment in the United States. Private estimates of foreign direct investment have ranged up to twice the amount estimated by the Commerce Department. Moreover, the portfolio figure is based on a study conducted in 1949, and the Treasury Department concedes it is only an informed estimate. The Commerce figure is based on a 1959 benchmark study, which is similarly outdated.

Finally the Commerce figures omit major investment activities such as real estate. As my colleagues from California, Florida, and the Midwest will attest, this omission is of critical importance because of the large amount of land purchases in these areas. We need well-funded, Government-supported analyses and oversight on a continuing basis. This information simply does not exist, as anyone who works on this topic knows. I believe that this proposed legislation will help to end this crucial information gap.

Under authority of the Foreign Investment Study Act of 1974, which I intro-

duced in the last Congress, the Treasury and Commerce Departments will conduct benchmark studies of foreign investment in the United States using 1974 as the benchmark year. Some of the deficiencies noted above will be corrected, but since the study will only be a one-shot project, our data collection facilities could again become outmoded and make another Study Act imperative in the future.

As a result of the inadequacy of raw statistical data, we in fact know little about the way foreign firms operate in the United States and their motivations for investment here. While some of this analysis is required by the Foreign Investment Study Act, much research about the effects of foreign investment in the United States and the operations of foreign-dominated firms here remains to be done.

Some opponents of disclosure and restrictions have resorted to comparing the size of foreign direct investments to annual domestic investment, book value of domestic plant and equipment, and other figures which are of marginal or totally irrelevant significance. They do themselves and Congress a disservice, for this specious exercise does not address itself to the serious questions which confront us as we analyze the activities of foreign investors in crucial sectors of the economy.

Foreign investment in the United States is an old phenomenon and assisted in the building of many industrial enterprises such as the railroads. Some firms such as Shell, Nestlé, and Phillips are so well known that few Americans are aware of their foreign origin.

Historically foreign investment played an important role in the development of certain American industries, and it can continue to make a positive contribution to our economy. It has been contended by some that the United States will soon face a capital shortage, and foreign investment can help to meet this gap in our capital resources.

Until 1973 foreign investment grew modestly, but as a result of the devaluation of the dollar, the stock market decline, and the growth of multinational activity abroad, foreign investment in that year spurted. The accompanying tables which I ask unanimous consent to have printed in the RECORD provide some descriptive statistics for the period 1950–73.

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

TABLE 1.—FOREIGN DIRECT INVESTMENTS IN THE UNITED STATES, VALUE BY COUNTRY OF ORIGIN

[In millions of dollars]

	Total	Canada	United Kingdom	Nether-lands	Switzer-land	Germany	Japan	Other
1950	3,391	1,029	1,168	334	348	(1)	(1)	512
1955	5,076	1,542	1,749	613	522	(1)	(1)	650
1960	6,910	1,934	2,248	947	773	103	88	817
1965	8,797	2,388	2,852	1,304	940	209	118	986
1970	13,270	3,117	4,127	2,151	1,545	280	219	1,421
1971	13,655	3,339	4,438	2,125	1,537	771	—230	1,575
1972	14,263	3,422	4,621	2,357	1,567	845	—129	1,581
1973	17,748	4,003	5,437	2,550	1,825	768	307	2,858

[1] Included in other.

TABLE 2.—FOREIGN DIRECT INVESTMENTS IN THE UNITED STATES, VALUE BY INDUSTRY

[In millions of dollars]

	Total	Petroleum	Manu-facturing	Trade	Insurance and other finance	Other
1950	3,391	405	1,138	(1)	1,065	784
1955	5,076	853	1,759	(1)	1,499	965
1960	6,910	1,238	2,611	634	1,810	617
1965	8,797	1,750	3,478	748	2,169	692
1970	13,270	2,992	6,140	994	2,256	888
1971	13,655	3,113	6,755	512	2,352	923
1972	14,263	3,234	7,228	511	2,437	853
1973	17,748	4,425	8,418	948	2,716	1,244

[1] Included in other.

Mr. INOUYE. Mr. President, although figures for 1974 will not be available until August, the pace of foreign investment in 1974 remained high. The Treasury Department estimates that foreign direct investment in the first three-quarters of the year was approximately $2.9 billion, a figure which may have been distorted because of ownership changes in the oil industry.

There is little evidence that foreign investment has had a negative impact on the United States. There have been some cases in which the effects may have not been positive, particularly in the real estate development area, where some speculation may have overridden market or environmental needs. By and large, however, foreign investment has played a positive role in our economy, and we should not adopt further limitations on inward capital flow without strong justification for the action.

It is for these two reasons the need for capital and the lack of substantial evidence on the negative effects of foreign investment—that I oppose current legislation to restrict foreign capital. Such restrictions are premature and could have the effect of terminating the benefits we now enjoy from reverse investment.

The demand for immediate limitations is understandable. Although the shift of surplus reserves to the OPEC nations, principally the Arab states, is unprecedented, the once enormous projections have been reduced to a size which the world monetary system can probably handle. The latest U.S. estimates for the surplus accumulation are for a peak of $200 to $250 billion by the end of the decade. At least one responsible estimate is even lower.

Unfortunately some of the opposition to foreign investment in the United States appears to be motivated by anti-Arab sentiment. While the potential for disruption of certain segments of the American economy through investment does exist, Arab investors thus far have limited their activities and have acted prudently—like other foreign investors. Last year, by Treasury estimates, less than $1 billion of OPEC money was invested in corporate equities and real estate. The bulk of it went into Government notes and securities. Moreover, Arab leaders have repeatedly assured the U.S. Government that they do not intend to purchase control of major U.S. industrial corporations, which they have neither the expertise nor will to run. In short, I think we must dispel the fear of Arab investors, while at the same time remain aware that their funds can have a destabilizing effect if misused.

Today we live in a world in which the United States plays a diminishing economic role. While still the world's premier economic power, our ability to control—much less influence—events has seriously deteriorated. Although most of the world is in serious financial straits, many of our industrial competitors will recover much faster than we.

Structural changes in the world economy have resulted in making the United States much more vulnerable to international economic turmoil and open to the operations of foreign multinational corporations. Foreign investment in the United States is not a freak phenomenon but rather evidence that this country is firmly a part of the international system and no longer in firm control of its economic destiny.

Events in the economic sphere have a habit of overtaking our expectations. It is for this reason that we cannot wait for the results of the Foreign Investment Study Act to be finalized before acting. Further delay will only make the establishment of monitoring and disclosure procedures more difficult and allow those who oppose reporting to obfuscate issue and block action.

PRESENT U.S. POLICY AND RECENT DEVELOPMENTS

The present U.S. policy with respect to foreign direct investments is to extend to them "national treatment," that is, to treat them the same as domestic investments once they are made. We neither discourage nor encourage foreign investments although some individual State agencies may offer incentives to locate facilities in their States. Current U.S. restrictions on foreign investments are few in number, and they are generally acknowledged by most nations as being in areas which are of legitimate concern to sovereign countries.

The administration, under the aegis of the Council on International Economic Policy and the Office of Management and Budget, recently completed a major review of U.S. Government data collection programs and requirements in compliance with a provision in the 1974 Foreign Investment Study Act. Information gathered pursuant to this project is still being analyzed and will be published shortly by CIEP. Preliminary findings about the data gathering programs are most interesting.

First. The study has confirmed that while many agencies engage in data collection, no single agency either coordinates, compiles or discloses to the public a comprehensive, overall picture of foreign investment in the United States.

Second. Most information collected is a byproduct of other activities carried out pursuant to enabling legislation. Very little is collected with the specific intention of learning more about the foreign investment.

Third. Policies on the dissemination of data to the public and other Government agencies differ from agency to agency, with no consistent practice on disclosures.

Fourth. Information gathered is something of limited value and even where more detailed is often kept confidential.

Fifth. Identification of the "beneficial owner" is often requested by the collecting agency, but it is usually provided by the reported only when such information is known and available to him, and the definitions of beneficial owner are inconsistent.

Sixth. Most information on foreign investment is collected only after an investment is already made. There are only a few requirements for prior notification.

Seventh. Although various agencies do monitor or restrict the control of particular companies or industries, there is no uniformity in the definition of "control."

Finally, there is little information collected with respect to foreign investment in real estate in the United States.

The administration also undertook a review of governmental policy toward foreign investment in the United States. The basic conclusion of this review was a reaffirmation of the traditional commitment to free capital markets and opposition to the enactment of any additional restrictions except where absolutely necessary on national security grounds or to protect an essential national interest.

Existing laws, regulations, and practices were considered adequate by the inter-agency task force. However, the administration implicitly recognized weaknesses in its data collection procedures by proposing the following changes:

First. It would establish a new high-level interagency committee to serve as the focal point within the executive branch for insuring that foreign investments are consistent with the national interest and to report to the President's Economic Policy Board.

Second. A new office to serve that committee and all other parts of the Government will monitor foreign investment and produce analyses.

Third. The new office is to centralize and improve the gathering of information on foreign investment and its dissemination to appropriate parts of the Government.

Fourth. New procedures will be negotiated with principal foreign governmental investors for advance consultation with the U.S. Government on prospective major direct investments in the United States.

No details on these plans have been released nor does the Congress have a timetable for the implementation of these changes.

FOREIGN INVESTMENT DISCLOSURE ACT

I concur with the general thrust of our current policy, but I believe that my agreement still leaves room for a variety of different positions vis-a-vis the procedures we should establish. The bill which my colleagues and I are introducing today in no way undermines this Nation's commitment to unimpeded capital flows. However, it does uphold the public's right to know about the activities of foreign investors in the United States and to encourage public discussion about our policy on foreign investment.

The Foreign Investment Disclosure Act of 1975 would create a Foreign Investment Administration within the Department of Commerce headed by a Director appointed by the President with the advice and consent of the Senate. The Secretary of Commerce would be authorized to promulgate rules and regulations requiring persons having information on foreign investments to keep records and reports on such investments.

He would be further authorized to establish procedures for the submission by foreign investors of investments in U.S. companies whose equity security is publicly traded if the foreign investors owns, directly or indirectly, 5 percent or more of such securities. This floor might be lowered if he has reason to believe that two or more foreign investors have acted in concert or if the investment is in a strategic industry.

Reports of foreign investment in U.S. companies whose stock is not publicly traded on a national securities exchange would be required if the investment is 10 percent or more and the total assets of such company are $3 million or more. Moreover, reports must be filed if foreign investments are made in the form of loans, long-term contracts or ownership of assets or interests in property if the substantial effect of such investment is to give or could be to give the investor a predominant influence on management or operation or results in ownership or control of more than $1 million in property.

Reports would be required of any foreign investment in real property with a fair market value in excess of $50,000, with the Secretary having the authority to waive this requirement for owners of property with a fair market value up to $250,000 if the real estate in question is strictly for personal use and contains no exploitable resource. This provision is designed only to monitor investments in agricultural land, land containing natural resources such as timber, and raw land capable of being developed for commercial use.

Finally reports would be required of foreign investments in U.S. Government or agency securities, notes, certificates of deposit, or other marketable instruments exceeding $1 million per issue. This provision has been included because of our concern about the potential impact of short-term capital flows into the United States. Such short-term investments could affect interest rates and the money supply and have other unpredictable effects. To the extent that this category of investments does not relate directly to U.S. business enterprises, it differs from the other types of investments. However, the sheer volume of short-term securities purchases should be of interest and concern to the Congress, and I believe that this area also needs monitoring.

Reports on acquisitions made after enactment of this act will be due 10 days after the acquisition, while reports on existing investments must be made 90 days following enactment. The Secretary of Commerce will be required to publish a quarterly report containing, among other things, the names of companies in which the investments were made, the transactions which were required to be reported, extent of foreign investment, analyses of trends and developments, and related information. An annual summary of investment activity is also required.

The Secretary is also authorized, after hearings and consultations, to issue nonbinding guidelines and policy statements with respect to foreign investments. It is the intention of this provision to lodge within the Secretary the authority to clarify U.S. policy and to resolve ambiguous questions on the appropriateness of certain types of investment.

The administration is also authorized to collect information from other Government agencies and to disseminate data to them. However, to protect certain types of business information, access to information not required to be published will be limited, and the confidentiality of reporters who furnish additional information will be protected.

Willful violations of the act will be punishable by a fine not exceeding $10,000 for each infraction and, in the case of natural persons, a jail sentence not exceeding 1 year. The Secretary will have authority to seek a mandatory injunction to compel compliance with the act. Failure to comply could also result in the suspension of a foreign investor's voting rights in a stock or, in the case of a loan agreement or long-term contract, a prohibition on the exercise of any provision regarding management or operational rights in the company.

As I noted above, I believe that this legislation is vitally needed and eminently reasonable, balancing the public's interest in learning more about the activities of foreign multinational corporations and foreign individuals in this country with the need to attract foreign capital to this country. Our commitment to this latter objective is embodied in the declaration of policy in which we stress that nothing in this act is intended to restrain or deter foreign investment in the United States or to discriminate against any particular foreign investors.

In spite of the reasonableness of this legislation, I anticipate that there will be objections to the bill from the administration and certain members of the financial community. Therefore, I would like to discuss briefly why I believe this bill is necessary even though changes in

the monitoring program are being contemplated by the Administration.

First. This bill clarifies beyond a doubt the right of the public and Congress to have access to detailed information on foreign investment and investors. I noted with interest that the representative of the Treasury Department who testified on S. 425 made no reference in his statement to the role of Congress in setting policy in this area. Apparently none of the changes envisioned by the administration provide for Congress or the public to have ready access to information gathered pursuant to these monitoring changes. If the public's uneasiness about foreign investment is to be stilled, it must have accurate, detailed and current information—none of which exists today. Data gathered and maintained at the Executive level, hemmed in by claims of privilege and confidentiality, will not satisfy this requirement.

Second. The bill institutionalizes the monitoring and disclosure process and provides the statutory underpinning for the establishment of an office. As an executive creation, the office planned by the administration can be dismantled at any time without congressional approval or disapproval regardless of Congress views on the need for further action. Furthermore, the act would help to clarify responsibilities, avoid bureaucratic contentions, and expedite establishment of the monitoring mechanism.

Third. It is highly questionable under what statutory authority the proposed executive level office would operate. The Bretton Woods Agreement Act designated the Department of Commerce to collect balance of payments information. Data on foreign investment in this country has been a byproduct of this process and is not specifically authorized to be gathered. Collection of statistics strictly concerned with foreign investment in the United States should be clearly, unambiguously authorized to prevent legal disputes and to remove obstacles by those who wish to conceal this information from Congress and the public.

Fourth. The act will provide opportunities for congressional oversight and make the Director answerable to Congress for the administration's activities.

Those who oppose reporting and monitoring often express their fear that such actions might trigger retaliatory action by other nations. This contention is entirely groundless since most nations have already enacted strict limitations on foreign investment. Canada, which is entering phase two of its regulatory program, is a prime example. Even the Federal Republic of Germany, which has traditionally maintained the same attitude as we, is in the process of changing its policies as a result of the Kuwaiti investment in Daimler.

Mr. President, I believe strongly in this bill and urge its enactment. At a time when the American public is deeply suspicious of governmental processes because of their secrecy, often with justification, this is the minimum program. Unless we act—and act expeditiously—we *would rightly* deserve some of the blame for failing to resolve an important issue in our national economic life.

Mr. President, I ask unanimous consent that this measure be referred to the Committee on Commerce; and if and when reported from that committee, that it be referred to the Committee on Banking, Housing and Urban Affairs.

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

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

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

S. 1303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Investment Disclosure Act of 1975".

DECLARATION OF POLICY

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

(1) Foreign investment in the United States has increased in recent years.

(2) Such investment could significantly affect the economy of the United States.

(3) Large monetary reserves and capital accumulations exist in many oil exporting nations and other foreign countries and these reserves and accumulations may be invested in this Nation.

(4) The potential consequences of foreign investment, particularly on a massive scale, cannot be calculated because the Federal Government lacks sufficient information on foreign investment and its actual or possible effect on the national security, commerce, employment, inflation, and the general welfare.

(5) Federal agencies responsible for the collection of data on foreign investment do not maintain adequate programs for the gathering and analysis of sufficient detailed data and information on such foreign investment and planned investment and lack sufficient authority to collect information sufficient to enable the Congress to formulate and enact a reasoned and comprehensive policy with respect to such investment.

(b) It is therefore the purpose of the congress in this Act to—

(1) require foreign investors and their agents to make public disclosure of their identities and the identities of their principals;

(2) discover and disclose the nature and scope of all significant foreign investment in the United States; and

(3) direct the Secretary of Commerce to analyze such investments and planned investments and make recommendations with respect to foreign investment policy.

(c) Nothing in this Act is intended to restrain or deter foreign investment in the United States or to discriminate against any particular foreign investors.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Administration" means the Foreign Investment Administration, established by this Act;

(2) "foreign investment" means the ownership or control, by ownership of stock or other securities, by contractual commitments or otherwise, by any foreign investor, of all or part of a United States company or property which is located wholly or substantially in the United States;

(3) "foreign investor" means—

(A) a foreign government, agency, or instrumentality thereof;

(B) an international agency or organization, as defined by the Secretary;

(C) a natural person who is not a citizen of the United States;

(D) a company other than a United States company;

(E) any person who, directly or indirectly, is owned or controlled by or acting as agent or trustee, for one or more such government agencies, organizations, or persons; or

(F) two or more persons acting in concert for the purpose of acquiring, holding, voting, or disposing of securities or for the purpose of acquiring, holding, or disposing of property, at least one of whom is a person described in any of the preceding subparagraphs of this paragraph;

(4) "person" includes any government or agency or instrumentality thereof;

(5) "property" means any real or personal property and any other thing of value, including the right to acquire or control any real or personal property;

(6) "Secretary" means the Secretary of Commerce, or his delegate;

(7) "United States company" means any corporation, syndicate, partnership or other business unit organized in one of the United States, the Canal Zone, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, or any other possession of the United States.

FOREIGN INVESTMENT ADMINISTRATION

SEC. 4. (a) There is established in the Department of Commerce an agency to be known as the Foreign Investment Administration. The Secretary shall carry out the provisions of this Act through the Foreign Investment Administration and shall supervise the Director of such Administration.

(b) The agency shall be administered and supervised by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall receive compensation at the rate now and hereafter prescribed for offices and positions at level V of the Executive Schedule (5 U.S.C. 5316).

(c) The Director shall appoint a Deputy Director who shall serve as Acting Director during any period of absence or incapacity of the Director and who shall carry out any duties delegated or assigned to him by the Director. The Deputy Director shall receive compensation at a rate now and hereafter prescribed for offices and positions at level of GS–18 on the General Schedule (5 U.S.C. 5332).

(d) The Director may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate to be fixed by the Agency, but not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services for the Administration, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government services employed intermittently.

(e) The Secretary is authorized, after investigation, to transfer the whole or part of the functions of any office subject to his jurisdiction to the Administration, upon the preparation of a reorganization plan for the making of the reorganization as to which he has made findings and which he includes in the plan, and upon the submission of such plan to Congress together with a declaration that such reorganization is necessary or appropriate to further the purpose of this Act: Provided, that such reorganization plan shall not become effective if either House of Congress within sixty days after the date of transmittal passes a resolution stating in substance that such House does not favor the reorganization plan.

ADMINISTRATIVE POWERS

SEC. 5. The Administration is authorized—

(1) to issue such rules and regulations,

in accordance with section 553 of title 5, United States Code, as it deems necessary and appropriate to carry out the provisions of this Act;

(2) to the extent necessary or appropriate to the policy of this Act, to acquire and maintain property (real, personal, or mixed, tangible, or intangible, or any interest herein) by purchase, lease, condemnation, or in any other lawful manner, to sell, lease, or otherwise dispose of such property in any manner; and to construct, operate, lease, and maintain buildings, facilities or other improvements on such property;

(3) to accept gifts or donations or services, money or property in any form;

(4) to enter into contracts or other arrangements or modifications thereof, with any person, any department or agency of the United States, and any State government or political subdivision thereof;

(5) to make advance, progress, or other payments which the Director deems necessary or appropriate to further the policy of this Act;

(6) to hold such hearings and to conduct investigations at such times and places as the Director determines to be appropriate;

(7) to propose, in the discretion of the Director, additional programs in furtherance of the policy of this Act to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives without prior submission, review, or clearance of any other agency or officer of the United States; and

(8) to take such other action as may be necessary to carry out the provisions of this Act.

FOREIGN INVESTMENT DISCLOSURE

SEC. 6. (a) The Secretary may require any person subject to the jurisdiction of the United States to maintain a full and accurate record of any information (including journals or other books of original entry, minute books, stock transfer records, list of shareholders or financial statements) germane to the purpose of this Act, and to furnish under oath, in the form of a report or otherwise, such information as the Secretary may determine may be necessary to enable him to carry out his responsibilities under this Act. The information which may be required shall not be limited to holdings or transaction but shall include any information necessary to the Secretary's functions under this Act in the possession of such person, from whatever source derived, concerning foreign direct investment and foreign portfolio investment by any person whatsoever.

(b) (1) The Secretary shall, by regulation, order, or otherwise, establish procedures which require the maintenance of records and the submission of reports by foreign investors, and by such other persons as he determines to be appropriate with respect to—

(A) any foreign investment in a United States company whose equity security is publicly traded on a national securities exchange or otherwise in the United States if, after such investment, the foreign investor owns or controls, directly or indirectly as the beneficial owner, 5 per centum or more of the equity securities of such company, except that the Secretary may by regulation establish a lower percentage of ownership requirement consistent with the purposes of this Act—

(i) if he has reason to believe that two or more foreign investors have acted in concert, or may act in concert in the future, to acquire an aggregate of 5 per centum or more of such companies; or

(ii) in other circumstances where the importance of an industry, or the highly dispersed ownership of a given industry or company makes it advisable to establish a lower percentage requirement in order to fulfill the objectives of this Act.

(B) any foreign investment in the United States company whose stock is not publicly traded on a national securities exchange or otherwise in the United States, if—

(i) after such investment 10 per centum or more of the equity securities of such company is owned or controlled, directly or indirectly as the beneficial owner, by the foreign investor; and

(ii) at the time of such investment the total assets of such company have a value of $3,000,000 or more.

(C) any foreign investment in the United States, including but not limited to loans, long-term contracts, and the ownership of property or interests in property which the Secretary determines, on the basis of objective economic and other criteria, shall be subject to the recordkeeping and reporting requirements under this subsection, if the substantial effect of such investment is—

(i) to give or could be to give the foreign investor a predominant influence on the management or operation of a United States company described in paragraph (A) or (B) of this subsection; or

(ii) to result in the ownership or control by a foreign investor of more than $1,000,000 in property in the United States except that the Secretary may establish a lower figure if he determines that a lower figure is necessary to identify significant foreign investments in the United States.

(D) any foreign investment in the United States in real property with a fair market value in excess of $50,000, except that the Secretary may waive this requirement if, after review, he determines that such property is intended solely for personal use and contains no exploitable natural resources and if such investment does not exceed $250,000.

(E) any foreign investment in United States government or agency securities, notes, certificates of deposit or other marketable instruments exceeding $1,000,000 per issue.

(2) The records and reports required under this section shall include but not be limited to—

(A) the name or names of the foreign investors involved;

(B) the nationality or citizenship and residence of the foreign investor or investors;

(C) the country or countries with which any agency or other organization which is a foreign investor is affiliated or organized;

(D) the extent of the ownership or control which is exercisable by such foreign investor, including—

(i) the details of any loan agreement, long-term contract, or sale of assets; and

(ii) the number of shares beneficially owned, including the number of shares to which there is a right to acquire, directly or indirectly, by such foreign investor and by each member of the group of such investors;

(3) Any report required under this section with respect to an acquisition made after enactment of this Act shall be submitted not later than ten days following the date of the acquisition. Reports required under this section with respect to existing foreign investments in the United States shall be submitted to the Administration not later than 90 days following enactment of this Act.

(c) The Secretary is further authorized to issue such rules and regulations as he deems appropriate in accordance with the purpose of this Act to require any United States company which knows or has reason to know of a foreign investor in that company qualifying under subsection (b) of this section to report such investment to the Administration.

(d) The Secretary shall publish a quarterly report on the nature and scope of foreign investment in the United States during the quarter covered by the report. Such report shall include, but not be limited to, a listing of transactions whose disclosure is required by this Act, the names of United States companies in which foreign investments covered by this Act have been made and the extent of such investments, the Secretary's assessment of any significant trends, on an industry by industry basis and in the aggregate, of foreign investment in the United States during such quarter, and such other information he deems appropriate, but it shall not include any information whose disclosure would cause competitive injury to the foreign investor or the United States company. The first report shall be due 90 days after enactment of this Act and shall be issued quarterly thereafter.

(e) The Secretary shall issue an annual report to the Congress no later than 90 days after the end of each year on foreign investment in the United States. Such report shall include, but not be limited to, the nature and scope of foreign investment in the United States during the previous year; the industries and economic sectors in which significant foreign investment occurred; a list of major United States companies in which significant foreign investment occurred; an identification of the geographical regions, to the extent practicable, where significant foreign investment was made; an analysis of the economic impact of foreign investment in the United States during the previous year, including the effects of such investment on the United States balance of payments, balance of trade, employment, and economic competitiveness; a summary of significant actions taken by the United States Government to improve and consolidate programs, rules, and regulations relating to foreign investment in the United States; a list of policy changes or recommendations issued by the Secretary; and such other factors as the Secretary deems relevant and appropriate.

GUIDELINES

SEC. 7. The Secretary is authorized, after such hearings and consultations with other agencies and individuals as he deems necessary and appropriate, to issue periodically statements pertaining to United States polices on foreign investments in the United States companies and property. Such statements shall contain recommendations and guidelines on foreign investments in United States companies or industries which are determined to be important for reasons of national security, foreign policy, or economic security. Such statements shall be printed in the Federal Register and be made available for distribution through the Administration.

USE OF INFORMATION

SEC. 8. (a). The Administration may secure from any agency of the United States any information relating to foreign investment in the United States necessary to enable it to carry out its duties under this Act. Upon request of the Director, each such department or agency is authorized to furnish such information to the Administration on a reimbursable basis or otherwise. The Administration may also supply information obtained under this section to other Federal agencies and to foreign governments as deemed appropriate by the Director except as otherwise provided in this Act.

(b) The provisions of section 1905 of title 18, United States Code, shall apply to the Administration, its officers and employees, with respect to information obtained under this section or in any other manner. The Administration shall not release, without written permission of the person to whom it relates, any information described in section 552(b) of title 5, United States Code. In addition to the Secretary, the only individuals who may have access to information obtained under this Act but not required to be published are those sworn employees, including consultants, of the Department of Commerce designated by the Secretary.

(c) Except for a proceeding under section 9(b) of this Act, no report or constituent part thereof may be produced for any Federal judicial or administrative proceeding. No agency of the United States or employee

thereof may compel the Secretary or the Director or any person which maintained or furnished any report under section 6(a) or 6(b) to submit any such report or constituent part thereof to that agency or any other agency of the United States.

(d) Nothing in this Act shall be construed to require or to authorize the Secretary to publish or make available to any other person or organization in any manner except as herein authorized information which, if disclosed, would encourage speculation or cause competitive injury to the foreign investor or United States company.

ENFORCEMENT

SEC. 9. (a). Whoever willfully fails to furnish any information required pursuant to the authority of this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act may be assessed a civil penalty not exceeding $10,000 for each infraction on a proceeding brought under subsection (b) of this section.

(b) Whenever it appears to the Secretary that any person has failed to furnish any information required pursuant to the provisions of this Act, whether required to be furnished in form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act, he may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a "mandatory" injunction commanding such person to comply with such rule, regulation, order, or instruction, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond, and such person shall also be subject to the civil penalty provided in subsection (a) of this section.

(c) In any case in which the Secretary determines that any foreign investor has made an investment subject to the requirements of section 6(b) and that such person has failed to comply with the provisions of such section, after such notice and opportunity for hearing as he determines to be appropriate, he may bring an action in the proper United States district court seeking the suspension of any and all voting rights of the securities until such time as the foreign investor or his agent complies with the provisions of this Act or such securities are sold. If the court determine that the company's financial condition requires the exercise of voting rights, it may authorize the Secretary to exercise such rights. In the case of a loan or long-term contractual agreements, the Secretary may bring an action in the proper United States district court to prohibit the exercise of any provision of such loan agreement or contract with respect to management or operational rights until the foreign investor or his agent complies with the provisions of this Act or until such loan or contract agreement terminates.

(d) Whoever willfully fails to submit any information required pursuant to this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order or instruction promulgated pursuant to the authority of this Act shall, upon conviction be fined not more than $10,000 or, if a natural person, may be imprisoned for not more than one year or both, and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(e) The Secretary or his duly authorized agent shall have authority, for any purpose related to this Act, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to 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 refusal to obey a subpena served upon any person under the provisions of this section, the Secretary or his delegate, may request the Attorney General to seek the aid of the United States district court for any district in which such person is found to compel that person, after notice, to appear and give testimony, or to appear and produce the documents before the agency.

AUTHORIZATION FOR APPROPRIATION

SEC. 10. There is authorized to be appropriated sums as may be necessary to carry out the provisions of this Act.

Mr. BAYH. Mr. President, it is my pleasure to join with Senator INOUYE in introducing the Foreign Investment Disclosure Act of 1975.

In recent months, there have been varied estimates regarding the amounts of wealth which will shift to the oil producing nations as a result of the fivefold increase in world oil prices. Early projections showed that the OPEC nations would accumulate reserves of $650 billion by 1980 and $1.2 trillion by 1985. More recently, experts have forecast a smaller surplus of $300 billion in 1985. Though these estimates are quite different, Mr. President, it is clear that even those on the low end show that the producing nations are and will continue amassing financial resource with unprecedented speed.

It is also clear that a large amount of that new-found wealth will flow into the United States. There is no way to know for sure what the investments by the oil producing nations in the United States amounted to last year, but from estimates I have seen, it is reasonable to believe that investment was in the $13 to $16 billion range. Such investment will grow rapidly in the years to come.

Mr. President, foreign investment in the United States is extremely important. It provides badly needed capital to our financial markets and return petrodollars to our shores. In the past, the absence of restrictions on foreign investment has made our country extremely attractive to foreign investors. We must carefully guard against any action which would significantly discourage investment from abroad. At the same time, Mr. President, with such a rapid shift in the world's wealth and with the expectation of massive new foreign investment in this country, we cannot take a business-as-usual attitude.

We are going to see foreign holdings in America grow to an amount which far exceeds anything we have experienced in the past. It is not difficult to imagine situations in which large foreign interests in American businesses could have a profound effect upon our national security and economic well-being. Further, influence or control in corporate affairs could result in inimical, discriminatory practices which are wholly incompatible with the American way of life.

At present, Mr. President, there is no systematic means for the Government, or for that matter any other institution or person, to gather and compile information regarding foreign investment in the United States. We have no way of knowing the size of such investment, in what sectors of the economy it is concentrated or what trends it is following.

While it is very important, Mr. President, that we keep America attractive to foreign investment, I believe it would be foolhardy to ignore recent world events and to continue operating in the dark regarding foreign interests in our economy. We must make certain that our Government is carefully monitoring the influx of foreign capital, in order that prompt action can be taken should dangers develop.

The bill we are introducing today would set up a mechanism for keeping records on foreign investments and would insure that Congress, the executive branch, and the public are well informed about these matters. It will remove the blindfold, so we can see clearly any problems which confront us.

Our bill would establish a Foreign Investment Administration within the Department of Commerce. It would be the duty of the adminstration to collect and analyze information on foreign investment in the United States.

The act would require any foreign investments in a company, whose stock is publicly traded, which resulted in a 5 percent direct or indirect ownership interest to be reported to the administration. Investments in privately held companies which resulted in a 10-percent ownership interest would also be reported as would investments in real property and in U.S. Government securities which exceeded $50,000 and $1 million, respectively. Further, there would be reporting requirements on any investment in a U.S. company, such as a loan or long-term contract, which would tend to give the foreign investor substantial influence in the management of the company. The required report would include details relating to the investment and the name and nationality of the investor.

On a quarterly basis, the Secretary of Commerce would publish a report which would include information regarding aggregate foreign investment in the United States, trends in such investment, and a list of transactions which had been disclosed under the reporting requirements. The Secretary would also make an annual report which would analyze in detail all aspects of the previous year's foreign investment and include the Secretary's recommendations for policy in the area of foreign investment. In matters of policy, the Secretary further would be authorized to make recommendations at any time which would be published in the Federal Register.

Mr. President, I believe passage of this bill is a necessity if we are to act wisely in the face of massive investment by foreign interests in the United States. It does not propose unreasonable restrictions, and is, in fact, far less burdensome to investors than laws in force in many other western countries. It will provide us the means to become and stay currently informed on foreign investment in our country so that we can prevent economic power from being em-

ployed from within this Nation by foreign interests to our detriment. I hope that my colleagues will consider the bill carefully.

By Mr. BIDEN:

S. 1304. A bill to amend the Social Security Act to provide for immediate care services under titles XVIII and XIX of such act. Referred to the Committee on Finance.

Mr. BIDEN. Mr. President, increasing national attention is being given to the pressing need to improve the means of treating medical cases requiring immediate care. The legislation I am introducing which would extend medicare and medicaid reimbursement to cover the special institutional costs of immediate care services provided by qualified facilities other than hospitals—which already receive reimbursement—would contribute to both an improvement in the availability and quality of care and an increase in the equity of the reimbursement provisions.

Currently, medicare and medicaid reimbursement for the institutional fee of immediate care services under titles XVIII and XIX of the Social Security Act may only be made when the services have been rendered in a provider hospital or a qualified emergency hospital. The inadequacy of the law is that it focuses upon the context in which the care is provided rather than emphasizing the principal factor—the capability of providing quality care regardless of context.

Secretary Weinberger's remarks at the meeting of the American Health Congress in Chicago on August 21, 1973, underscore the shortcomings of the medicare and medicaid legislation which encourages doctors to put patients in high cost hospitals rather than treat them as out-patients. This generalization certainly extends to immediate care services as well. Since only hospitals are eligible for reimbursement of the special institutional costs of their immediate care services, the law discriminates against other facilities which are equally qualified to perform particular immediate care services and often better able to deliver such services.

It should also be noted that with regard to medicaid coverage of the immediate care services provided in nonhospital facilities, the administration in its 1974 budget message promised proposed legislation "requiring States under medicaid to reimburse free-standing clinics for covered outpatient services." Consistent with the specific purpose of my proposal, the legislation I am introducing would only require coverage in the State plan of immediate care services provided by free-standing facilities.

The foregoing statements by the administration support my contention that the time has come for the legislation I am offering. Let us look, however, at the concrete circumstances which demonstrate the importance of these amendments to the medicare and medicaid law.

With the growing number of cases requiring immediate medical care and the rising expectations of our citizens to receive immediate attention, our hospital emergency rooms have become overburdened and frequently unprofitable. The Senate Labor and Public Welfare Committee's report accompanying the Emergency Medical Services Systems Act of 1973 (S. 2410) outlines the problem:

> Increasing concern is being expressed throughout the Nation regarding the heavy demands made upon a major element of any emergency medical system—the hospital emergency room. Hospital emergency rooms are increasingly called upon to provide outpatient care for the community. The position paper prepared by the American College of Emergency Physicians in 1972 reported there has been over a 600% increase in the number of emergency visits in some hospitals in the last 25 years. Nationally the average is an increase of 10% a year. Last year there were approximately 50 million visits to emergency rooms.
>
> In the critically underserved neighborhoods of densely populated urban areas, emergency medical services should more accurately be termed primary health services. Here the distinction between emergency medical care and primary health care is very difficult to determine.
>
> This increased community reliance on the services of the emergency room has overburdened its resources and has vastly compounded the difficulties of providing effective critical care to the emergency victim.

In my State, for example, until the last few years the primary source of immediate medical care in the populous northern county was the central-city hospital's emergency room. A survey by the comprehensive health planning council, the 314b agency for the county, revealed that approximately 25 percent—90,000—of the county's population, however, is concentrated in an area which is more than 30 minutes from the central-city hospital's emergency room. Thus, a large and increasing concentration of population was isolated from a provider of immediate medical care.

Responding to these circumstances a so-called free-standing emergency medical facility developed to serve the area. This facility and another facility which recently replaced the original facility have both met stringent licensing regulations established by the State of Delaware and fulfill the guidelines of the National Blue Cross Association as specified in the requirements of the Blue Cross and Blue Shield of Delaware—intermediary of titles XVIII and XIX for Delaware—for Blue Cross reimbursement of covered services rendered to plan subscribers.

Despite the encouragement and support of State and local officials, Blue Cross and Blue Shield recognition, and community interest, these facilities have been financially hampered by the exclusive provisions of the medicare and medicaid law which deny them reimbursement for the institutional fee their specialized immediate care services entail. Since the facilities cannot obtain reimbursement from the Federal Government for services which would be covered if they had been performed in a hospital, the facilities must turn to the medicare and medicaid patients themselves—the aged and the poor—for repayment to maintain solvency. Thus the patient who thought he or she had health care coverage discovers that the coverage is available only if one receives the services from a particular class of the facilities qualified to offer the services. Under circumstances requiring immediate medical care, however, the patient does not have the opportunity to shop around for a facility which is eligible for medicare and medicaid reimbursement for its patients. Instead, the individual is taken, as he or she should be, to the nearest facility equipped to treat the case.

The narrow limitations of the current law have generated ill-will between the facility and the patients who are being asked to pay for services which is provided in a hospital emergency room would be paid by medicare and medicaid. The result is the bills go unpaid and the facility loses its solvency.

My position based on what I believe to be both sound medical advice and simple equity is that if a facility is qualified to treat cases requiring immediate medical care, it should receive reimbursement on the same terms as a hospital for the specialized services provided. A recent statement by the former Executive Director of the local comprehensive health planning council, Mr. Clifford Foster, summarizes the case in favor of reimbursement.

> The Health Planning Council, Inc. of New Castle County, Delaware, the B agency under comprehensive health planning, has worked hard and long to establish outreach programs away from hospitals, free-standing in nature and delivering services where the action is. We are attempting to follow through on the priorities set by the Secretary of HEW in ascertaining the gaps in service and the needs of the people in the area for which we are responsible for health planning. It is impossible for any agency to set up shop today and deliver health services unless they are certified to receive reimbursement from both Title XVIII and Title XIX moneys. With the increasing caseload of the programs, it is imperative that these type facilities, if they have adequate coverage adequate quality of care and deliver such care at a reasonable price, should be reimbursement for freestanding facilities in Delaware is an albatross around the necks of we planners in encouraging organizations to set up such facilities.

Mr. President, this bill would neither expand the kinds of services medicare and medicaid cover nor lower the standards a facility would have to meet for the provision of immediate medical care—the standards for an immediate care facility in the amendment are comparable to those for a provider hospital. Although my legislation would not directly encourage the development of nonhospital immediate care facilities, it would enable such facilities to obtain equity for themselves and their patients and thus maintain a source of services which will be able to provide the life-saving stabilization of serious emergency cases for subsequent transfer to a hospital and fully treat the less critical cases and thereby avoid unnecessary high-cost hospital emergency room treatment and free the hospitals to provide the highly specialized emergency medical services and intensive care for which they are uniquely equipped. Therefore, I foresee enactment of my proposal leading to the

improved provision of immediate medical care at lower cost—the twin goals for which we should strive.

I ask unanimous consent that the text of my bill and an explanation be printed in the RECORD.

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

S. 1304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(e) of the Social Security Act is amended by inserting, immediately before the last sentence thereof, the following: "The term 'hospital' also includes an immediate care facility (as defined in subsection (aa)), but only with respect to immediate care facility services (as defined in subsection (bb)), and payment under this title with respect to such services provided by such a facility shall be made subject to the same terms and conditions as those applicable with respect to the payment under this title for similar services provided by an institution which meets the requirements specified in clauses (1) through (9) of the first sentence of this subsection.".

(b) Section 1861 of such Act is amended by adding at the end thereof the following new subsections:

"Immediate Care Facility

"(aa) The term 'immediate care facility' means a public or nonprofit private institution which—

"(1) is primarily engaged in providing, by or under care services for the diagnosis, treatment, and care, of injured, disabled, or sick persons;

"(2) maintains clinical records on all patients;

"(3) provides twenty-four-hour nursing service with a licensed practical nurse or a registered professional nurse on duty at all times;

"(4) has a physician in attendance at all times;

"(5) in the case of an institution in any State in which the State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing of such institutions, as meeting the standards established for such licensing;

"(6) has in effect a written transfer agreement with one or more hospitals having agreements in effect under section 1866, under which any patient of such institution who requires other than immediate care facility services will be transferred to such a hospital at the earliest practicable time (which shall not be later than twenty-four hours after such patient is admitted to such institution);

"(7) has in effect a policy under which any patient who is provided services by the institution will, within twenty-four hours after he is admitted to such institution for services, be discharged or transferred to a hospital;

"(8) has in effect an overall plan and budget that meets the requirements of subsection (z); and

"(9) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of the individuals who are furnished services in the institution.

"Immediate Care Facility Services

"(bb) The term 'immediate care facility services' means services, furnished to an individual by an immediate care facility, which—

"(1) is primarily engaged in providing, by or under the supervision of physicians, to outpatients immediate care services for the diagnosis, treatment, and care, of injured, disabled, or sick persons;

"(2) maintains clinical records on all patients;

"(3) provides twenty-four-hour nursing service with a licensed practical nurse or a registered professional nurse on duty at all times;

"(4) has a physician in attendance at all times;

"(5) in the case of an institution in any State in which the State or applicable local law provides for the licensing of institutions of this nature, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing of such institutions, as meeting the standards established for such licensing;

"(6) has in effect a written transfer agreement with one or more hospitals having agreements in effect under section 1866, under which any patient of such institution who requires other than immediate care facility services will be transferred to such a hospital at the earliest practicable time (which shall not be later than twenty-four hours after such patient is admitted to such institution);

"(7) has in effect a policy under which any patient who is provided services by the institution will, within twenty-four hours after he is admitted to such institution for services, be discharged or transferred to a hospital;

"(1) are of a type which such facility is authorized to provide, and

"(2) are for a medical condition requiring immediate medical attention.".

(c) The amendments made by subsections (a) and (b) shall be effective in the case of services furnished on and after the first day of the first calendar month which commences more than thirty days after the date of enactment of this Act.

SEC. 2. (a) Section 1905(a) of the Social Security Act is amended by adding after clause (17) thereof the following new clause:

"(18) immediate care facility services (as defined in section 1861(bb)) which are furnished in an immediate care facility (as defined in section 1861(aa));"

(b) Section 1902(a)(13) of such Act is amended—

(1) in subparagraph (B) thereof, by inserting "clause (18) and" immediately after "care and services listed in",

(2) in subparagraph (C)(i) thereof, by inserting "clause (18) and" immediately after "care and services listed in", and

(3) in subparagraph (C)(ii) thereof, by inserting "clause (18) and" immediately after "care and services listed in".

(c) The amendments made by this section shall become effective July 1, 1974.

EXPLANATION OF BIDEN BILL

WHAT IT MEANS

Provides Medicare and Medicaid coverage for the institutional costs of the specialized medical services of facilities treating cases requiring immediate medical care;

Makes a facility eligible for reimbursement if it meets medical standards comparable to those required of a hospital emergency room; and

Bases the reimbursement on the same coverage of services and reimbursement procedure (Part A, reasonable cost) as a hospital emergency room.

NOTE.—The amendment does not establish a new benefit. It simply enables qualified facilities other than hospitals to receive reimbursement for the same services for which hospitals currently receive reimbursement. It thereby would ensure Medicare and Medicaid beneficiaries of coverage in all facilities qualified to perform immediate care services.

WHAT IT WOULD COST

A 1971 Blue Cross-Blue Shield survey (the best available data source) indicates that at that time there were 23 identifiable free-standing facilities (facilities existing apart from hospitals) of which 14 provide immediate medical treatment. One free-standing immediate care facility which would be eligible under the amendment is in my state of Delaware.

Since the amendment would not establish a new benefit but instead only extend the present reimbursement provisions to a few additional qualified facilities, the Congressional Reference Service analysts have estimated that the cost to the Federal Government resulting from enactment of the amendment would be nominal.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 144

At the request of Mr. MCCLURE, the Senator from Connecticut (Mr. WEICKER), the Senator from Vermont (Mr. STAFFORD), the Senator from Arizona (Mr. FANNIN), the Senator from Georgia (Mr. TALMADGE), the Senator from Utah (Mr. GARN), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 144, a bill to prohibit the banning of lead shot for hunting.

S. 277

At the request of Mr. TOWER, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 277, a bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, so that benefits for husbands and widowers will be payable on the same basis as benefits for wives and widows.

S. 506

At the request of Mr. CHURCH, the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 506, a bill to amend the Water Resources Planning Act to extend the authority for financial assistance to the States for water resources planning.

S. 893

At the request of Mr. PASTORE, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 893, a bill to amend certain provisions of the Communications Act of 1934 to provide long-term financing for the Corporation for Public Broadcasting, and for other purposes.

S. 953

At the request of Mr. STEVENSON, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 953, a bill to amend the Export Administration Act of 1969.

S. 998

At the request of Mr. Moss, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 998, a bill to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services and National Archives and Records Service with respect to records management by Federal agencies, and for other purposes.

S. 1004

At the request of Mr. HUGH SCOTT, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 1004, the Allegheny River bill.

S. 1136

At the request of Mr. PHILIP A. HART, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1136, a bill 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. 1215

At the request of Mr. HARTKE, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 1215, a bill to amend title 5, United States Code, to require the heads of the respective executive agencies to provide the Congress with advance notice of certain planned organizational and other changes or actions which would affect Federal civilian employment, and for other purposes.

S. 1219

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. FONG) and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 1219, the child-care deduction legislation.

S. 1220

At the request of Mr. INOUYE, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Montana (Mr. METCALF), and the Senator from Utah (Mr. Moss) were added as cosponsors of S. 1220, a bill to amend title II of the Social Security Act.

S. 1256

At the request of Mr. MATHIAS, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 1256, a bill to extend for 1 additional year entitlements for part B of the Education of the Handicapped Act.

S. 1270 THROUGH S. 1275

At the request of Mr. PERCY, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 1270, S. 1271, S. 1272, S. 1273, S. 1274, S. 1275, having to do with nursing home reform.

SENATE JOINT RESOLUTION 23

At the request of Mr. HARRY F. BYRD, Jr., the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S.J. Res. 23, a joint resolution restoring posthumously full rights of citizenship to Gen. Robert E. Lee.

SENATE JOINT RESOLUTION 51

At the request of Mr. STEVENSON, the Senator from Colorado (Mr. HASKELL) and the Senator from Missouri (Mr. SYMINGTON) were added as cosponsors of Senate Joint Resolution 51, a joint resolution to disapprove Export-Import Bank financing of a nuclear reactor sale to South Korea.

SENATE RESOLUTION 117—SUBMISSION OF A RESOLUTION CALLING FOR ARMS CONTROL TALKS ON THE INDIAN OCEAN

(Referred to the Committee on Foreign Relations.)

Mr. KENNEDY (for himself, Mr. PELL and Mr. JAVITS) submitted the following resolution:

S. RES. 117

Resolved,

Whereas, the Indian Ocean basin is not yet an arena of serious military or naval competition among the great powers;

Whereas, it is in the mutual interest of both the United States and the Union of Soviet Socialist Republics to avoid a competition between themselves in naval and other military forces deployed in the Indian Ocean, or littoral states, since such competition would pose high economic costs, political uncertainties, and dangers of heightening tensions.

Whereas, in December 1971 and 1973 the United National General Assembly passed resolutions calling for the establishment of the Indian Ocean as a "zone of peace", and has created an ad hoc committee to implement those resolutions;

Whereas, it has been reported that the United States may secure the use of military facilities in the Sultanate of Oman;

Whereas, Section 613 of Public Law 93-352 of December 27, 1974, precludes the obligation of any funds for construction of facilities on the island of Diego Garcia until the President has advised the Congress in writing that he has evaluated all military and foreign policy implications regarding the need for these facilities, and has certified that this construction is essential to the national interest, and within 60 days thereafter neither House of Congress has adopted a resolution disapproving such construction;

And, whereas, the Report on H.R. 17468, by the Senate Committee on Appropriations, urged the President, as part of this evaluation, to make a thorough exploration of the possibility of achieving with the Soviet Union mutual military restraint without jeopardizing U.S. interests in the area of the Indian Ocean.

Therefore, be it *Resolved* by the Senate, that it is hereby declared to be the sense of the Senate that

(1) The President of the United States should seek direct negotiations with the Union of Soviet Socialist Republics, designed to achieve agreement on limiting deployment of their respective naval and other military forces in the Indian Ocean and littoral states;

(2) These negotiations should be convened, as rapidly as possible, either in a bilateral forum or in an appropriate multilateral forum, including other concerned states;

(3) These negotiations should consider, among other topics, agreed limitations by the two Powers on (a) establishment or use of naval and other military facilities in the Indian Ocean and littoral states, (b) numbers of war-ships (or ship-days) deployed in the Indian Ocean basin, and (c) the size and characteristics of warships and other military forces deployed there;

(4) The President should make no certification, pursuant to Section 613 of Public Law 93-552, nor should he make any agreement, or reach any understanding, providing for the use by United States air, land, or naval forces of any military or naval facility in the Sultanate of Oman, until he has used his best efforts to convene negotiations and to agree on an interim standstill with the Soviet Union, referred to in Subsections (1), (2), and (3).

SEC. 2. The Secretary of the Senate shall transmit a copy of this Resolution to the President of the United States.

Mr. KENNEDY. Mr. President, for some time, we have been working to define the nature of our future involvements in the outside world. Clearly, the central international issues for the next decade lie in the area of economic policy. But just as clearly, there remain a host of more traditional issues involving military power and America's foreign commitments. Maintaining strong military forces, pursuing détente and arms control, maintaining critical alliances—all these are part of our continuing responsibility. Yet as we move beyond the cold war era, some issues of military relations with other countries are not yet clear. For example, in recent weeks, I have spoken on several occasions about the international trade in conventional arms, and have warned about the serious implications that an unrestricted arms trade could have on U.S. interests and involvements abroad.

There is yet another area of military involvement that has not yet been placed firmly within the context of a philosophy of U.S. interests and policy. This is the area of seapower and, in particular, the nature of commitment, flexibility, and potential involvement in crises and conflicts in farflung parts of the globe.

A region of growing concern in regard to naval power is that bordering on the Indian Ocean. In the past generally removed from superpower competition, the Indian Ocean is now becoming the focus of increasing attention. For our part, we are looking to the Persian Gulf, the source of most of the oil imported by the West. In recent weeks, we have also been reexamining our policies toward the nations of the Indian subcontinent, and toward Ethiopia, now locked in civil conflict. The Soviet Union, meanwhile, has been paying increasing attention to the Indian Ocean, and has in recent years increased its fleet movements in this region. Some observers have even contended that the Soviet Union has been acquiring basing rights in more than one littoral state. Last July, this view was disputed by the Director of Central Intelligence, Mr. William Colby, in testimony before the Senate Armed Services Committee. However, the Secretary of Defense, in a Newsweek interview, now indicates that the Soviet Union appears to be building a cruise-missile support facility at Berbera in Somalia. If so, there is even greater urgency in defining U.S. interests and policy in the Indian Ocean area.

Because of uncertainties regarding the future of this region, it is increasingly important that any action we take toward the nations bordering the Indian Ocean be well thought out in advance. We have been through too much in the past—and have too much at stake in the future—to create policy without the most fundamental analysis of costs, benefits, risks, and opportunities.

For some time, now, the U.S. Navy and Air Force have sought to build upon existing facilities on the island of Diego Garcia. And in recent months, we have received reports of plans to acquire landing rights on the island of Masira, part of the Sultanate of Oman.

The questions raised by these developments have been receiving congressional attention. Last year, I joined with the distinguished Senator from Rhode Island (Mr. PELL) in introducing a resolution concerning the manner in which we

should proceed with regard to Diego Garcia.

Similarly, last year the Congress placed firm restrictions on the obligation of monies—some $18.1 million—for construction work on Diego Garcia. By a vote of 83 to 0, the Senate provided that no funds could be spent there unless the President advised the Congress in writing that he has evaluated all military and foreign policy implications regarding the need for these facilities, and has certified that this construction is essential to the national interest. The Congress would then have 60 days in which to adopt—in either House—a resolution disapproving of the President's certification.

This provision is now law, and I understand the administration is at this moment debating the merits of proceeding with Presidential certification. Yet it is important to note what the Senate had in mind in adding this restrictive provision to the Military Construction Appropriation Act of 1974. In its report to the Senate, the Committee on Appropriations said the following:

Because of the importance and complexity of the issues raised by Diego Garcia, the Committee felt that it was important for the new Administrtaion to make a full reevaluation of this matter. It is the hope of the Committee that such an evaluation would include a thorough exploration of the possibility of achieving with the Soviet Union mutual military restraint without jeopardizing U.S. interest in the area of the Indian Ocean.

This language closely parallels the intent behind the Indian Ocean resolution submitted last year for Senate consideration.

Mr. President, because of the expressed intent of the Congress—and because of the continuing sensitivity and importance of this issue—I am today joining with the distinguished Senators from Rhode Island (Mr. PELL) and New York (Mr. JAVITS) in introducing a revised Senate resolution on the Indian Ocean. We hope in this way to reiterate the concern of the Senate about the manner in which U.S. policy toward the Indian Ocean should be made.

In particular, this resolution calls upon the President to seek direct negotiations with the Soviet Union, designed to achieve agreement on limiting deployment of the two nations' respective naval and other military forces in the Indian Ocean and littoral states.

How these negotiations should take place would be a matter of choice for the administration. They could take place in a bilateral forum, or in a multilateral forum including other concerned states. The existence of this concern is manifest. Already, on two occasions—December 1971 and 1973—the United Nations General Assembly has passed resolutions calling for the establishment of the Indian Ocean as a "zone of peace," and has created an ad hoc committee to implement those resolutions. This ad hoc committee might, indeed, be the proper forum for negotiations. And I have heard from representatives of a number of the littoral states, in support of efforts to make the Indian Ocean such a "zone of peace.'

Any negotiations should cover a variety of topics—and should be undertaken with a clear view of U.S. interests in the region of the Indian Ocean. Topics for negotiation should include agreed limitations by the superpowers on, first, establishment or use of naval and other military facilities in the Indian Ocean and littoral states; second, numbers of warships—or ship-days—deployed in the Indian Ocean basin; and third, the size and characteristics of warships and other military forces deployed there. In this way, it may be possible to head off yet another arms race, yet another futile exercise in trying to reach a balance of military power at levels far higher—and with far greater risk—than are deployed in the Indian Ocean today.

Mr. President, the timing of this effort to convene direct negotiations with the Soviet Union is critical. Our resolution provides specifically that the President should make no certification pursuant to section 613 of Public Law 93-552—nor should he reach any agreement or understanding providing for the use by U.S. air, land, or naval forces of any military or naval facility in the Sultanate of Oman—until he has used his best efforts to convene negotiations with the Soviet Union. And neither of the steps outlined above should be taken until the President has used his best efforts to gain agreement with the Soviet Union on an interim standstill on deployment of forces—or on building or use of bases—in the Indian Ocean region.

In this way, we believe that the best interests of the United States would be served, and that we would have the best chance of gaining a recognition on the part of the Soviet Union that it, too, has nothing to gain by entering into yet another arms race. Perhaps the Soviet Union does intend to expand its naval presence in the Indian Ocean, especially after reopening of the Suez Canal. Perhaps what is happening in Berbera represents a firm Soviet commitment to a naval presence in the Indian Ocean.

Yet that is all the more reason now to seek mutual restraint on naval deployments, before these are a fait accompli on both sides.

To be sure, direct negotiations are not the only means for achieving this objective. We would be perfectly content to see mutual restraint achieved by other means—either tacit or explicit. Yet in the absence of some other means of achieving mutual restraint, we believe that the approach we advocate here is likely to be most productive.

Mr. President, today I have been speaking in terms of United States-Soviet relations. But there is an added reason for looking carefully at our military and naval deployments in the Indian Ocean area. This is the question of possible U.S. military action against one or another oil-producing state of the Persian Gulf. Since the Secretary of State spoke on this subject at the end of last year, there has been growing uneasiness about the possibility that the United States might at some point contemplate military action.

I have said on more than one occasion that I could not countenance sending American men and women to die for oil in the Middle East. I have also supported efforts to promote good relations between the United States and the oil-producing states, through political and economic means. Therefore, I believe it is imperative that we take no action that could raise in anyone's mind the suspicion that we were, indeed, preparing for military action.

Whatever merits there may be in increasing our capacity for military or naval action in the area, therefore, it is critical at this time that we do nothing that would make it more difficult to work out productive relations with local states. And this means we should adopt a standstill on construction at Diego Garcia, and should exercise extreme caution on acquiring any basing rights in the area.

Mr. President, I join with Senators PELL and JAVITS in introducing this Indian Ocean resolution, and I commend it to the Senate for its consideration. I ask unanimous consent that the text of Mr. Colby's testimony on Soviet involvement in the region, Dr. Schlesinger's comments in Newsweek, and an article on Diego Garcia from the Washington Post be printed in the RECORD.

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

CIA DIRECTOR COLBY, TESTIMONY ON DIEGO GARCIA

PROPOSED EXPANSION OF NAVAL FACILITIES ON THE ISLAND OF DIEGO GARCIA

SUBCOMMITTEE ON MILITARY CONSTRUCTION OF THE COMMITTEE ON ARMED SERVICES,
Washington, D.C.

The Subcommittee met, pursuant to notice, as 2:10 o'clock p.m., in Room 212, Russell Senate Office Building, Senator Stuart Symington (Chairman of the Subcommittee) presiding.

Present: Senators Symington (presiding), Dominick and Taft.

Also present: Gordon A. Nease, Professional Staff Member; Joyce T. Campbell, Clerical Assistant; and Kelly Smith, Assistant to Senator Symington.

Senator SYMINGTON. The hearing will come to order.

Mr. Colby, we welcome you.

I see you have a statement. You may proceed.

STATEMENT OF W. E. COLBY, DIRECTOR OF CENTRAL INTELLIGENCE AGENCY; ACCOMPANIED BY JOHN B. CHOMEAU, OFFICE OF STRATEGIC RESEARCH; WILLIAM B. NEWTON, OFFICE OF CURRENT INTELLIGENCE; AND GEORGE L. CARY, LEGISLATIVE COUNSEL

Mr. COLBY. Mr. Chairman, it is a pleasure to be here.

Mr. Chairman, the Soviet naval presence in the Indian Ocean began in March 1968, when four ships from Vladivostok made a "good will" visit to most of the littoral countries. In the little over six years since those visits, the Russians have maintained a nearly continuous presence in the Indian Ocean area.

The Soviet naval presence has grown slowly but steadily during these years, and has helped Moscow increase its influence in that part of the world.

The forces the Soviets have; deployed in the Indian Ocean, however, have been relatively small and inactive.

The vessels have spent 80 percent of their time at anchor or in port visits, mostly in the northwestern portion of the ocean.

Although the number of countries visited annually has decreased since 1969, the gen-

eral expansion of the naval force and the increased use of ports on a routine basis have resulted in an overall increase in the number of port calls. Put in terms of naval ship days in the Indian Ocean the Soviet presence increased from about 1,000 in 1968 to 5,000 in 1973, excluding harbor clearing operations in Bangladesh.

By mid-1973, the typical Soviet Indian Ocean force included five surface warships—one gun-armed cruiser or missile-equipped ship, two destroyers or destroyer escorts, a minesweeper and an amphibious ship. There was also usually a diesel submarine, and six auxiliary support ships, one of which was a merchant tanker.

Mr. Chairman, today there are six surface combatants, one submarine, nine minesweepers and 11 support ships in the Indian Ocean, not substantially different from that typical showing, except for the increase in minesweeps, as I will explain later.

Recently, a Soviet intelligence collection ship has been deployed to the Indian Ocean for the first time since the India-Pakistan War, and is apparently monitoring developments in the Persian Gulf area.

It will probably also conduct surveillance of any major Western naval movements in the Indian Ocean.

In addition, a group of Soviet minesweepers has recently arrived from the Pacific to conduct mine-clearing operations in the Gulf of Suez—in the areas shown on this map at the bottom. The ones at the top you will note are being cleared by the U.S. and the United Kingdom.

Last weekend the helicopter carrier Leningrad, on a voyage from the Black Sea, rounded the Cape of Good Hope and may join this group. This is by far the farthest from home waters that either the Leningrad, or its sister ship the Moskva, has ever ventured.

The Soviet warships and submarines sent to the Indian Ocean normally come from the Pacific Fleet, which is also the primary source for logistic support. Combatants from the western fleets, however, have operated in the Indian Ocean, but only while transferring to the Pacific.

The Indian Ocean has become, in effect, a "southern sea route" for the interfleet transfer of naval units.

About one-fourth of the Soviet warships and submarines that have operated there have been units transferring to the Pacific from the western fleets.

The Pacific Fleet naval forces are now being modernized. As part of this effort, since early 1974 the Soviet force in the Indian Ocean has included more modern anti-carrier and anti-submarine units, transferring from Soviet western fleets. These units have provided the Russians a more impressive naval presence than could have been drawn from their Pacific Fleet a year ago.

In addition to this de facto improvement in the quality of the Indian Ocean force, the length of time on station for the individual warships seems to be increasing. Some of the ships that have just left the area, for instance, were there for a year, as compared to five or six months for previous rotational tours. This added time on station is at least partly owing to improved Soviet support facilities in the area.

Until 1973, the Russians relied almost exclusively on "floating bases"—collections of auxiliary ships usually anchored in international waters—to provide support to their Indian Ocean naval forces.

The most frequently used anchorages were near the Island of Socotra, and in the Chagos Archipelago, about 1,000 nautical miles south of India, where the Soviets have implanted mooring buoys. You will notice that Diego Garcia is in the Chagos Archipelago.

Contrary to numerous reports about Socotra, the barren island has no port facilities or fuel storage and its airstrip is a small World War II gravel runway. The only military installation on the island is a small South Yemenese (PDRY) Garrison. A major construction effort would have to precede any significant Soviet use of Socotra, other than as an anchorage.

In early 1973, the Soviets acquired use of some facilities at the small Port of Berbera, in Somalia. These have now been expanded, and the Soviets are now using the harbor for routine ship maintenance and crew rest.

There are no repair facilities ashore, but tenders now provide the same services in port as they previously did at anchor.

The Soviets have set up naval communications facility near Berbera, and also appear to be building an airfield although they have made little progress [deleted].

The Soviets have use of a POL storage area there, and have constructed a barracks area for their technicians.

Soviet naval ships also have some access to the Iraqi port of Umm Qasr, in the Persian Gulf, where Soviet technicians have been assisting in minor port development.

Repair facilities at the former British naval base at Aden have not been used by Soviet warships, although support ships and, occasionally, small warships stop there for refueling and replenishment. Soviet transports periodically land at an ex-RAF airbase—now Aden's International Airport.

Soviet naval auxiliaries regularly call at Singapore as they enter and exit the Indian Ocean. In addition to receiving bunkers, since May 1972, the Soviet support ships have been serviced in the commercial drydock facilities there.

Moscow's prospects for naval facilities in other littoral countries are not very bright.

The Soviets helped build India's naval base at Vizakhapatnam, and have equipped the Indian Navy with minor warships and diesel submarines.

Nevertheless, New Delhi has not granted the Soviets free access to Indian ports, nor is it likely to do so in the foreseeable future. [Deleted]

The USSR is trying in some other countries, too, although prospects are equally dim beyond receiving bunkers. Moscow has apparently made overtures to Sri Lanka for access to the Port of Colombo, and has sent in research ships, support ships, and an occasional warship—probably trying to accustom the Ceylonese to a Soviet naval presence.

Similar calls have been to Port Louis, in Mauritius.

The Soviets may also hope to use the facilities in Chittagong, now that they have finished the harbor clearing operation there.

Senator SYMINGTON. Where is Chittagong?

Mr. COLBY. Chittagong is in Bangladesh.

You will recall that the Soviets were asked to help in some salvage and minesweeping efforts there. They finished the salvage very rapidly, but the minesweeping operation was very complicated and difficult. They just finished that a few weeks ago. They have withdrawn from there now.

We have no evidence that the Soviets have made overtures for naval access to Littoral countries other than Somalia, Iraq, Aden, India, Singapore, Mauritius, and possibly Sri Lanka.

Senator SYMINGTON. Where is Sri Lanka again?

Mr. COLBY. To people of our age, it was Ceylon.

Senator SYMINGTON. We had an open hearing this morning and a closed hearing this afternoon, but so far it does not seem to me that there is anything that you have said here that should be classified up to IV in your statement. All that information, as I see it, is something that everybody would know that wanted to know it.

Mr. COLBY. There may be a few phrases in there, Mr. Chairman, that would reveal how we learned certain items. But in essence, I agree with you.

Senator SYMINGTON. Would you please declassify as much as possible for your statement.

Mr. COLBY. I would be delighted to go through this and pull out those few things that have to remain classified and declassify the remainder, Mr. Chairman.

So far, Mr. Chairman, I have been talking about the more or less continuous Soviet naval presence in the Indian Ocean. Another aspect of the problem has been the Soviet surge deployments to the area—and these have been highly responsive to U.S. naval activities.

Moscow apparently prefers to keep a minimal force in the ocean that can be quickly strengthened. This provides a "signalling" capability during crisis periods, while avoiding the political and economic costs of maintaining a larger continuous presence.

There have been two occasions when the Soviets have clearly made use of this "signalling" device.

Following the Indo-Pakistani War of November 1971, and almost three weeks after the deployment of the USS Enterprise, they brought their force level up to six surface combatants, six submarines and nine auxiliaries. This represents a doubling of surface combatants, and a significant increase in submarines, from one to six.

In the Arab-Israeli War in October 1973, the Soviets responded to the unanticipated deployment of a U.S. carrier task group to the Indian Ocean by sending additional units into the area—increasing their submarine force from one to four.

[Deleted.]

Senator DOMINICK. Mr. Chairman, would Mr. Colby yield at that point?

When you are talking about the Soviets, are you talking about missile firing submarines or attack submarines?

Mr. COLBY. We are talking about attack submarines, Senator.

Senator DOMINICK. Thank you.

Mr. COLBY. The timing of Soviet ship movements into the area, both during the India-Pakistan War and following the Arab-Israeli conflict, is instructive. The Russian units left port only after U.S. or U.K. carrier task groups had departed for, or arrived in, the Indian Ocean. All ndications were that Moscow was chiefly responding to deployments by the U.S. and other western countries, specifically Britain, rather than initiating a unilateral buildup.

There remains one important consideration concerning Soviet naval capabilities in the Indian Ocean—the forthcoming opening of the Suez Canal. We believe this will increase the overall flexibility of the Soviet Navy in the Indian Ocean, but not in itself cause a significant increase in the Soviet presence.

Use of the canal would give the USSR easier and more timely naval access, particularly in times of crisis, to the western Indian Ocean—that is, the important Persian Gulf and Arabian Sea area.

It also would facilitate the logistic support of ships in the Indian Ocean and reduce Soviet dependence on littoral countries.

A reopened canal would expedite interfleet transfers and deliveries of military aid.

A few warships from the Mediterranean squadron probably would be sent to the Indian Ocean once the canal opens.

But because of the higher priority of Soviet naval operations in the Mediterranean, and the maintenance of a strategic reserve in the Black Sea, the Soviet Pacific Fleet would still be the chief source for surface combatants—and all of the submarines—for the Indian Ocean. Support ships could be drawn from the Black Sea and the Pacific on a nearly equal basis.

The Soviet Union is likely to increase its continuous deployments there whether or not the Suez Canal is reopened.

Moreover, the USSR probably recognizes that the canal is subject to closure in a

crisis. The Soviets would not wish to be caught with a substantial portion of available units on the wrong end of a blocked canal, and in considering this contingency they almost certainly would give priority to their Mediterranean squadron.

If there is no substantial increase in U.S. naval forces in the area, we believe the Soviet increase will be gradual say, one to two surface combatants per year.

Mr. COLBY. [Deleted.]

Should the U.S. make a substantial increase in its naval presence in the Indian Ocean, a Soviet buildup faster and larger than I have just described would be likely. If the canal were open and available to Russian ships, the task of responding would be easier.

In any event, the Soviets would probably not be able to sustain an Indian Ocean force significantly larger than that presently deployed there without reordering their priorities and shifting naval forces from other areas.

Let me now put the Soviet naval activity I have been discussing into the context of overall Soviet objectives in the Indian Ocean area.

Viewed from a global perspective, the Indian Ocean area—as distinct from the Middle East—has a lower priority than the U.S., China, or Europe in the USSR's diplomatic, economic, and military initiatives. Moscow's probable long-range strategic objectives in this area are to win influence at the expense of the west, and to limit the future role of China.

Toward these goals, the Soviets use their naval presence as one element in a combined approach that utilizes political, economic, subversive, and military aid activity.

We believe that the roles of military, and particularly naval forces, have been secondary to diplomatic efforts and aid programs in promoting Soviet interests in the Indian Ocean area.

The principal objective of the naval force is to maintain an adequate military strength to counter—or at least provide a political counterweight to—moves made by western naval forces there, particularly those of the U.S.

Soviet leaders have shown that they will maintain a naval presence in the ocean at least equal to, if not greater than, that of the U.S. Navy.

Soviet writings have reflected concern over the possibility of the U.S. sending nuclear-powered ballistic missile submarines to the Indian Ocean, but so far as the activities of Soviet naval units there have not indicated an anti-Polaris mission.

The Soviets recognize the importance to the west of Persian Gulf oil, and the sea lanes between the Gulf and Europe or Japan. Moscow perceives a causal relationship between the oil question and recent increases in the U.S. naval presence in the Indian Ocean.

Nevertheless, the normal composition of the Soviet force there—particularly the lack of a significant submarine capability—suggests that interdiction of western commerce, particularly oil shipments from the Persian Gulf, has not been a major objective.

At present, about 50 percent of the industrialized countries' oil imports come from the Persian Gulf. This share may decline somewhat in coming years, as alternative sources are developed.

Judging from the size and composition of the Soviet Indian Ocean force, direct military intervention does not appear to figure prominently in Soviet plans.

As for future Soviet naval activity in the Indian Ocean, we believe that growth will be steady over the long term, if there is no permanent increase in U.S. naval forces in the area.

Moscow would probably consider such a measured approach as consistent with a generally growing—and accepted—Soviet presence in the Indian Ocean countries.

Soviet capabilities to project and support larger naval forces in the Indian Ocean are constrained by a variety of factors.

First, is the distance and steaming time from the various Soviet fleets. Those in the western USSR now have to go around Africa and are twice as far from the Arabian Sea as is the Pacific Fleet. If the Suez Canal were open, the steaming time for the fleets in the western USSR would be significantly reduced, as shown on this map. You can see that the red line south of India, Mr. Chairman, shows the point from which you have approximately an equal steaming time from either the Black Sea or the Pacific Oecan fleets.

Other restraints include the requirement to maintain a strategic reserve in home fleet areas, a large deployed force in the Mediterranean, plus the economic and political costs of operating a sizable naval force in the Indian Ocean.

Moreover, the Soviets are not likely to acquire substantially better naval support facilities for their ships in the Indian Ocean area, at least in the near future. There seems to be little prospect for routine access to large shore facilities—such as those in Singapore, India, Sri Lanka, or Aden—for major repair and overhaul of warships.

The limited facilities that the Soviets use now, such as those in Berbera or Umm Oasr, would require considerable development—and probably changes in the host countries' policies—to provide major services.

On the other hand, the Soviets probably hope to increase their capabilities for air reconnaissance in the Indian Ocean. Their prospects are best in Somalia, where Russian technicians are helping to construct airfields at Berbera and near Mogadiscio.

Somalia is unlikely to give Moscow permanent basing rights, but would probably allow occasional flights.

TU–95 naval reconnaissance aircraft staging from Somalia could conduct surveillance from the Cape of Good Hope to the Malacca Strait.

Visits by TU–95's most likely would be on a periodic basis, as in Cuba and Guinea, but might increase in frequency during times of crisis, major western deployments or exercises, or Soviet naval space support activity.

Anti-submarine warfare aircraft, such as the LL–38 May, operating from Somalia could provide surface reconnaissance and anti-submarine warfare coverage of the Arabian Sea. These aircraft, as well as TU–16 medium bombers, were based in Egypt until July 1972, and closley monitored U.S. and NATO ships and exercises in the Mediterranean.

Mr. Chairman, that completes my prepared statement. I would be very happy to answer any additional questions you might like to ask.

Senator SYMINGTON. Thank you, Mr. Colby.

The first request would be that you declassify as much of this as possible.

Mr. COLBY. I will, Mr. Chairman.

Senator SYMINGTON. It would be your decision.

Mr. COLBY. The other matters I will do it as best as I * * *.

Senator SYMINGTON. The more information we can get out in order to help us make the right decision the better.

Mr. COLBY. I understand, Mr. Chairman. In our country our decision-making has to be public as opposed to some countries where it is to be secret, and consequently, we have to make as much of our input public as possible.

Senator SYMINGTON. Do you consider the Indian Ocean area to be of strategic importance to either the Soviets or the U.S.?

Mr. COLBY. I would rather answer from the Soviet side, Mr. Chairman. I think the Soviets are interested in the Indian Ocean as an area of expanding their influence, primarily through their political relationship with some of the countries in the area, with the Indians, especially, and some of the other countries in that general area. I think they would obviously be concerned if there were some major threat to Soviet security posed from the Indian Ocean. I think there is a certain interest in posing a possible counter-threat to American or western pressure on the Soviet Union by posing a threat to the oil sources of Western Europe. But it is certainly not in priority anything like their relationships with the U.S., Western Europe or China.

Senator SYMINGTON. The Navy spokesmen have indicated that the Soviets have use of facilities in several locations in the littoral area. I would like to take them one by one and have your comments. I have already heard them in another committee, but I would like to hear them now.

The Island of Socotra.

Mr. COLBY. The Island of Socotra, Mr. Chairman, is a bare island. There is almost nothing there except for a small garrison from South Yemen. The Soviets have used Socotra as they have used many other areas around the world as an anchoring place for their ships. The Soviets spend a considerable portion of their time at anchor. They do their provisioning frequently at anchor. They have anchored there off Socotra in protected waters in order to conduct this kind of reprovisioning and just plain sitting.

Senator SYMINGTON. How about an air strip?

Mr. COLBY. The only air strip on Socotra is an old World War II air strip which is really not feasible for modern operations.

Senator SYMINGTON. We were told of anchorages and permanent mooring in the Chagos Archipelago.

Mr. COLBY. There are anchorages in that Archipelago. Again, some of this water between the different islands is international water, and Soviet ships are inclined to anchor there. They have set up some mooring buoys there in international waters so that they can just come on and hook onto them.

Senator SYMINGTON. That is very close to Diego Garcia.

Mr. COLBY. It is not far from there.

Senator SYMINGTON. On Berbera, Somalia, communications station, barracks, repair ships and other facilities, including air strips. What are the facts on that?

Mr. COLBY. Let me give you an overall picture of the port at Berbera, Mr. Chairman. It is a small installation which will handle two or three ships. And there is an air strip under construction outside of Berbera.

They have been building an air strip there for about a year, but have not gotten very far.

Senator SYMINGTON. Mogadiscio.

Mr. COLBY. Mogadiscio is the Capital of Somalia, Mr. Chairman. It is a big town there. They have an embassy, and they have people there, advisors.

The port is a fairly big port.

But the area within the breakwater is somewhat shallow water, and you would have to anchor a little offshore and bring lighters in if you use the port at all.

There is an airfield about 30 or 40 miles northwest of Mogadiscio which they have been gradually building up a little bit. But there is not much progress on that either.

Senator SYMINGTON. The Iraqi Port of Umm Qasr.

Mr. COLBY. Umm Qasr, you will notice there up at the head of the Persian Gulf.

The sea is down here. You come up a river, kind of a delta area. This particular island is claimed by the Kuwaitis as well as the Iraqis. The facility here, the so-called port, is about four, five or six buildings here, a place where you can anchor. It is a little complicated to get through the delta down to the Gulf. The Iraqis appear to be a little bit restrictive as to the degree to which

they will allow the Soviets free use of this particular port. [Deleted.]

Senator SYMINGTON. The former British base at Aden and the former Royal Air Force Base.

Mr. COLBY. The former British base at Aden is a good base. It is a good harbor. There are facilities in it. There is an airfield in that town. That is the Capital of South Yemen. And there is an airfield that is an effective airfield and could be used.

The Soviets have not used it very much. They have not done much more than port visits there. But the Government of South Yemen of course, is a Communist government. The Soviets have been assisting them. So they have a pretty active presence there. But they have not actually used the port facility to that degree.

Senator SYMINGTON. What kind of a runway do they have.

Mr. CHOMEAU. It is short. It is not large enough to handle the extremely large aircraft. I have forgotten the length.

Mr. COLBY. It is a short runway, not big enough to handle the TU-16's and larger aircraft.

Senator DOMINICK. It is big enough, Mr. Chairman, to handle the B-24, because I have landed one there.

Mr. COLBY. You know, then.

Senator DOMINICK. It is a horrible place.

Senator SYMINGTON. It is probably pretty hot, is it not?

(Discussion off the record.)

Senator SYMINGTON. Bunkering rights in Mauritius and Singapore.

Mr. COLBY. Singapore, of course, is a very well equipped port. And the Soviets have tinkered there. Singapore sells to whoever happens to go by. They have also used Singapore for some repair, because there are some good shipyards in Singapore, and some of their auxiliary ships, for instance, have been repaired in Singapore.

Port Mauritius—Port Louis on the Island of Mauritius is a very good port. It is not all that highly developed. It is an independent country now. Mauritius. They have sold bunkering to the Soviets.

There are lots of other areas. You can stop by and buy fuel oil if you want to.

Senator SYMINGTON. Have they a representative in the UN?

Mr. COLBY. I would assume so. I am pretty sure they are UN members. Whether they actually keep a mission there or not, I am not sure. But I know we have an ambassador there. As a matter of fact, Phil Manhardt is just going there as Ambassador. As you will recall, he was a Foreign Service Officer, and was a prisoner of the North Vietnamese for five years.

Senator SYMINGTON. Senator Dominick.

Senator DOMINICK. I think I have only got one question, and that is, what is Mr. Colby's assessment—if we should pass the Diego Garcia enlargement, would we by so doing increase the force of the Russian fleet?

Mr. COLBY. I think our assessment is that the Soviets would match any increase in our presence in that area.

Senator DOMINICK. That is all I have.

Senator SYMINGTON. Senator Taft.

Senator TAFT. Thank you, Mr. Chairman.

Mr. Colby, would you consider that enlarging the port and the airfield as planned would be such an increase or not?

Mr. COLBY. I am not all that familiar with the details of the plan, Senator Taft. I do think that the public impression of what we do would probably be almost as important as what we actually do. In other words, the Soviets would believe that if we were to establish a permanent establishment capable of supporting a regular force in that area, that they would react in some fashion in order to establish a countervailing force. That is more or less at any degree at which we do it.

Senator TAFT. If we have a big debate and authorize it, is that going to have—

Mr. COLBY. It will certainly attract their attention.

Senator TAFT. If we go ahead and authorize it, and public opinion seems to justify authorizing it, would that have an effect on being able to negotiate limitation on forces in the area?

Mr. COLBY. I think that our assessment, Senator, is that you will see a gradual increase in Soviet presence in the Indian Ocean area, that if there is some particular American increase, that the Soviets will increase that gradually to match any substantial additional American involvement. So that it would really depend upon the size of the investment and the forces that we arrange to be there. If we put in a permanent establishment of some size, why they would correspondingly increase to some substantial degree. If we had only sort of tentative connections there and some improvements, they might just continue their gradual increase.

Senator TAFT. You have not mentioned the British or French forces, I do not think, that are in the area. Both of them have permanent naval forces.

Mr. COLBY. Yes, the French have a naval base up at the north end of Malagasy as well as a base at Djrbouti. They keep a permanent force of five to six ships. And the British, their only permanent establishment is in Singapore, where they keep a very small fleet. [Deleted.]

Senator TAFT. That is all I have.

Thank you, Mr. Chairman.

Senator SYMINGTON. Thank you, Senator.

Have the number of ports visited by the Soviets in the littoral area increased in the last few years?

Mr. COLBY. Yes, Mr. Chairman. The number of port calls in 1973 has gone up particularly because the calls in Somalia have expanded quite a lot. You will notice that they are rather targeted, there are only certain ones.

Senator SYMINGTON. The number of countries visited have dropped?

Mr. COLBY. Yes. It has been more of a focus where they have visited.

Senator SYMINGTON. As I understand it you expect the Soviet presence in the Indian Ocean to continue to grow regardless of what we do but that it will grow faster if we start developing Diego Garcia, is that a fair interpretation?

Mr. COLBY. I think that is true, yes, sir.

Mr. Chairman, our estimate of the gradual growth is a reflection of our estimate of the general Soviet intention to assert itself as a major power, as one of the two superpowers, and to assert itself in a world role, and that consequently, there will be a tendency to gradually expand its presence throughout the world.

Senator SYMINGTON. Who reacted first in the Indian Ocean at the time of the Indian-Pakistan War?

Mr. COLBY. In the Indian-Pakistan War, Mr. Chairman, the first thing that happened was that the British sent a carrier task group to help with the possible evacuation of their citizens. The Soviets sent a force very shortly thereafter. And the American force was sent two or three weeks later, or something like that.

Senator SYMINGTON. How about in the recent Middle East War?

Mr. COLBY. In the Middle East War the movement of American carrier task group was followed by a Soviet increase in presence, particularly in submarines.

Senator SYMINGTON. Who has access to the most ports in the littoral area, the U.S. or the Soviets?

Would that be up for grabs?

Mr. COLBY. Even would not be far off, I would say.

Mr. CHOMEAU. I do not know what the U.S. really has.

Mr. COLBY. The U.S., I think, would have access to Pakistan, Iran, and Saudi Arabia.

Senator SYMINGTON. Off the record.

(Discussion off the record.)

Senator SYMINGTON. There was some question as to whether nuclear submarines could go through the Suez Canal when it is opened. What is the opinion of the CIA on that?

Mr. COLBY. Physically, they could go through it, there is no question about it, after it is opened, physically you can send them through. Whether the Soviets would send them through is something else.

Senator SYMINGTON. Is there enough depth?

Mr. COLBY. You mean without being seen? I mean on the surface, obviously, just going through, I do not think there would be much problem.

Senator SYMINGTON. There would not be?

Mr. CHOMEAU. They have enough depth, but it is risky. You have to be certain that you are not going to run into some place where it is silted. But there is enough depth if it is cleared, yes.

Mr. COLBY. It depends upon the permission of the Egyptians, of course,

Senator SYMINGTON. Do either of you gentlemen have any further questions?

Senator DOMINICK. No, Mr. Chairman.

Senator TAFT. No questions.

Senator SYMINGTON. Thank you very much.

(Whereupon, at 3 p.m., the hearing was recessed, to recouvene at 10 a.m., Friday, July 12, 1974.)

[Newsweek, Mar. 17, 1974, interview with Secretary of Defense James R. Schlesinger]

A WORD OF WARNING

Q. Would you include the Indian Ocean in the sphere of vital American interests?

A. Most of the industrialized world is dependent on the flow of petroleum out of the Persian Gulf. The domination of the oil resources of the Persian Gulf area would dramatically alter the configuration of world politics. The Soviets have built up and are still building a major logistical capability in the general area of the Persian Gulf. Nonetheless, there is an inclination to bury one's head in the sand, and some people now exhibit that ostrich-like tendency. Soviet facilities at Berbera in Somalia are both impressive and growing. They are now, it appears, constructing a cruise-missile [unmanned nuclear bomber] support facility at Berbera, on the Gulf of Aden.

Undoubtedly there will be those who will find imaginative excuses for the Soviets. They might suggest it is an economic demonstration project for the Somalis or perhaps an advance reaction to current U.S. research-and-development activities on cruise missiles. But the fact is that this represents reload capabilities for a potent weapon system that the U.S. does not yet possess. It is plain, I think, that the Soviets are deeply serious about a permanent presence and strike capability in the western part of the Indian Ocean and we would be blind to reality if we were unprepared to take the necessary countermeasures.

Q. What kind of coutermeasures?

A. The United States should have its own logistical capability in the Indian Ocean at Diego Garcia so, if the necessity arises, we can support our own forces in the area.

Q. In terms of the other bases that the Soviet Union has managed to establish, how would you rate their present base facility in Somalia?

A. I would regard this as unique. In some ways it could be compared to the facilities that the Soviets had established for themselves in Egypt and in Syria.

[From the Washington Post, May 19, 1974]

U.S. NAVY STILL PRESSING FOR BASE IN INDIAN OCEAN

(By Judith Miller)

An American naval base in the Indian Ocean is an idea which has been patiently

awaiting its time. For more than 15 years, Pentagon and Senate leaders have blocked the Navy's efforts to establish a permanent naval presence in the area, but this year, the Navy's plan to build a base on the Indian Ocean island of Diego Garcia may finally outlive its opposition.

The Navy now argues that the prospective reopening of the Suez Canal will lead to an expansion of the already impressive Russian naval presence in the area and that such a prospect necessitates immediate congressional approval of $32.3 million to expand the Diego Garcia facility.

Public testimony and secret correspondence between the Pentagon and Capitol Hill, however, indicate that these supposedly "new" factors justifying an expanded U.S. presence on Diego Garcia are little more than rationalizations for the Navy's persistent expansionist aims in the Indian Ocean.

Specific plans for a more permanent naval presence in that area date from the late 1950s. Retired Rear Adm. Gene La Rocque, who now heads the Washington-based Center for Defense Information, recalls that in the early 1960s, the Navy wanted to station naval forces in six islands, including Diego Garcia. According to a State Department official, the U.S., fearing a political vacuum after the British withdrawal from commitments "East of Suez," persuaded Britain in 1965 to form the British Indian Ocean Territories (BIOT), an administrative entity including Diego Garcia and several other Indian Ocean islands.

The real purpose of these territories became clear the following year, when the U.S. and Britain signed an agreement making BIOT available for the defense needs of both governments.

According to former State Department intelligence officer John Marks, the CIA was an enthusiastic supporter in the mid-1960s of a permanent U.S. presence somewhere in the Indian Ocean since it was assumed that when China tested an ICBM, it would do so in that area.

PROJECT REST STOP

In testimony before a House Foreign Affairs subcommittee, former Pentagon systems analyst Earl Ravenal said that the proposal to build a base in Diego Garcia first emerged in the Defense Department in the summer of 1967, but was rejected. Senate staff aides recall that the Navy proposed the Diego Garcia base in 1968 to then Armed Services Committee Chairman Richard Russell, but failed to win his support.

In 1969, a proposal for a Project Rest Stop—the construction of a $26 million "austere naval facility"—appeared as a classified line item of the fiscal year 1970 military construction budget. The project was approved by both House and Senate Armed Services Committees, but the authorized funds were deleted by the Senate Appropriations Committee.

In an attempt to save the project by having the funds reinserted during House-Senate conference, then Chief of Naval Operations Adm. Thomas Moorer appealed to Senate Armed Services Chairman John Stennis in a letter dated December, 1969. Moorer, expressing "deep concern" over the status of the classified Diego Garcia project, claimed that deletion of funds for the base would have an "adverse strategic effect of major importance." According to Moorer, the Diego Garcia base was "the Navy's number one priority of all items" in that year's military construction program.

At about the same time, the Navy sent a memo to the Senate Armed Services Committee stressing the strategic importance of the support base's construction. The Navy argued that the base would provide the President with "a range of involvement options from no involvement to whatever involvement is deemed necessary."

The Navy memo further noted that Diego Garcia, if necessary, "could be quickly converted for use of Polaris submarines." The justifications cited in the memo for an Indian Ocean naval base are identical to those expressed now: increasing Soviet presence and Chinese influence and the vacuum created by British withdrawal from the area.

"Despite Moorer's attempts to solicit Stennis' aid, efforts to save the project were not successful, and Project Rest Stop died. The Navy, however, attempted the next year to secure funds in the FY 71 budget for Diego Garcia expansion. This time, it requested $18 million for a smaller-scale "communications facility," involving radar and satellite operations, supposedly intended to replace the National Security Agency installation at Asmara, Ethiopia.

Congress approved the request, an agreement was signed with the British and the Navy began building a communications facility which included construction of naval support base intrastructure: harbor, roads, an 8,00-feet runway and permanent facilities for 250 men.

TALKING TO MOSCOW

At the same time, the National Security Council staff issued two secret National Security Study Memoranda highly critical of plans for such expansion. The memoranda, dated Nov. 9, 1970, and Dec. 22, 1970, concluded that the U.S. had minimal strategic interests in the area and that those limited interests were not amenable to protection by military intervention. The memoranda encouraged the government to seek an agreement with the Russians to limit American and Russian naval deployments in the area.

The Soviets did approach the U.S. about such an agreement privately in early 1971. In June of that year, Soviet leader Brezhnev again referred in a speech to the possibility of naval deployment negotiations in the Indian Ocean. The U.S. approached the Russians three months later but failed to pursue the matter vigorously, claiming that "clarification" from the U.S.S.R. had not been forthcoming.

Congress now is considering the Pentagon's request for a $32.3-million expansion for the communications facility into what the Navy calls an "austere" support base—virtually the same proposal it rejected in 1970.

The House recently approved, but the Senate deferred action on the $29 million sought for Diego Garcia expansion in this year's supplemental military authorization bill. Having failed to slide the funds through in the supplemental without much debate, the administration is preparing for the coming confrontation with the Senate over the base.

The State Department is refining its rationale for the base. In Senate hearings this March on the supplemental request, Pentagon and State Department witnesses stressed the Soviet holdup in the Indian Ocean. Though State officials continue to emphasize Soviet expansion of facilities at Berbera, Somalia, administration officials recently have been softpedaling the Soviet menace argument. Instead, they are stressing the "flexibility" Diego Garcia would provide the U.S. in its efforts to "reinforce" diplomatic initiatives in the Middle East through a naval presence.

The National Security Council is preparing yet another National Security Study Memorandum, one which reevaluates American strategic interests in the Indian Ocean in light of recent events in the Middle East and attempts to justify the Diego base expansion.

Administration officials now argue that funding the base expansion might actually induce the Russians to consider Indian Ocean arms limitation negotiations seriously, since a base in Diego Garcia would give the U.S. the option of matching Soviet ship levels in the area.

A "ZONE OF PEACE"

Opposition to the project, however, appears to be growing. The Diego Garcia base is opposed by nearly all of the nations bordering—the Indian Ocean, most of whom support a United Nations resolution aimed at establishing a "zone of peace" in the Indian Ocean. In addition to India, which has recently denied Soviet requests for port facilities, traditional U.S. allies such as Australia and New Zealand have criticized the planned expansion.

Britain apparently also is having second thoughts about the project. According to a State Department official, the U.S. and Heath governments negotiated and agreed in principle to a new supplemental executive agreement authorizing construction of the base, but, at last report, the new Wilson government still withheld its approval. State Department officials are confident, however, that Britain eventually will sign the agreement rather than risk losing American assistance in modernizing its strategic defense system.

Several senators, however, are attempting to use the Diego Garcia expansion to express opposition to executive agreements in general as opposed to treaties, which require Senate approval. The Senate Foreign Relations Committee recently approved an amendment to the State Department-USIA authorization bill requiring that any agreement on Diego Garcia with Britain be approved by Congress.

The Navy has pegged the project's urgency to its prediction that Soviet presence in the Indian Ocean will increase markedly when the Suez Canal reopens. Pentagon critics La Rocque and Ravenal contend that, in times of conflict, reliance on waterways as vulnerable as the Suez Canal makes no military sense.

In addition, in a recent issue of the Economist, a British magazine which consistently supported U.S. policy in Vietnam, the Pentagon's claim that current Soviet naval deployments are greater than that of the U.S. is termed misleading. The magazine reports that both France and Britain have been increasing their deployments to the area and that combined U.S., British and French forces outnumber Russian deployments.

Moreover, in a secret memo sent to a Senate committee only a year ago, the Pentagon acknowledged that, though the Soviets have had naval forces in the Indian Ocean since 1968, only once, in December, 1971, during the India-Pakistan war, did Russia deploy major combat forces there. Soviet naval presence in the area, according to the memo, is designed primarily to "show the flag." It further noted that most of the Soviet ships in the area are merchant vessels, hydrographic research ships and vessels being tested in tropical environments.

Opponents like Ravenal and La Rocque argue that construction of the Diego Garcia base would goad the Soviet into further strengthening their forces, since they now lack reliable and secure shore-based support facilities in the area comparable to what is planned for Diego Garcia.

COSTS AND CARRIERS

One of the strongest but least discussed arguments against the project, however, is its direct and indirect cost. About $65.3 million already has been spent on construction and operation of the current Diego communications facility. In the next two years, the Pentagon is requesting $37.5 million for construction and equipment and another $78 million for Navy Seabee pay and support for the planned expansion. But the total construction and operations cost of $180.1 million is minuscule compared with the cost of a single additional aircraft carrier.

Despite Pentagon denials, critics of the ex-

pansion argue that, if approved, the base will be used by the Navy to justify aircraft carrier construction at a time when current plans call for reduction of the active force to 12 attack carriers. Frequent naval visits to the area since the October Middle East War already have resulted in postponement of the retirement date of two carriers.

The Navy has claimed that it intends to keep a carrier task group in the Indian Ocean for only six months of the year. During hearings on the supplemental request for Diego Garcia funds, Joint Chiefs of Staff Chairman Adm. Moorer assured Sen. Stuart Symington (D-Mo.) that no new additional carriers would be needed to keep a carrier task group in the Indian Ocean for six months of the year.

It is doubtful that U.S. expansion in the Indian Ocean can be stopped. Defense Secretary James Schlesinger announced in December that the U.S. would re-establish the pattern of regular U.S. Indian Ocean vessel visits which were disrupted by the Vietnam war.

Although the Pentagon agreed to close the Asmara communications post in order to gain approval in 1970 of the facilities on Diego Garcia, Pentagon spokesmen recently testified that Asmara was being phased down, but not phased out.

Congress, however, can stop the expansion of the planned support base on Diego Garcia, which many see as the beginning of a permanent U.S. naval presence in the Indian Ocean—a presence which could stimulate yet another arms race in another part of the world.

Mr. PELL. Mr. President, again I welcome the opportunity to cosponsor with the distinguished senior Senators from Massachusetts (Mr. KENNEDY) and New York (Mr. JAVITS) a resolution calling for arms control talks on the Indian Ocean. The reson for introducing a similar resolution, Senate Conference Resolution 76, in the 93d Congress were compelling. They are even more so now.

A year ago, we were not yet on an economic toboggan slide going into a dangerous curve combining rising prices and falling employment. The budget was not strained as it is now to meet the social and economic costs of a threatening depression. The hard choice between guns and butter was not pinching us as it is now. Can we afford a defense bill close to $100 billion? Even if we could, is it essential to our national security?

That is why it behooves the Congress to examine more carefully than ever, every new military expenditure, not only in terms of the immediate cost but what a project may ultimately cost, financially, economically, politically.

I pointed out last year, for instance, that $18 million spent on expending our so-called communication facility on Diego Garcia, could be just the initial downpayment on an ultimate $10 billion investment of maintaining a permanent U.S. carrier task force in the Indian Ocean. A $3 billion task force that must be backed up by two more forces does not come cheap. Money like that could provide a lot of food stamps at home and relief to the hungry abroad.

The reluctance of the 93d Congress to approve funds for an expansion on Diego Garcia that could lead to an arms race with the Soviets, resulted in the provision in the 1975 military construction authorization bill calling for Presidential certficaition that this expansion is in the national interest. The certification is to be based on his evaluation of all military and foreign policy implications regarding the need for the expanded facilities.

Early in his administration, President Ford stated that there was need for these facilities because the Soviets have "three major bases" there. Press reports and published CIA testimony indicate, however, that there are no such large Soviet installations justifying this need. In the absence of any immediate Soviet threat, therefore, there is time for arms talks on the Indian Ocean before going ahead with expanding on Diego Garcia even if that action eventually proves necessary.

Proceeding with Diego Garcia has also been justified on the grounds that it would help assure access to Middle East oil on which the industrial world has become so dependent. These days fear of strangulation does not stem from Soviet but from Arab action, which has produced speculation on the possible use of U.S. military force to take over Middle East oil fields. How this might be done is spelled out in a number of recent magazine articles.

I fear, therefore, that increased U.S. military interest in the Indian Ocean and adjoining Persian Gulf areas, such as in the Oman Island of Masirah, may now be stimulated less by a Soviet presence, than by our own contingency planning for the deployment of U.S. forces in the region. Ironically, in such planning, these forces would have to face U.S. arms and equipment now being supplied in ever greater amounts to countries with which we would be engulfed in hostilities. In any event, arms control talks should help discourage any ill-advised thinking of our own on other than peaceful solutions to our oil supply problems.

Finally, arms control talks before a Presidential determination should be welcomed by the British. They now find themselves in the dilemma of not wishing to offend the littoral states of the Indian Ocean and Persian Gulf by supporting U.S. expansionist plans that would contribute to the militarization of the area; at the same time, they do not wish to incur administration displeasure by obstructing such plans. Indeed, the British might well wish to condition their formal agreement to an enlargement of our base on Diego Garcia to a prior effort to hold these talks. As the Senate may want to withhold its advice and consent to the agreement on the same condition.

As I said initially, Mr. President, these are compelling reasons for early passage of this resolution aimed at constraining our mounting military budget and reducing world tensions by preventing confrontation through negotiations.

AVOIDING TENSIONS IN THE INDIAN OCEAN

Mr. JAVITS. Mr. President, I join today with Senators KENNEDY and PELL in introducing a resolution which calls upon the President to seek direct negotiations with the leaders of the Soviet Union to achieve mutual limitations on Soviet and U.S. military deployments in the Indian Ocean. In December 1971 and again in 1973, the United Nations General Assembly adopted resolutions calling for the establishment of a "zone of peace" in the Indian Ocean, an area which has so far not been a locus of parallel military deployments by the superpowers on a major scale.

Nonetheless, in recent years both the United States and the Soviet Union have taken steps to increase their military presence in the Indian Ocean—with each side claiming that its stepped-up activity is a reaction to the moves of the other side.

Shortly, under a certification procedure in the law, the President may order the implementation of U.S. Navy construction plans to transform the modest communications facility at Diego Garcia into a major naval logistical base capable of supporting a major deployment of U.S. military forces into the Indian Ocean area.

There is no doubt that the Soviet Union would move ahead with efforts massively to upgrade its own deployment facilities in the area, if it has not already done so.

Our resolution seeks to head off a new dimension of the superpower arms race, which could create in its wake major new costs and dangers of confrontation.

The sponsors of this resolution believe that every effort should be made to head off such an undesirable prospect through negotiations between the United States and the Soviet Union for an agreement on deployment limitations.

I hope that this resolution will be adopted by the Senate, in accordance with its advice and consent function under the Constitution, and I hope that the President will seek the negotiations that it advocates.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REDUCTION ACT OF 1975—H.R. 2166

AMENDMENT NO. 275

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

Mr. MONDALE (for himself, Mr. HUMPHREY, and Mr. RIBICOFF) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low-income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes.

MILITARY PROCUREMENT AUTHORIZATION ACT—S. 920

AMENDMENT NO. 282

(Ordered to be printed and referred to the Committee on Armed Services.)

Mr. SCHWEICKER submitted an amendment intended to be proposed by him to the bill (S. 920) to authorize appropriations during the fiscal year 1976, and the period of July 1, 1976, through September 30, 1976, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other

weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loans, and for other purposes.

AGRICULTURAL PRICE SUPPORTS—H.R. 4296

AMENDMENTS NOS. 276 THROUGH 281

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

Mr. MOSS submitted six amendments intended to be proposed by him to the bill (H.R. 4296), to adjust target prices, loan, and purchase levels on the 1975 crops of Upland cotton, corn, wheat, and soybeans, to provide price support for milk at 85 percent of parity with quarterly adjustments for the period ending March 31, 1976, and for other purposes.

AMENDMENTS NOS. 283 THROUGH 303

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

Mr. MOSS submitted 21 amendments intended to be proposed by him to the bill (H.R. 4296), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 86

At the request of Mr. BARTLETT, the Senator from Utah (Mr. GARN) was added as a cosponsor of amendment No. 86, intended to be proposed to the bill (S. 66), a bill to amend title VIII of the Public Health Service Act to revise and extend programs of assistance under that title for nurse training and to revise and extend programs of health revenue sharing and health services.

AMENDMENT NO. 137

At the request of Mr. HATHAWAY, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of amendment No. 137, intended to be proposed to H.R. 2166, the Tax Reduction Act of 1975.

At the request of Mr. TUNNEY, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Montana (Mr. METCALF), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Indiana (Mr. HARTKE) were added as cosponsors of amendment No. 153, intended to be proposed to H.R. 2166, supra.

AMENDMENT NO. 259

At the request of Mr. BROOKE, the Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY) were added as cosponsors of amendment No. 259, intended to be proposed to the bill (H.R. 2166), supra.

NOTICE OF HEARING

Mr. CHURCH. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Energy Research and Water Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for May 22, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding the operation of the San Juan-Chama project, Colorado-New Mexico, and the related impacts in the San Juan River basin.

For further information regarding the hearing, you may wish to contact Mr. Russell Brown of the subcommittee staff on extension 41076. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Energy Research and Water Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C., 20510.

ANNOUNCEMENT OF HEARINGS BEFORE THE ENVIRONMENT AND LAND RESOURCES SUBCOMMITTEE, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Environment and Land Resources Subcommittee of the Senate Committee on Interior and Insular Affairs.

The hearings are scheduled for April 22, 23, and 24, beginning each day at 10 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding two bills which are presently before the committee. The first measure, S. 984, the "Land Resource Planning Assistance Act," is a bill to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land resource programs and to assist Indian tribes to plan the use of tribal lands; to encourage expeditious energy facility siting decisions; to coordinate Federal programs which significantly affect land use; to encourage research on and training in land resource planning and management; to establish an Office of Land Resource Planning Assistance in the Department of the Interior; and for other purposes. The second proposal, S. 619, the "Energy Facilities Planning and Development Act of 1975," is a bill to increase domestic energy supplies and availability by assuring timely siting, consideration, approval, and construction of necessary energy facilities, and for other purposes. S. 984, introduced on March 6, 1975, is similar to S. 268, the "Land Use Policy and Planning Assistance Act," which passed the Senate in 1973. S. 619 is also found in title VIII of S. 594, the President's "Energy Independence Act of 1975," introduced on February 5, 1975.

As both bills relate to the planning and siting of energy facilities, I invite my colleagues who serve as ex-officio members of the National Fuels and Energy Policy Study, conducted pursuant to Senate Resolution 45, to sit with the panel during the hearings.

For further information regarding the hearings you may wish to contact Mr. Steve Quarles, counsel to the subcommittee, at 224-9894. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Environment and Land Resources Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

ANNOUNCEMENT OF A PUBLIC HEARING BEFORE THE ENVIRONMENT AND LAND RESOURCES SUBCOMMITTEE OF THE SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE

Mr. HASKELL. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Environment and Land Resources Subcommittee of the Senate Interior and Insular Affairs Committee.

The hearing is scheduled for April 3, 1975, beginning at 9:30 a.m. in the Glenwood Springs High School, 1340 Pitkin Avenue, Glenwood Springs, Colo.

Testimony is invited regarding two Colorado wilderness proposals which are presently before the subcommittee. The proposals are S. 267, my bill to designate as wilderness approximately 237,500 acres in the Routt and White River National Forests—the Flat Tops Wilderness Area; and S. 268, my bill to designate as wilderness approximately 128,374 acres in the Arapaho and White River National Forests—Eagles Nest Wilderness Area.

Additionally, the subcommittee will receive testimony on the administration proposals S. 1014 and S. 1015.

As you know, Mr. President, my subcommittee held hearings in Washington on S. 267 and S. 268 on February 26, 1975. At that time, we received testimony from the Forest Service concerning these proposals. The purpose of this hearing in Colorado is to receive public testimony on these two important wilderness measures.

NOTICE OF HEARINGS

Mr. ALLEN. Mr. President, the Subcommittee on Agricultural Research and General Legislation of the Committee on Agriculture and Forestry will hold hearings Monday and Tuesday, April 14 and 15, on S. 772, the Beef Research and Consumer Information Act. The hearings will be in room 324 Russell Office Building, beginning at 10 a.m. on April 14 and at 9:30 a.m. April 15. Oral presentations will be limited to 10 minutes and the remainder of the statement can be filed for the record. Anyone wishing to testify should contact the committee clerk as soon as possible.

NOTICE OF HEARINGS RELATING TO THE VOTING RIGHTS ACT OF 1965

Mr. TUNNEY. Mr. President, the Senate Subcommittee on Constitutional Rights will hold hearings on April 8, 9, 10, 22, 29 and 30, 1975 on legislation relating to the Voting Rights Act of 1965. The major provisions of the act are due to expire on August 6, 1975.

The first phase of the subcommittee hearings will focus on S. 407, which

would extend the major provisions for 5 years, and S. 903, which would repeal the provisions entirely. The second phase of the hearings will address the problems of minority language groups and appropriate legislative responses.

The hearings will commence at 9:30 a.m.—except on April 9 at 10:30—in room 2228 Dirksen Senate Office Building, and on April 29 and 30 in 1202 Dirksen Building.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Mark W. Buyck, Jr., of South Carolina, to be U.S. attorney for the district of South Carolina for the term of 4 years, vice John K. Grisso, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, March 28, 1975, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

PROPOSED SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

Mr. DOMENICI. Mr. President, I have joined in cosponsoring Senate Resolution 109 submitted by Senators STEVENSON and BROCK, to create a select committee to study the Senate committee system. Not since 1946 has the Senate substantially altered its committee jurisdictions or methods of operations.

In 1885, Woodrow Wilson said:

> It is not far from the truth to say that Congress in session is Congress on public exhibition, whilst Congress in its committee rooms is Congress at work.

I would conclude that his most perceptive statement is very accurate today.

However, I think it is possible that our committee system is not as efficient as it might be. This select committee would be created to conduct a thorough study of the Senate committee system, the structure, jurisdiction, number, and optimum size of Senate committees, committee rules and procedures, media coverage of meetings, staffing, and other committee facilities, and to make recommendations which promote optimum utilization of Senators' time, optimum effectiveness of committees in the creation and oversight of Federal programs, clear and consistent procedures for the referral of legislation falling within the jurisdiction of two or more committees, and workable methods for the regular review and revision of committee jurisdictions.

I think we have all experienced the overlapping of committee jurisdictions. This overlapping requires the referrals, whether they be joint, sequential, or both joint and sequential, which invariably slows the legislative process. While speed may not be the most important factor in good legislation, it is a significant element.

As an example of some possible defects in our current committee jurisdictions, I have a Library of Congress study on referrals of energy-related bills in the 93d Congress. As this study shows many bills were referred to as many as four committees. Several bills were sequential which greatly slows their consideration. The select committee may or may not recommend sweeping reforms, but the fear of such reforms should not deter us from a thorough investigation of our current committee system.

Mr. President, in this regard I therefore ask unanimous consent that this Library of Congress study be printed in the RECORD.

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

TABLE II.—MULTIPLE REFERRALS OF ENERGY-RELATED BILLS TO SENATE COMMITTEES IN THE 93RD CONG.

Subject	Committees	Type of referral	Senate action H.	Senate action REPT.	Senate action P.	House action H.	House action REPT.	House action P.	Conference	Public law
Conservation:										
S. 2462 (R&D to promote efficient energy use)	Comm. Int. & Ins. Aff.	Joint Referral (9/20/73)								
S. 3035 (Mass transit)	BH&UA Fin. Pub. W.	Joint Referral (2/12/74)		(P.W.)x						
S. 3625 (Recycling oil)	Pub. W. Fin.	Joint Referral (6/11/74)								
Environment:										
S. 841 (Oil Pollution Compensation)	Comm. For. Rel.	Joint Referral (2/8/73)		(F.R.)x						
Government Organization:										
S. 2176 (Office of Energy Conservation)	Int. & Ins. Aff. Comm. Pub. W.	Sequential Ref. (Int. 7/13/73 Comm. 9/27/73 P. W. 10/2/73)		(Int.)x	93-409 93-526	x				
S. 3151 (Energy Information)	Comm. Int. & Ins. Aff.	Joint Referral (3/11/74)								
S. 3523 (National Comm. on Supplies & Shortages)	Comm. Govt. Ops.	Joint Referral (5/22/74; Committees report jointly by 6/5/74 or be discharged)			93-904 x (Included as Sec. 5 S. 3270, a BH&UA bill)					
S. 3270 (Amend Def. Prod. Act)	BH&UA	Single Referral		x 93-922 x			(Referred to Banking)	x		93-428
S. 2956 (Fed. Energ Prod. Corp.)	Govt. Ops. Fin. Int. & Ins. Aff.	Sequential Referral (Govt. Ops. 2/4/74; when reported to be referred jointly to Fin. and Int. & Ins. Aff.)								
Industry Regulat on:										
S. 3188 (Anti-competitive practices in petroleum industry)	Gov, Ops. Jud.	Joint Referral (4/5/74)								
Research and Development:										
S 2495 (NASA technology to domestic problems)	Aer. & Sp. Sc. Comm. Lab. & Pub. Wel.	Joint & Sequential (9/27/73 to A. & S. S. and Comm; 9/18/74 to Lab. & Pub. Wel.)	x	93-1155		(Joint hearings and joint report by Aer. & Sp. Sc. and Comm.; incorporated into S. 32 by Lab. & Pub. Wel.)				
S. 32 (same as S. 2495)	Lab. & Pub. Wel.	Single Referral	x	93-1254	x					
S. 2650 (Solar Home Heating & Cooling Act)	BH&UA Comm. Lab. & Pub. Wel.	Joint & Sequential (11/2/73 referred jointly to BH&UA and Comm.; to Lab. and Pub. Wel. when reported)	x (BH&UA) x (Comm. joint hearings with Int. & Ins. Aff.)							

Subject	Committees	Type of referral	Senate action H. REPT. P.	House action H. REPT. P.	Conference	Public law
H.R. 11864 (Solar Home Heating and Cooling Act)	Aer. & Sp. S. BH&UA Int. & Ins. Aff. Lab. & Pub. Wel.	Sequential & Joint (2/19/74 to Aer. & Sp. S.; 3/13/74 to BH&UA, Comm., Int. & Ins. Aff., and Lab. & Pub. Wel.)	X 93-734 X (Aer. & Sp. S.) 93-847 (BH&UA Lab. P.W.)	X 93-769 X	H. Rept. 93-1278 S. Rept. 93-1083	93-409
Resources S. 1134 (Deep Seabed Minerals)	Int. & Ins. Aff. For. Rel.	Sequential Referral (3/18/73 to Int. & Ins. Aff.; 9/4/74 to For. Rel.)				
S. 1751 (Deepwater Ports)	Comm. Int. & Ins. Aff. Pub. W.	Joint Referral (5/8/73)	X (Joint hearings; agreed to jointly report S. 4076, a clean bill)			
S. 4076 (Deepwater Ports)	Comm. Int. & Ins. Aff. Pub. W.	Clean bill reported jointly	93-1217 x	(Proceedings vacated; H.R. 10701 passed in lieu of with S. 4076 amended in nature of a substitute)		
H.R. 10701 (Deepwater Ports)	Comm. Int. & Ins. Aff. Pub. W.	Joint Referral (6/11/74)	(Committee x discharged)	x 93-668 x	H. Rept. 93-1605 S. Rept. 93-1306	93-627

THE PEACE CORPS

Mr. HUMPHREY. Mr. President, through an unfortunate misunderstanding the conferees on the foreign assistance bill have adopted restrictive language which would cripple the operations of the Peace Corps in the next few months.

I refer to the language which requires the Peace Corps to spend a disproportionate amount of its $77 million on direct volunteer costs and restricts the payment of support costs. I am informed that unless the intent of the Congress is clarified, the Peace Corps will have to fire as much as one-half of the people in its volunteers supporting mechanism.

The Peace Corps means a great deal to the Nation. In readjusting its activities to meet the severe limitations now imposed on it, the Peace Corps should inform the appropriate House and Senate committees as soon as possible of the measures that it considers will have the least severe impact on its programs, having particularly in mind the necessity of assuring the safety of our Peace Corps volunteers.

I will do every thing I can to assure that the Congress clarifies this situation.

ADDITIONAL STATEMENTS

THE CELESTIAL HORSE

Mr. MATHIAS. Mr. President, it seems to me that one of the miracles of human nature is the way that the successful exercise of human creativity leads to further creativity. Thus the current exhibit of relics recently discovered in China not only expands our knowledge and appreciation of the creativity of the artists and artisans of China through the centuries, but also has encouraged creative thinking about man and his spiritual aspirations.

An example of this process is a sermon preached in the Washington Cathedral on March 16, 1975, by the Reverend Clement W. Welsh, a canon of the cathedral, I ask unanimous consent that the sermon be printed in the RECORD.

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

SERMON PREACHED IN THE WASHINGTON CATHEDRAL ON MARCH 16, 1975, BY CANON CLEMENT W. WELSH

I hope you have seen the horse!

Perhaps I had better explain. I don't mean the golden horse at the foot of the Pilgrim Steps, just south of the Cathedral, of gilded bronze with eyes of glass, with George Washington riding him. Nor do I mean the many generals on horseback to be found among the memorial sculptures that are inevitable in a capital city. The horse that I hope you have seen is to be found in the exhibition of "Cultural Relics Unearthed in China," a collection of beautiful ancient artifacts which the Peoples Republic of China has sent to us, and which is to be seen at the National Gallery in this city (and, I believe, only in Kansas City after it leaves here). It includes some extraordinarily beautiful objects: wine jars of bronze, pottery bowls, figurines, ranging in time from many centuries before Christ to fairly recent times.

And one of the most mysteriously moving of the works of sculpture is the horse: a bronze flying horse, discovered in 1969 by Chinese archaeologists in the tomb of a general in Kansu Province. It represents what was apparently a new kind of horse, larger and more powerful than those in common use, introduced from Central Asia about 135 B.C. It was able to carry a man wearing heavy leather armor, and able also to be ridden swiftly along the Great Wall to bring warnings of invaders. The date of this horse is that of the Eastern Han Dynasty, from 25 to 220 A.D. He is in full stride, with one foot resting on the back of a flying swallow, and when you see the luminous greens and blues and gold of the aging bronze, the delicate yet powerful motion arrested by the sculptor, it comes as no surprise to learn that it was of a breed of horse known as "heavenly" or "celestial". There is an awesome quality about the small figure, as if it stirred some deeply sleeping hunger in us for power and beauty, so rarely found together.

There is a special quality of any beauty that is recovered from the past. Beauty at any time is almost—scary, but beauty that persists over the centuries has something special. The recovery of a fragile bowl of perfect proportions, glowing with a luminous blue from a thousand years ago, reminds us of the rare and perishable quality of all excellence. We don't really expect it to survive—or that any thing that *they* liked *then*, could be something that *we* could like *now*. A thousand wine pitchers are formed of clay, glazed and fired, and only one is—right. And one day a drunken warrior lifts it carelessly, and it slips from his hand and is shattered. The pin cunningly shaped of gold wire drops from the cloak and a foot grinds it into the dust. The goblet is melted down to make coins. But here and there, perhaps hidden in a tomb, a few perfect works of beauty lie waiting, sleeping in darkness, silent testimonies of what we can do at our best.

But these reflections on an exhibition in a museum can turn us to deeper matters.

A contemporary writer has used the phrase, "the archaeology of ideas"—as if now and again, at rare intervals, we can discover in the past a moment of revelation—the breaking through of a compelling and liberating idea. Like an artefact of the artist, such an idea can have a special power and beauty—the capacity to grasp reality and to express it.

The real history of the human animal is not just a story of battles, murders, and sudden deaths. It is the record of the victories of our humanity: learning to grow wheat, to shape a pot of clay, to weave a rope, to use a tool, to draw the outline of a deer, to carve the head of a bird. The moments of insight may have been rare and far between, and not many caught on when they first appeared. How many brilliant guesses, how many glimpses into the nature of things, were uttered and not heeded, destroyed and lost in the rubble of time? How many times, do you suppose, did primitive geniuses invent the wheel, only to be stoned as madmen?

It is with a special sense of excitement that we find any evidence in the ancient past of the perceptive eye, the skilled hand, the inquiring mind. In the Chinese exhibit, the earliest presentation is of some stones, shaped with care and skill for use in skinning animals, made by artisans *six hundred thousand years ago!*

But we can be moved to look more deeply still. For we may be discovering that any archaeological digging into the human past becomes an *archaeology of the self*. It is my own nature that is revealed, layer upon layer, age upon age: a history of time wasted, of insight lost, of beauty destroyed. And then, here and there, preserved as if by miraculous accident, I find an artefact of behavior or of idea that briefly weaves together power and beauty.

At about the time that the flying horse of Kansu was made, an event was taking place several thousand miles away. It is odd to think that during the very years of the Eastern Han Dynasty, from 25 A.D. to 220 A.D., we can date the ministry of Jesus, the formative years of Christianity, and the entire writing of the books of the New Testament. And we know how fragile those events were: a little group of ordinary people in a minor corner of the world, producing a few documents for their own use. It all might have been washed away by flood or famine or war.

But with an astonishing toughness, that moment of power and beauty persists. For unlike a piece of bronze that can lie buried, or an idea whose time can come and go, the Christian moment of excellence was a structure of persons—it was, as we say, a community—and it shared its special vision of perfection, perhaps the rarest treasure the world has ever known. And St. Paul, borrowing a metaphor from pottery, reminds us that al-

though we have this treasure in earthen vessels, nevertheless we have it.

Unless a vision of power and beauty awakens a people, they do not live. Unless an archaeology of the spirit recovers for us the rare, mysterious event of salvation, we are lost in the sands. The celestial horse does not fly, and the world becomes a wasteland.

So I commend to you the celestial horse, strange symbol of the continuing power and beauty of resurrection, discovered in an alien land where the Spirit touched down, briefly, some two thousand years ago, and someone responded with excitement and joy.

TRAINING NEEDS IN GERONTOLOGY

Mr. CHILES. Mr. President, on March 7 I chaired a hearing of the Special Committee on Aging on "Training Needs in Gerontology." The hearing was a continuation of a series we began on this subject 2 years ago when the administration failed to request any specific funding for training in the field of aging under the Older Americans Act. Since that time, it has been one perpetual struggle with the administration in that each year they fail to request funding; the Congress appropriates funding; and, then as in this year's case the administration attempts to rescind the amount the Congress appropriated. There appears to me to be an unnecessary amount of effort on both sides to do something that could easily be accomplished if the administration recognized the obvious need for trained personnel in the field of gerontology—the study of aging—and requested funds for this purpose in their fiscal year budgets.

But the administration has not responded, and again for fiscal year 1976 we face uncertainty about the future of training in the field of gerontology. Our hearing focused on the absence of the funds in the fiscal year 1976 budget and also on how the administration will allocate the funds for fiscal year 1975 which will not be rescinded.

Arthur S. Flemming, Commissioner, U.S. Administration on Aging, appeared on behalf of the administration. Dr. Flemming told the committee how the funding for fiscal year 1975 would be allocated as it is likely that the proposal to rescind such funds will not be approved. The funds, according to the Commissioner, will be divided between supporting long-term, university based training of practitioners and personnel who work with aging service programs. Dr. Flemming also pointed out that the lack of fiscal year 1976 funds for training in aging leaves the Administration on Aging in a rather weak position of support. He stated that:

Some of our other programs would provide some indirect support, but in terms of direct support, we would not be in a position to provide it.

Speaking on behalf of the long-term and short-term training programs, several witnesses pointed to the obvious need to train the growing number of persons who work with the elderly. Ms. Maryanne Station, director of title VII training at Oregon State University, stated that:

The programs as they have done in the past, should continue to "provide technical assistance, training, and resource development which because of our acquired knowledge and experience, will be maximally useful to staff delivery service to the elderly at a minimal cost. I hope this Committee will support the continuance of short-term training. Sustaining training centers in this supportive role can increase the effectiveness of programs at the local level and maximize training monies available for aging programs.

Walter Beattie, director of the All-University Gerontology Center at Syracuse University and president of the American Association for Gerontology in Higher Education, described the need for both short-term and long-term training. Dean Beattie stated:

Certainly there is a great need for the personnel now directly working with the older persons, who have never had any preparation, to have short-term training, but we must also pay attention to the trainers of the trainers, because again as I say in my testimony, so often we have instances of almost the blind leading the blind.

VIRGINIA SENATE JOINT RESOLUTION 92

Mr. HARRY F. BYRD, JR. Mr. President, the Virginia General Assembly has recently completed its legislative 1975 session.

One of the resolutions enacted by that body has come to my attention.

Virginia Senate Joint Resolution 92 was introduced by State Senators George F. Barnes, Leslie D. Campbell and William B. Hopkins.

Senator Barnes represents Virginia Senatorial District 38, comprised of the counties of Bland, Craig, Giles, Pulaski, Tazewell and Wythe.

Senator Campbell's senatorial district is the fourth, which includes the counties of Charles City, Gloucester, Goochland, Hanover, King and Queen, King William, Louisa, Matthews, Middlesex and New Kent.

Senator Hopkins represents Senatorial District No. 21, including a portion of Roanoke County and the City of Roanoke.

I had the opportunity to serve with these distinguished gentlemen in the Virginia Senate. I have high regard for their abilities in the areas referred to in Virginia Senate Joint Resolution 92 and I would call to the attention of my colleagues and to members of the Senate Committee on Labor and Public Welfare the sentiments expressed on this matter by the Virginia General Assembly.

I ask unanimous consent that the text of Virginia Senate Joint Resolution No. 92 be printed in the RECORD.

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

SENATE JOINT RESOLUTION NO. 92

Whereas, in nineteen hundred sixty-six there were one thousand two hundred thirty-two truck or small mines in Virginia, but in November of nineteen hundred seventy-four there were only three hundred twelve; and

Whereas, most of the decrease in the number of truck mines has been due to the inability to obtain permissible equipment because of its unavailability within a reasonable amount of time; and

Whereas, millions of dollars worth of nonpermissible equipment lies in storage; and

Whereas, 30 USC 811(c) of the Federal Coal Mine Health and Safety Act of 1969 provides in part that:

". . . In addition to the attainment of the highest degree of safety protection for miners, other considerations shall be the latest available scientific data in the field, the technical feasibility of the standards, and experience gained under this and other safety statutes."; and

Whereas, new methane monitors of greater accuracy than those available in nineteen hundred seventy when the Federal Coal Mine Health and Safety Act went into effect are now available; and

Whereas, these new methane monitors, set at a predetermined level, can instantly de-energize all nonpermissible face equipment in the producing section of a truck mine if methane is detected; and

Whereas, the only effective way to take care of methane is by proper ventilation; and

Whereas, between April of nineteen hundred seventy and November of nineteen hundred seventy-four, in Virginia mines using nonpermissible equipment, there were only two ignitions, one of which may have been caused by cigarette smoking; and

Whereas, great benefits to our energy needs, economy, employment rate, and balance of payments would result from production of more coal by reopening our small coal mines; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Congress of the United States is respectfully memorialized to examine sections 811(c), 861, and 865 of the Federal Coal Mine Health and Safety Act of 1969 in light of the facts mentioned in this resolution; and, be it

Resolved further, That Section 863(b) of the Act should be examined for possible change to increase the minimum quantity of air required from nine thousand to ten thousand cubic feet a minute in the last open crosscut and at the intake end of a pillar line. Minimum quantity of air required on each working face should be increased from three thousand to four thousand cubic feet a minute; and, be it

Resolved finally, That the Clerk of the Senate is directed to forward a copy of this resolution to the Clerks of the Senate and the House of Representatives of the United States and to each member of the Virginia delegation to the Congress.

SENATOR WILLIAM L. SCOTT'S REPORT TO CONSTITUENTS

Mr. WILLIAM L. SCOTT. Mr. President, my regular report to constituents is being printed for distribution and I ask unanimous consent to include a copy in the RECORD. We have been considering the tax reduction bill for several days and the lead item in the newsletter indicates my reasons for voting against this bill.

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

BILL SCOTT REPORTS

TAX BILL

One of the most important matters to come before the Senate so far this year is the Tax Reduction Act. As you know, the national unemployment rate is 8.2%, and the President is attempting to combat unemployment and to stimulate the economy. He has suggested a tax rebate of 12% on 1974 income and tax reductions for this calendar year, amounting to approximately $16 billion. His overall recommendations call for deficit spending of $35 billion for the current year and $52 billion for the next fiscal year. While this projected deficit is unprecedented in peacetime, it still is conditioned upon the imposition of an import tax on oil, rescession of a number of spending programs enacted by Congress in the past and no new spending programs outside of the energy field. However, the Congress has indicated that it will not impose an import tax on oil or rescind a number of spending programs and that it will enact new programs as illustrated by a

new $5.9 billion employment appropriations act already passed by the House of Representatives.

While the President's recommendations are extremely inflationary, in view of an existing $500 billion national debt, the tax bill under consideration in the Congress and other measures would increase the deficit substantially this year and could result in a deficit approaching $100 billion next year. While there is no doubt that a stimulus is necessary for the economy, a deficit anywhere near the amounts presently under consideration could turn what is hoped to be a temporary condition into a long time period of inflation. The tax rebates of $100 to $200 will be quickly dissipated by higher prices on various items purchased at the market place.

I frankly believe that there has been an overreaction to the serious economic condition with which the country is confronted and believe that measures can be taken to stimulate the economy which will not have such far-reaching detrimental effects as those now under consideration; for example, a combination of investment tax credits, release of all impounded highway funds, relaxing of business regulations and laws that limit the capacity of private industry to meet our energy needs. Illustrations that the free economy is still working are the response of the stock market to the decrease in the prime interest rates by the Federal Reserve, and the increase in new car sales when rebates were established. It also appears that the automobile industry is responding to price resistance and energy shortages by tooling up for the manufacture of smaller cars. However, we do have serious economic problems and I would, of course, welcome any suggestions you may have to meet these problems, especially from those who have expertise in the economic field.

LORTON PENAL INSTITUTIONS

As you know, the Lorton Penal Institutions have been a festering sore in Northern Virginia for many years. These facilities contain inmates from the District of Columbia even though they are located in Fairfax County, Virginia. I have sponsored legislation in the past to transfer jurisdiction over the facility to the U.S. Bureau of Prisons but after consultation with Attorney General Levi, the Library of Congress and the Senate Legislative Counsel, have prepared and introduced a measure to provide for the sale of all of the District of Columbia property in the Lorton-Occoquan area and for the establishment of suitable replacement facilities within the District of Columbia. The physical transfer of existing institutions from Virginia to the District of Columbia will, of course, eliminate the problem of having a prison complex located in one state and administered by another jurisdiction and apparently is the only way to permanently remove friction between the two jurisdictions.

A report prepared by the General Accounting Office last year lists 141 escapes among a prisoner population of 2,040. There are numerous accounts of assaults on guards by inmates and attacks on other inmates. In recent years five violent deaths have occurred in the complex including the murder of a 26-year old Lorton guard. The situation is so serious that recently the Fairfax County Board of Supervisors instructed attorneys to seek relief in the courts. The Virginia General Assembly has overwhelmingly passed a resolution calling for the transfer of the facilities to the Department of Justice.

Under our proposed legislation, the D.C. Government would have an opportunity to design and establish a new prison complex to meet its requirements. A $40 million jail currently is planned for Washington, and $60 million was appropriated by Congress in 1972 for improving D.C. Penal Institutions. These funds as well as proceeds from the sale of the Lorton-Occoquan property should be more than sufficient to establish new facilities in Washington.

Should the District Government fail to provide a suitable replacement for Lorton, the Attorney General would have authority under my bill to cause one to be constructed or to disperse the Lorton inmates throughout the Federal prison system. It is expected, however, that passage of the legislation would be sufficient incentive to cause the District of Columbia to establish substitute facilities of the nature it considers necessary to care for its own prisoners.

AMERICAN BUSINESS DAY

The Judiciary Committee has approved, and the Senate has passed my proposal to designate May 13 as "American Business Day." It seems appropriate that one day be set aside to honor contributions made by private enterprise to the economic and social well-being of the country. The business community has expressed its support for such a measure which passed the Senate last year but was not acted upon by the House. The founding of Jamestown on May 13, 1607, by the Virginia Company of London is a landmark of history for America, in my opinion, and is an early example of the contribution of business to the welfare of the country. It is hoped that the House will join the Senate in favorable action on this joint resolution and designate May 13 as a time to pay tribute to the American system of free enterprise.

VISITING CONSTITUENTS

As you know, we recently spent a week visiting constituents in western and southwestern parts of our State and did appreciate those individuals who stopped by to share their concerns. The trip was quite beneficial, and preliminary plans call for similar visits in Staunton, Lynchburg and Richmond, probably within the next six weeks or so.

COAL

As you know, coal is our most abundant source of energy and it is estimated that we have something like a 500-year supply in this country. However, the Senate, a few days ago, passed a Surface Mining Control Act to establish national standards for strip mining, even though such regulations in the past have been left to the States. The Virginia General Assembly enacted legislation at its last session to provide safeguards, the third time the State has acted in this field in the past few years.

Many Virginia coal operators have indicated that the Senate measure may well shut down or cripple small mining operations and eliminate jobs in the mining industry at a time when unemployment is increasing. All of us, of course, want to preserve natural beauty and to have a clean environment. However, we must avoid placing the business community in a straitjacket and must realize that aesthetic values are not a substitute for energy and cannot be used to heat our homes or commercial enterprises. A balance between the need for energy and a clean environment appears desirable. Copies of my own remarks on the Senate floor in opposition to this bill are available upon request.

We have also introduced two amendments to the Clean Air Act that would ease some of the overly stringent restrictions on coal. One proposal would allow industry and city-owned utilities to use various emission control systems to abate pollution rather than requiring expensive antipollution control equipment. In addition, the amendment would delay the deadline for meeting national air quality standards from power plants while further technical and scientific research on the mater is pursued. Another measure would clarify the intent of Congress with regard to the so-called nondegradation policy of clean air areas. The Supreme Court, in effect, has held that factories and other facilities cannot be built in rural areas if it is found they would "significantly" deteriorate air quality. My proposal would allow the national air quality standards established to protect public health and welfare to prevail throughout the country, without unreasonable limitations on such development in rural and other clean air areas. It would prevent standards more stringent than the national ones and allow industry to locate anywhere in the country.

VETERANS DAY

The Senate recently passed and sent to the House of Representatives a bill to redesignate November 11 of each year as Veterans Day and make it a legal holiday. Certainly this is a matter that has received considerable support since the law was changed a few years ago and major veterans groups have testified before our Veterans' Affairs Committee and Judiciary Committee in favor of such a change. Since enactment of the so-called Monday holiday law, it is understood that 42 States, including Virginia, have acted to restore the observance of Veterans Day to its traditional date. As you know, historically November 11th was celebrated as Veterans Day because on that date the armistice was signed, ending World War I; and it seems appropriate that we should bring the Federal law into conformity with the majority of our States by restoring Veterans Day to its original date.

PAMPHLET AVAILABLE

A 36-page pamphlet, "You, the Law and Retirement," has been prepared by the Administration on Aging. It may be of particular interest to senior citizens, retirees, or those contemplating retirement. A limited number is available upon request through the office.

HOME INSULATION

There has been an increasing awareness by all Americans of the need to conserve energy and expand existing sources of energy and develop new ones as we work toward a goal of energy self-sufficiency. Turning down the thermostat in our homes, driving less and at reduced speeds are examples of individual efforts that appear to be working. Yet, a need to stimulate individual initiative in this regard exists, and we introduced a measure a few days ago to help encourage persons to make energy-saving improvements to their homes.

The proposal would provide a tax credit up to 20 percent for addition insulation, for installation of storm doors and windows and weatherstripping for those individuals who make such improvements during tax years 1975, 1976 and 1977. Any person who invests $500 or more would be eligible to receive a $100 tax credit at any time during this three-year period.

Federal energy officials tell us, for example, that up to 20 percent of the energy used in our homes is wasted through inadequate insulation. It has been estimated that more than 18 million homes are contributing to this waste of energy, and hopefully this legislation would provide incentives to the homeowner or tenant to make these energy and cost-saving improvements to their homes. A copy of my floor statement upon introducing this measure is available upon request.

MISCELLANEOUS BILLS

We have sponsored or cosponsored a number of legislative proposals during the first session of the 94th Congress. Among them are measures to—

Encourage individual savings and stimulate housing construction by excluding the first $500 of interest on savings from taxation;

Transfer jurisdiction from the Federal courts to State courts regarding issues and controversies involving the public schools;

Establish orderly procedures for renewal of broadcast license applications;

Prohibit distribution of food stamps to strikers;

Provide for separate offense and consecutive sentencing for felonies involving use of firearms;

Remove the anti-trust exemption for labor union activity;

Permit nondenominational prayers in public buildings;

Provide tenure for Federal judges, subject to renomination and reconfirmation every ten years;

Limit the size of trial juries in U.S. to six jurors;

Restore posthumously full rights of citizenship to General Robert E. Lee;

Retain full sovereignty by the U.S. over the Panama Canal Zone; and

Prohibit forced assignment to schools or jobs because of race, creed, or color.

SOMETHING TO PONDER

We are told spending by the government is roughly $1 billion a day, an increase in the national debt of approximately $1 billion a week. Sometimes these figures are difficult to grasp.

How much is a billion dollars? Someone has put it this way: If one started spending $1,000 a day at the time of the birth of Christ and spent this amount every day from then until the present time, 1975 years, he would still have more than 750 years to go before spending $1 billion.

EMERGENCY FARM PROGRAM LEGISLATION

Mr. HARTKE. Mr. President, the seriousness of the problems facing American farmers cannot be avoided any further by this Government. Net farm income in 1974 dropped 16 percent from the 1973 record, and the current outlook suggests an even larger decline for 1975. Commodity prices remain under downward pressure, while costs of farm inputs continue to increase. Some items are at an alltime high.

Economic forecasts from the Purdue University Agricultural Extension Department show that both corn and soybean prices are in a downward trend. Sharply lower cattle feeding rates have weakened domestic grain demand much faster than previously anticipated. Wheat prices have dropped substantially. In February, crop prices averaged 14 percent below a year earlier and livestock prices were down 21 percent. Livestock producers had to cope with the most serious financial difficulties in a quarter of a century.

The farmer is demanding that action must be taken now to prevent any further erosion in the economic situation facing the agricultural sector of the economy. A national coalition representing 13 farm organizations and a majority of farmers in 49 States, held an emergency meeting on March 10 in Washington and unanimously approved the following statement, which expresses the obligation of Congress.

Mr. President, I ask unanimous consent that the statement of the National Farm Coalition on Emergency Farm Program Legislation be printed in the RECORD.

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

STATEMENT OF THE NATIONAL FARM COALITION ON EMERGENCY FARM PROGRAM LEGISLATION, MARCH 10, 1975

A National Coalition representing 13 Agricultural organizations and the majority of farmers in 49 states held an emergency meeting today in Washington and unanimously approved the following:

Farmers have long experienced tough economic times. But seldom, if ever, have they been so severely squeezed between inflation and rising production costs on the one hand and unprecedented drops in prices received on the other. Never before in modern times have most farm prices fallen so precipitously as in the last 100 or so days.

Never before have farmers been so unprotected against so many uncertainties—

the uncertainties of price

the uncertainties of costs

the uncertainties of production supplies

the uncertainties of weather

the uncertainties of government action or inaction

the uncertainties of international developments.

If farmers are to produce for empty stomachs and empty grainaries as they have been required to do by their government, it is only fair and logical that the government should share in these uncertainties.

Specifically, farmers need meaningful price protection. Such action is imperative *now* as farmers plan and plant their 1975 crops, to give them confidence and make possible abundant harvests for our hungry world. Likewise, consumers deserve adequate supplies of food at reasonable and stable prices.

Thus, we support and urge prompt action by the House, the Senate and the President on emergency legislation along the lines of H.R. 4296 as reported by the House Agriculture Committee.

For 1976 and beyond the National Farm Coalition urges Congress to develop a long-range program that will enable farmers to produce adequate supplies of food for consumers at home and for export markets overseas. Specifically, we urge Congress to update and modify the provisions of the Agriculture Consumer and Protection Act of 1973. It is clear that the provisions of that Act are already out of date with the kinds of economic conditions that this nation and the world are now enduring.

A new food and agriculture act must assure adequate price and income incentives for farmers and ranchers. It should be predicated on the goal of parity returns for resources used in agriculture with those used in other segments of the economy. The targets and goals of the legislation should be expressed in terms of parity prices. While this concept is not perfect, it is, nevertheless, the most accurate and well-known indicator of the cost-price relationship in the agriculture industry.

Further, we urge Executive and Legislative Branches to work together to develop and enunciate a long-term national food policy. Such a policy should be consistent with the free enterprise system and contain a rational approach to the production and distribution of the food equation. The policy would of necessity encompass all of the demands—domestic and international, commercial and humanitarian, as well as to assure an adequate food supply.

We urge action to open and maintain markets on a continual and uninterrupted basis. This should be accomplished through discussions and international forums that lead to bilateral and multilateral arrangements which recognize the needs of domestic producers.

We urge the use of farmer-elected committees to the maximum extent possible in the administration of all national farm programs.

LIST OF SIGNATORIES

Don Woodward, National Associaton of Wheat Growers.

Charles Duzan, United Grain Farmers.

Robert L. Melbern, National Association of Farmer Elected Committeemen.

Charles D. Colvard, Cooperative Council of North Carolina.

Alfred Schutte, Webster County Farmers Organization.

A. W. Athong, Jr., Grain Sorghum Producers Association.

DeVon Woodland, National Farmers Organization.

Edwin O. Marsh, National Wool Growers Association.

Joe Sugg, National Peanut Growers Group.

John Curry, National Corn Growers Association.

Fred V. Heinkel, Midcontinent Farmers Association.

John W. Scott, National Grange.

Patrick B. Healy, National Milk Producers Federation.

MIHAJLO MIHAJLOV

Mr. JACKSON. Mr. President, the severe sentence imposed in Yugoslavia last month on Mihajlo Mihajlov, the writer well-known for his commitment to his country and his brilliant and principled political dissent, was a deep disappointment to those of us who have come to regard Yugoslavia as an independent country not indifferent to the human dimension of social development. The sentence of 7 years at hard labor, handed down after an elaborate show trial, was Mihajlov's fourth and harshest sentence in 10 years for publishing his views in the Western press.

In response to the presiding judge who described Mihajlov's sentence as a warning "both personal and general," I would say that our concern for Mihajlov's fate is "both personal and general." Mihajlov has earned wide respect in the West, particularly in the academic and literary communities which have been so active in his behalf.

On March 10, the Committee on Human Rights sponsored a demonstration in Washington, D.C., in support of Mihajlov, led by his sister, Mrs. Maria Mihajlov Ivusic, who is an American citizen. That same day, I had the great privilege of meeting Vladimir Maximov, the renowned Soviet author who was forced to leave the Soviet Union last year. As we talked in the Senate, a statement by Maximov was being read at the demonstration. Among the many expressions of concern for Mihajlov, Maximov's is perhaps the most moving and relevant.

Mr. President, I would like to call the Maximov statement to the attention of my colleagues and I ask unanimous consent to have it printed in the RECORD.

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

MARCH 14, 1975.

STATEMENT BY VLADIMIR MAXIMOV*

Seven years of imprisonment for civic honesty. For spiritual and moral consistency. For his lack of fear. Even the kangaroo courts of contemporary Russia seldom boast of such sentences, and in Russia they don't stand on ceremony with dissidents. The so-called Yugoslav "liberals" are trying to outdo their masters as ideologically loyal subjects.

But having condemned one of the most remarkable men of our time, they have first of all condemned themselves. Totalitarianism, disguised as "people's democracy," has once again shown its bestial, inhuman essence, has once again demonstrated before the whole world the immutability of its nature, methods, and goals.

For us, the representatives of Russian culture, the name of Mihajlo Mihajlov is inseparably linked with its rebirth and development. His talented work dedicated to the literature of contemporary Russia, his whole-heartedly courageous defense of Solz-

*The author of "The Seven Days of Creation" and other works.

henitsyn, Sinyavsky, Daniel, Ginsburg, and Galanskov, his sensitive sharing with us of our affairs and problems, all this gives us the full right to consider Mihajlo Mihajlov as belonging to Yugoslav and Russian culture to an equal degree. He is our friend, our brother-in-arms, and our pride!

We are often told that people like Mihajlov, Solhenitsyn, and Sakharov are an insignificant minority in the totalitarian world. But in all times it was individuals who went to the scaffold, but, fortunately, it was exactly they, those individuals, who determined the face of the epoch.

The judges of Mihajlov will be just as ingloriously forgotten as were the judges of Socrates, but the name of this great son of the Russian and Yugoslav peoples will remain forever for our grandchildren as a heroic symbol of our tragic and violent, but beautiful times.

We are always with you, Mihajlo Mihajlov!

A SKEPTICAL LOOK AT AMERICA'S DRUG PROBLEM

Mr. HARTKE. Mr. President, the problem of drug abuse in this country is constantly growing more serious. One of the most difficult aspects of this problem is disseminating accurate information to the general public on the various kinds of drugs and their effect. After all, there are many drugs used for medicinal purposes that relieve suffering and prolong life. Others, however, can control an individual and possibly ruin his life.

Alan Boram, in an article in Listen magazine, entitled "A Skeptical Look at America's Drug Problem," attempts to explain some of the different kinds of drugs and clear up some of the myths and errors that have cropped up. As Boram states:

We live simultaneously in a sea of drugs and in a sea of misinformation about them.

Mr. President, 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:

A SKEPTICAL LOOK AT AMERICA'S DRUG PROBLEM

(By Alan Boram)

Anyone who works around people with problems is constantly exposed to a great deal of anxiety about drugs. Even if their own kids aren't using drugs, parents may become nervous, for example, when the President of the United States declares drugs as "public enemy number one."

It is generally agreed that America in 1975 is somewhat of a drug culture. Many drugs are used for medical purposes to relieve suffering and prolong life. On the other hand, chemical advances have made other drugs available so that many people run the risk of depending on them, instead of merely being treated by them.

The real question in the drug picture is rapidly becoming the confusion as to which are the so-called "good" drugs and which are the "bad" ones. The common definition of a "bad" drug is any drug which can be abused to the user's detriment. However, this generality makes the confusion greater, since theoretically any drug—no matter what its source—can be abused.

Mental health authorities frequently run into situations in which people get into trouble with drugs and then other drugs are prescribed supposedly to alleviate the problem caused by drugs in the first place.

A classic example of this substitution is the methadone maintenance experiment, in which heroin addicts are weaned off their heroin dependence on methadone and hailed as cured. Yet many of them are as addicted to a narcotic as they were in the first place. The proved fact that methadone is as potentially addictive and dangerous as heroin is apparently ignored.

In 1971 it was noted that the death rate by methadone poisoning was up 800 percent in New York City. In 1974, the New York *Times* reported that methadone poisoning, "virtually unknown only a few years ago, killed nearly twice as many people as heroin in New York last year, according to a confidential report by Dr. Dominick J. DiMaio, the city's acting chief medical examiner."

The heroin-methadone substitution dilemma is not an isolated example. Demerol, another substitute for opiates, was allegedly nonaddictive when it was first placed on the market. Unfortunately, many licensed physicians believed their own propaganda and wound up as one of the largest single groups of Demerol addicts in the country.

Unhappily, this sort of thing frequently occurs. We live simultaneously in a sea of drugs and in a sea of misinformation about them. Both the superabundance of drugs and misinformation about them—and much of the resulting abuse—is not something which just happens. It is in large part a direct result of what is considered to be the legitimate drug industry.

The people really making big money on drugs are not kids dealing marijuana and pills to each other in high school corridors, or even the urban dope pushers feared by middleclass Americans. The real money in drugs is being made by pharmaceutical houses. It was reported in recent Congressional testimony that in 1971 they manufactured enough barbiturates for every man, woman, and child in the United States to kill themselves twice by overdose.

There's another force making enormous profits on the country's appetite for drugs. The liquor industry, through clever advertising and lobbying, has erroneously convinced many people that alcohol is not a drug, even though it is one of the most poisonous and habit-forming ones around.

In the last few years drugs have been categorized into soft and hard ones, with the former supposedly being relatively harmless and the latter dangerous. In most cases—with the exception of marijuana—soft drugs are the ones which profit legitimate sources such as the medical profession, which prescribes them, and large pharmaceutical houses, which manufacture them. Hard drugs are generally sold on an illegal basis. Or to put it another way, soft drugs are usually the ones advertised and marketed legally.

But the difference in the danger of hard drug abuse and soft drug abuse may not be that great. Let's compare what is considered to be the hardest drug, heroin, and stack it up against the most respectable one, alcohol.

Heroin is dangerous because the body comes physiologically to crave the drug, and the user progressively needs increasing amounts of it to achieve the effect he wants. This means that the addict feels he needs heroin to survive, and he needs more and more of it and will do anything to get it. The eventual result is as much a social and criminal problem as a chemical one because of the lengths to which the addict will go to obtain the drug. Since heroin can be obtained only illegally, the addict's efforts to continue his habit are criminal in nature. This aspect of heroin addiction may be more dangerous than its chemical properties.

According to *New York* magazine, many fatalities connected with heroin occur because of crime connected with the underworld nature of the drug. Those who die of overdoses frequently die actually from battery-acid or rat poison surreptitiously cut in with the drug, or from a dose which is much higher than they anticipated.

Heroin is marketed illegally, so there is no standard dose. Each time a person uses the drug he must make a guess which can be fatal. If the criminal aspect of heroin use were removed, some think that a lot of the dangerous qualities of its use might disappear or be reduced.

The alcoholic may suffer seizures, delirium tremens, and may even die during the withdrawal process. The longer a person has been an alcoholic, the worse physical condition he is in, and much of it cannot be reversed.

Alcohol affects every cell of the body. This drug, which is legal, is destructive to the brain, the liver, the gastrointestinal tract, the pancreas, and the whole structure of the central nervous system. In addition, alcohol is an anesthetic, which means that it eases mental and physical pain, including pain it causes in the first place, thus leading to a false sense of well-being. An alcoholic can fool himself that he is really OK, while actually he is drinking himself to death. By dosing himself with increasing amounts of the drug, the alcoholic can delay an awareness of the fact he is killing himself until it is virtually too late.

We hear very little about the negative possibilities of alcohol use. The media reports about the war on heroin or other drugs, at the same time running slick, glib advertisements encouraging people to drink alcohol. One company suggests unwinding with their product after a day's work. But if people can't handle an everyday activity such as going to work without depending on a drug to cope with it, they're really in trouble. Another company advises people to buy their whiskey in a six-pack, which costs about $75. And one refers to a bottle of its bourbon as an "old friend of the family," which isn't very logical when there are millions of seriously ill alcoholics in this country alone, and alcoholism is the third greatest killer in the United States.

Alcohol versus heroin presents the starkest contrast in comparing drugs supposedly at opposite ends of the spectrum. But there are plenty of other examples of the illogic with which we regard drugs. Marijuana is illegal, and many people have paid dearly to learn this. But a drug like Valium is legal. It can be obtained by prescription from almost any doctor, and it is found in the medicine cabinets of countless families. Valium is a drug which relaxes the muscles, consequently a person can get into the habit of using it and depending on it for a sense of well-being. Because the user gets accustomed to having his muscles continuously sedated or relaxed on an artificial basis, when the drug is withdrawn after long-term use, the person feels as though his muscles and nerves are going to jump out of his skin. The problem of withdrawal is complicated by the fact that it is so easy for the person to alleviate the agony of the process by going to a doctor and getting a legitimate prescription for the drug or some substitute.

Barbiturates—the sleeping-pill family—are legitimately manufactured in abundance and can be obtained rather easily through prescription. They are highly addictive and very popular among the young. It is not unusual to find kids taking twenty to thirty Quaaludes a day and still be standing. This is very near the lethal dose, and if taken in conjunction with alcohol can be fatal. The user takes the pills, fights off the urge to go to sleep, and then finds himself in a euphoric stupor. Many young users get at least part of their supplies from their parents' medicine cabinets.

The public appetite for drugs is increasing as the situation becomes more complex and confusing. It is recognized that a drug problem exists. But at the same time, we're urged to resort to chemical alternatives every time something doesn't go our way—and we are urged to celebrate chemically when something does go our way. This kind of thinking

is the dangerous thing about drugs, not necessarily the drugs themselves.

HEALTH CARE AND EDUCATION: ON THE THRESHOLD OF SPACE

Mr. HUMPHREY. Mr. President, concern over geographic maldistribution of physicians has stimulated unusual and innovative responses to these problems. The Department of Health, Education, and Welfare has recently conducted experiments in advanced telecommunications techniques to deliver health care and medical education to populations where these services are scarce.

This problem was attacked from two directions: First, training physicians so that their under- and post-graduate experiences will be rooted in rural America, and second, finding acceptable substitutes for the physical presence of highly qualified physicians and teachers of medicine.

An area in central Alaska was chosen as the site for the experimental use of the ATS–1 satellite communications in health care delivery because of its inaccessibility and HEW's responsibility for the care of the Indians in the area. Prior to the development of the satellite, local community health aides communicated health care problems to professionals by two-way radio. The increase in radio contact stimulated by the satellite communications improved the paramedics' abilities by permitting more complete consultation with public health service physicians in central Alaska.

The AT–6 communications satellite experiment was designed to facilitate rural health care delivery in the Pacific Northwest and to allow the teaching staff at the University of Washington School of Medicine in Seattle to communicate with students and teachers at the University of Alaska in Fairbanks. The use of television equipment allowed clinical consultation by the faculty as well as complete classroom based activity.

An evaluation of these experiments will be made to determine whether the students have gained "meaningful experience" from preparing and presenting cases by way of satellite and to find out whether adequate evaluation of the student's progress can be made.

I commend to the attention of my colleagues a recent article by Mr. Albert Feiner which describes the procedures and results of these experiments.

Mr. President, I ask unanimous consent that excerpts from "Health Care and Education: On the Threshold of Space" be printed in the RECORD.

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

HEALTH CARE AND EDUCATION: ON THE THRESHOLD OF SPACE

Audio and video satellite communications are being used experimentally for health care and education in Alaska. ALBERT FEINER.

It is not universally agreed that there is an absolute shortage of physicians, but it is so agreed that there exists a maldistribution of medical services that leaves many millions of Americans with minimal or no primary health care. The problem must be attacked from two directions if the situation is to be alleviated: physicians must be trained so that their undergraduate and postgraduate experiences will be rooted in rural America, and acceptable substitutes must be found for the physical presence of highly qualified physicians and teachers of medicine. The Department of Health, Education, and Welfare (HEW) has examined both approaches to the problem and recently, at the Lister Hill National Center for Biomedical Communications, a part of the National Library of Medicine, scientists have been exploring the possibility of using advanced telecommunications techniques to deliver health care and medical education to populations where these commodities are scarce.

THE ATS–1 MEDICAL NETWORK

Since 1971, the Advanced Technology Satellite (ATS-1) launched by the National Aeronautics and Space Administration (NASA) has been used in a program for delivering health care to rural populations in Alaska.[1] The Tanana Service Unit in central Alaska, an area about the size of Texas, was chosen as the first experimental site because of the nature of the terrain and climate and because the Indian Health Service, a sister organization at HEW, has responsibility for the well-being of all Alaskan Indians. The majority of the native population is scattered in some 200 villages over the length and breadth of the state. Seven health service units, each with a service unit hospital, serve these villages. The major hospital to which patients are referred is located in Anchorage. Primary health care in the villages is administered by a community health aide who has received up to 16 weeks of training by the Public Health Service (PHS). The health aide's tools are a basic drug kit, a manual, and a high-frequency (hf) radio that may be used to contact a PHS physician on a daily schedule and in times of emergency. The hf radio is plagued by ionospheric interference that causes periods of "blackout" (no communications) which can last for days. This unreliability has caused much stress among patients as well as health aides and has resulted in very infrequent use of the radio.

Earth stations for satellite communications have been installed in some 26 villages, most of them in the Tanana District. The ATS-1 communication satellite is used to relay voice consultation between health aides and the PHS physicians at Tanana. A single simplex narrow-band channel is used, which means that only one person at a time may talk.

When the satellite communication system had been in operation for 1 year, results of the program were analyzed.[2] Villages with satellite communication stations showed a 400 percent increase in radio contacts compared to those same villages (and to villages not included in the program) prior to the installation of the earth stations, a difference which is statistically significant despite the fact that only 13 villages were involved in the analysis. As would be expected, the number of satellite-conducted discussions with physicians increased correspondingly. Although this increase does not in itself guarantee that better health care was provided, both health aides and doctors were convinced that the quality of care did improve.

In this same area of Alaska a number of experimental educational programs have also been initiated. A lecture has been transmitted from the medical school at the University of Washington, Seattle, to medical students in basic genetics at the University of Alaska; approximately 22 nurses in small clinics throughout Alaska regularly "attended" a 3-month course on coronary care; and the National Education Association has sponsored a three-credit course by the University of Alaska for teachers in rural areas of Alaska.

THE ATS–6 SATELLITE AND GOALS OF CURRENT EXPERIMENTS

Because the experiments with the ATS–1 satellite have been so successful, the Health Resources Administration and the Health Services Administration are now cooperating with the Lister Hill National Center for Biomedical Communications to sponsor two advanced series of experiments with the ATS–6 satellite (designated ATS–F before it went into orbit) that was launched at the end of May 1974.[3,4] In these experiments the advantages of wide-band communication services such as video consultation are being explored.

Before I discuss the details of the actual experiments now being conducted, it would be well to explain briefly why these experiments are being performed and the promise they hold for alleviating some pressing health problems.

The Indian Health Service operates a number of programs designed to provide better health care to populations living in the more remote areas of the United States. Local health aides and paramedical personnel are sent in to these areas and, to compensate for their somewhat limited training, they are given the support of highly trained physicians who are located in more populated areas and who consult with the paraprofessionals by radio. While such voice consultation enhances the paraprofessional's abilities, in many instances the physician does not receive enough information to enable him to provide complete instructions for the care of a patient's problems. Medical decisions must often, therefore, be delayed until the status of the patient changes, or the patient must be transported to a hospital or medical center. Transportation to a medical facility is not only costly, but it may also cause trauma or family hardship; it might frequently be avoided if the physician had adequate information.

Telemedicine, under controlled conditions, has been demonstrated to be an effective tool for providing the additional information required by physicians giving support to paramedical personnel.[5] The ATS–6 satellite will provide the opportunity for testing the new technologies in an environment where remoteness and harsh climate have a major effect on communication and transportation, and it will therefore have a much greater impact on the delivery of health care. Information will be gathered on the effectiveness of sophisticated technological support for minimally trained paraprofessionals and on the ability of these people to use the technology effectively and with confidence.[6]

The effectiveness of several configurations of health professionals and technology will be compared. At Fort Yukon a registered nurse will consult with physicians at the Tanana Health Service Unit Hospital by video and audio communication. Telemetry—for example, eletrocardiograms—can be sent at the physician's request and current patient medical records made available at both sites to assist in diagnosis and formulation of the treatment plan. At the clinic in Galena a health aide, or other professional, will have the same technological support as the registered nurse at Fort Yukon. In still another setting, a health aide will have access only to audio consultation with the physician and to medical record information.

The Indian Health Service has stated that the purpose of these experiments will be to gather data to help test the following hypotheses concerning the improvement of patient care. Telemedicine, when used in conjunction with a good medical record system [in this instance the Indian Health Service's Health Information System (HIS)], will (i) affect patient movement in such a way that only those patients requiring physician services will be transported to hospitals while those retained in the villages will still receive adequate treatment; (ii) enable treatment of problems to begin at a lesser degree of severity; (iii) reduce the average time between detection and treatment of a problem; (iv) reduce the percentage of patients lost to diagnostic, therapeutic, or follow-up programs; (v) reduce the number of visits

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by specialists to remote villages; (vi) provide, by means of educational programming, a better understanding of health, health care, and the health delivery system among the native population; and (vii) enable patients to receive higher levels of consultation than would otherwise be possible and will in this way increase the sense of security of the native population.

Telemedicine as a substitute for the physical presence of a physician represents one aspect of alleviating the problem of delivering good health care to people in rural areas. However, it is also desirable to train physicians in the rural areas where they are needed, because studies have shown that where a physician receives his education has a major influence on where he will choose to set up practice.[3] In the northwestern United States, Wyoming, Alaska, Montana, and Idaho do not have a medical school within their borders. For several years, in a program sponsored by the Health Resources Administration at the University of Washington, Seattle, attempts have been made to expand medical education into those states that have no medical school. Known as WAMI, an acronym obtained by taking the first letters of the states of Washington, Alaska, Montana, and Idaho, this program is designed to test the feasibility of providing young, aspiring physicians in the states without medical schools an opportunity to study medicine equal to that of their peers in other states.[3]

In the ATS–6 experiments, the teaching staff at the University of Washington School of Medicine in Seattle will be communicating with students and teachers at the University of Alaska in Fairbanks. Curriculum experiments will be conducted, and studies will be made of administrative conferencing (for example, joint development of curriculum via video and audio interaction, interviewing applicants for admission to the University of Washington School of Medicine by faculty at both the remote and on-campus sites), and of computer-aided evaluation of student performance.

In relation to basic science education, attempts will be made to determine the following: (i) whether satellite-mediated teaching is academically effective, is acceptable to students and local and peripheral faculties, evokes meaningful student-faculty interactions, is effective in reducing the sense of isolation experienced by students and peripheral faculty, and assists local and peripheral faculty in clarifying educational objectives. (ii) In the computer-aided evaluation of student performance, will the satellite communication system facilitate the expansion and standardization of selected areas of the curriculum at the peripheral institutions, and will the accessibility and reliability of the system be sufficient to permit effective student interaction and faculty evaluation of progress made in specified areas of learning?

In studies of undergraduate clinical education and of continuing medical education, faculty at the University of Washington and students in clerkships under the tutelage of clinicians at Omak, Washington, will participate. Students will make case presentations, and these will be followed by conferences and critiques. Case presentations concerning patients requiring specialist intervention will also be made by Omak clinicians.

Attempts will be made to determine whether the students will gain meaningful experience from preparing formal cases and presenting them by way of satellite communication for analysis and critique; and whether such a system will permit adequate evaluation of the students' knowledge and progress in the care of patients. The experiments will also indicate whether case presentations via satellite are able to enhance the practitioners' ability to provide service, and whether the communication system can contribute materially to the continuing education of the participating faculty.

TECHNICAL REQUIREMENTS FOR ATS–6 AND NETWORK COORDINATION

It was early in 1972 that the health agencies of HEW joined with the Office of Education to participate in the satellite communication experiments. The design of the experiments was in large part dictated by the coverage that the ATS–F satellite would provide when launched.[4]

Both health care delivery and medical education experiments must take place in real time. Visual as well as audio interactions are conducted between students and faculty and physicians and other health professionals. Video and audio signals are transmitted from all participating sites (except the medical center at Anchorage) from one small earth station directly to the other small earth stations. It was recommended by NASA that the signals from the ground to the satellite (uplink) be centered at 2247.5 Mhz, because the ATS–F satellite was already equipped to receive at this frequency for another experiment involving the relay of signals from low-orbiting satellites. This frequency presented problems because it is located in a band assigned for military use.

Through the cooperation of the Office of Telecommunications Policy, the Executive Office of the President, the Department of Defense, and other members of the Intragovernmental Radio Advisory Committee a compromise was worked out. For the duration of the ATS–6 experiments, July 1974 through June 1975, the earth stations in Alaska will be permitted to transmit at 2247.5 Mhz on a noninterfering basis with the military services, and the two earth stations in Washington, Seattle and Omak, will use the commercial bands at 6 and 4 gigahertz. This unusual arrangement resulted in an unexpected dividend permitting simultaneous two-way television interactions between Seattle and Fairbanks for the basic science portion of the medical education experiment.

To coordinate the variety of health and education experiments, HEW established an ATS–F User Policy Committee which is chaired by the director of the Office of Telecommunications Policy of HEW, and includes representatives from all the participating organizations. All the representatives maintained that the technology should support high-priority objectives and that the health professionals in the field should require no on-site assistance to operate the system. None of the "operators" from health aides to physicians and teachers, would have had experience with this kind of technology. Therefore, at the request of NASA, all experiments were to be coordinated from "operational day 1" by a single entity that was also to be the sole interface with NASA. The experiments are now being coordinated (this includes positive control of all transmitters) at a Network Coordination Center (NCC) located at Denver and managed by the Federation of Rocky Mountain States (the NASA interface) under contract to HEW. Schedule changes, preemption, individual station performance monitoring, and reporting are some of the functions assigned to the NCC.

The network began operation in July of this year.

HEALTH CARE DELIVERY EXPERIMENTS

The individual experiments are being conducted within the network context and there is almost no intervention from the NCC. The Indian Health Service's health care delivery experiment is being conducted with five earth stations. The small clinics at Fort Yukon (population 425) are comprehensive stations, the examining rooms being outfitted with television equipment and capable of transmitting and receiving video and audio signals as well as psysiological data. Health professionals (aides or paramedical personnel) present patients to the viewing physicians at the PHS Hospital in Tanana. This station is also a comprehensive one. Medical specialists in Fairbanks and at the Alaska Native Medical Center in Anchorage are available for consultation. Fairbanks is a comprehensive medical station, but the Alaska Native Medical Center is an intensive station and is not capable of originating video, although patients can be "seen" there. All sites can receive information about medical records via the ATS–1 satellite. Medical records of patients are retrieved from the Indian Health Service's data bank in Tucson, Arizona.

The health care system is operated as follows: Tanana physicians contact villages and clinics via ATS–1 to discuss medical problems with the health professionals in the same way that they had been doing for the past 2 years. Patients in the clinics who might benefit from visual consultation are scheduled for video time with the ATS-6 satellite. Emergencies may preempt scheduled video consultations. Patients are visually presented at comprehensive medical stations and appropriate management is recommended by the Tanana physician. Specialists in Fairbanks and Anchorage are consulted if necessary. During the presentation of a patient, physiological information, such as that obtained by an electrocardiograph, may be sent simultaneously via any or all of the four aural channels associated with the television picture. Talk-back from the Tanana physician or other specialists to the presenting clinics is accomplished via ATS-1 since simultaneous two-way transmission through ATS-6 is not possible in this mode. If the physician at Tanana deems it appropriate, he can terminate video transmission from the clinic and assign the ATS-6 channel to Fairbanks or use it himself to demonstrate some technique that would help the health professionals at the clinics to better manage their patients. During this period, the clinic talk-back mode is via the ATS-1. Upon termination of a consultation, the attending health professionals prepare a report to be mailed to Tucson where it is used to update the stored medical records. In the interest of privacy, the video and audio signals associated with all consultations are scrambled. Only the presenting clinic and consulting staffs are able to unscramble the information. All interactions for this experiment take place in Alaska. Three hours per week of video (ATS-6) communications and 3 to 4 hours per day of audio and data communications (ATS-1) are available.

MEDICAL EDUCATION EXPERIMENTS

Two aspects of medical education are being investigated: basic science instruction, and undergraduate clinical education and continuing medical education. Students and peripheral faculty at Fairbanks, Alaska, and local faculty at the University of Washington, Seattle, are participating in the basic science program. Because both S-band and C-band portions of the satellite repeater can be activated simultaneously, it will be possible to compare the advantages of using one-way television and voice talk-back interaction with those of using simultaneous two-way television interaction.

For the studies of undergraduate clinical education, third and fourth year medical students at remote sites receive local instruction from clinicians at Omak and television instruction from the medical faculty at Seattle. Students are required to give both formal, prepared presentations of patients and spontaneous presentations of new patients. The former presentations are of complex cases prepared in detail over a period of time. The latter presentations are followed by verbal discussions of the history and physical condition of the patients, the results obtained by laboratory analyses, and diagnostic impressions and tentative treatment plans. In addition to student presentations, the clinical faculty at Omak can make presentations of selected patients from Omak. Dif-

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ficult cases can be discussed with specialists in Seattle who can confer with them by video and audio communication. Both clinicians and students then make decisions on patient care based on the consultative input. If desired, the patient can also interact.

SATELLITE EARTH STATIONS

The ATS-6 earth stations were specifically designed to meet the needs of both the health and education programs. The ATS-6 User Policy Committee established the types of characteristics of terminals to be developed and detailed specifications were written jointly by the Lister Hill National Center for Biomedical Communications, NASA, and the Federation of Rocky Mountain States. It was realized from the outset that the stations should be designed so that they could be operated solely by the health professionals and teachers without the help of on-site technicians. The system would be far too costly if each earth station had to have a full-time technician. A building-block approach was used so the receive-only, intensive, and comprehensive stations could be assembled from a relatively few low-cost components. The hardware is (i) solid state throughout; (ii) has no high voltages; (iii) has relatively few circuit boards, so that first-level maintenance will consist of plugging in boards until the defective one is found; (iv) has very few switches and adjustments; and (v) has simple go, no-go indicators for critical voltages and signal levels, for example.

CONCLUSION

The studies described herein represent some of the most sophisticated social and technical experiments ever attempted in education and health care delivery. It is hoped that the lessons learned from them will bring us much closer to the goal of providing good quality health care and education in areas that are away from metropolitan centers.

FOOTNOTES

[1] A. Feiner, "An experimental satellite medical network for scarcity areas," paper presented at the 8th Annual Meeting of the American Institute for Aeronautics and Astronautics, Washington, D.C., 28 October 1971.

[2] H. E. Hudson and E. B. Parker, *N. Engl. J. Med.* 289, 1351 (1973).

[3] National Aeronautics and Space Administration, *The HEW-NASA Health-Education Telecommunications Experiment, Summary Description* (Goddard Space Flight Center, Greenbelt, Md., November 1973), pp 11–18.

[4] ———, *The ATS–F Data Book* (Goddard Space Flight Center, Greenbelt, Md., rev. ed., May 1974).

[5] For example, see K. T. Bird and M. E. Kerrigan, "Telemedicine: A new health information exchange system," "paper presented at the 970 Medical Services Conference sponsored by the American Medical Association, Boston, Mass., 28 November 1970; R. L. H. Murphy, D. Barber, A. Broadhurst, K. T. Bird, *Am. Rev. Respir. Dis.* 102, 771 (1970); J. Hayes, *Biomed. Commun.* 1, 18, 48 (1973); B. K. Thorne, *Dartmouth Alumni Mag* (April 1973).

[6] Indian Health Service, "Master Plan: ATS–F Alaska Health Service Experiment" (unpublished report, Indian Health Service, Washington, D.C., 1973).

[7] J. Hadley, "Physician specialty and location decisions: A literature review," *Discuss. Pap. Ser. No. 10* (internal report prepared for the National Center for Health Services Research and Development, May 1973).

[8] R. Kobernick, *Health Sci. Rev.* (University of Washington, Seattle, Summer 1973).

COMMEMORATING HAYM SALOMON

Mr. HUMPHREY. Mr. President, the U.S. Postal Service will issue a series of commemorative stamps on March 25, 1975, honoring patriots of the American Revolution. One of these patriots, Haym Salomon, has been occasionally overlooked by historians despite his heroic dedication to the Revolution and the cause of freedom. I would like to pay tribute to Haym Salomon and direct the attention of my colleagues to the outstanding contributions of this great American.

Haym Salomon was born in Lissa, Poland, in 1740, the son of Jewish-Portuguese parents. As a youth he traveled extensively throughout Europe, developing his linguistic capabilities and a fervor for politics. Returning to Poland at the age of 30, Salomon became active in the Polish independence movement. He soon was forced to leave the country and drifted to America where he opened a brokerage and commission merchant's business.

Salomon's previous experiences with oppression and his zest for liberty led him to the revolutionary cause from which he never strayed. As a follower of the Revolution, Salomon quickly fell into disfavor with the British and was imprisoned on several occasions, beginning in 1775. But, his multilingual talents enabled him to avoid internment. Employed as an interpreter by the British, Salomon used his position to foster dissension among the Hessian troops and encourage desertion.

In 1778 Salomon was sentenced to death by the British for espionage activities. He managed to escape, however, and set up an office as a dealer in bills of exchange and securities. Salomon's business prospered and he became a major financial backer of the new Government. He served as paymaster general for the French forces in America, loaned huge amounts of capital to the bankrupt Government, and supported the Revolution with his general financial expertise.

The financial help which Salomon contributed to the Revolution reflected his unselfish devotion to the American cause. His liberal advances of specie and investment funds allowed the tenuous Government to remain solvent. In total, Salomon held Government obligations amounting to over half a million dollars which he never received.

Even though he encountered serious financial losses, Salomon did not question the Government's large indebtedness to him. He continually served the American Government up until his death in 1785 at which time his estate was worthless.

The dedication to American ideals which Salomon constantly maintained is a model of patriotism. Called the "Good Samaritan" by some authors, he stretched far beyond his means and responsibilities to sustain the revolutionary efforts of the American Colonialists.

I salute Haym Salomon. His generosity and patriotism stands out as an example for all Americans which should not be forgotten.

Our upcoming Bicentennial observance and the stamp commemorating Haym Salomon make this an occasion to remember and to rededicate ourselves to the basic principles of our moral and political life—the dignity of the individual, freedom of conscience, and the brotherhood of mankind.

RUSSELL E. TRAIN, "CONSERVATIONIST OF THE YEAR" AWARD

Mr. HOLLINGS. Mr. President, recently it was my privilege and pleasure to hear a very forceful address on conservation and the environment. It was delivered by the Honorable Russell E. Train, the distinguished and able Administrator of the Environmental Protection Agency. The occasion of Mr. Train's remarks was the presentation to him of the "Conservationist of the Year" award by the National Wildlife Federation at their 39th annual meeting in Pittsburgh last weekend.

I will not attempt to summarize remarks which deserve to be read in their entirety. But I would point out that Mr. Train did a first-rate job in portraying environmentalism in its true perspective. At its best, environmental action has a far better claim on the term "conservative" than does the extravagance of those who would waste and deplete the resources of our country. And the true environmentalist has a truer claim to the description "realist" than do those who would exploit for short-term profit at the expense of long-term depletion. In short, he is the very antithesis of—and here I quote Mr. Train—"a romantic, distracted by fantasies of bluebirds and daisies, a birdwatcher oblivious to the practical needs of making a living."

Mr. President, I ask unanimous consent that the text of the Administrator's remarks be printed in the RECORD. I commend them to my colleagues, and I congratulate Mr. Train on making them.

Finally, I commend the National Wildlife Federation in making this award to Russell Train. His efforts on behalf of the environment are efforts on behalf of us all, and this recognition is very fitting indeed.

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

THE TRUE CONSERVATIVES

(By the Hon. Russell E. Train)

It is a privilege to be with the largest non-governmental conservation organization in the United States, and to observe with you the beginning of National Wildlife Week. The Environmental Protection Agency does not have a constituency in the accepted sense of a special interest group, but we share common goals with you, and in that sense I always feel among friends at your meetings.

I especially want to congratulate the National Wildlife Federation for its successful campaign this past year to secure in South Dakota and Nebraska the first permanent sanctuary for the bald eagle. This great creature, which has been our national emblem since 1782, continues to be threatened by man's destructive technology, and it is heartening that your dedication and commitment is bringing positive action in protecting a conspicuous living symbol of our country.

It was Gifford Pinchot, chief of the U.S. Forest Service in the early years of this century, who popularized the word "conservation," and tonight I would like to talk about the nature of the true conservative because some of its older meanings need to be rehabilitated and applied to our problems. Like so many labels, the word has drifted far from its original context. Often it is now used politically in contrast to the word radical, which means, according to Webster, tending to make "extreme changes in existing views, habits, conditions or institutions." To conserve, on the other hand, comes from

a Latin word for keeping guard over something; to protect and preserve.

In a thoughtful editorial recently, the *Wall Street Journal* took note of a poll showing that more than half the American people now consider themselves conservatives, double the figure of a decade ago. The *Journal* said that much of this conservatism is neither political nor economic so much as a return to traditional values. "The ecology movement," it declared, "which many political liberals support, is conservative in a very real sense." And so it is, for we ecologists seek to protect and preserve the air and water and land for posterity, and to prevent the despoilation of those natural systems upon which our well-being and, indeed, our survival ultimately depend.

That leads us to a paradox in our labels for people. We must ask ourselves who are the true conservatives, a term often linked with industry and business. Are they those members of industry who would foul the air so that asthmatics choke and plants wither, or those business executives who would accept and encourage controls on air pollution? Should those who advocate a "no-holds-barred" approach to economic progress, who would increase the Gross National Product regardless of the penalty to public health and welfare be regarded as conservatives? Is a conservative a corporate manager who would strip the land for coal with such reckless abandon that it is left to posterity as an ugly, useless moonscape? Or would the term apply more fittingly to managers who accept safeguards in strip mining legislation to restore the land after it has been overturned?

It seems to me that persons who would abuse our land, either through bulldozers or chemicals or sheer bad planning of cities, so that the land is unfit for posterity, really come under the heading of radicals, defined by Webster as those who make "extreme changes in existing views, habits, conditions or institutions."

Your organization has chosen for its conference theme this coming week the habitat of wildlife. My agency shares your concern for this subject for obvious reasons. We are interested in wildlife for its beauty and wonder and the diverse ways it enriches our lives. We also worry about the threats by man to its future for more selfish reasons. Wildlife serves as a continuous early-warning system for environmental problems that ultimately can affect humans. Because various species are sensitive to pollutants, their illness or a decline in their numbers is of immense potential significance to man, for such phenomena can signal undetected environmental dangers to all of us. The reverse side of this warning system is that the increase and flourishing of certain species also can alert us to environmental problems. In recent years, for example, we have seen in the western United States a surprising proliferation of starlings. Since these birds are an important indicator species for garbage, crop damage, and urban degradation, we are aware that their population explosion is a commentary on what Americans have been doing to their land and cities.

The truth is that everything in nature is connected, and we are going to need all the early-warning systems we can find to protect ourselves in the years ahead from our own insults to the environment. As Dr. Lewis Thomas has observed in his book "The Lives of a Cell," "We are not the masters of nature that we thought ourselves; we are as dependent on the rest of life as are the leaves or midges or fish. We are part of the system. Who knows, we might even acknowledge the fragility and vulnerability that always accompany high specialization in biology, and movements might start up for the protection of ourselves as a valuable, endangered species." Man is indeed an endangered species, and does need protection from himself.

Six years ago the politically conservative journalist, James J. Kilpatrick, made these observations:

"One of the most serious problems in American society goes to the quality of life in the world around us. Our rivers and lakes are dying of pollution. Our greatest cities stifle in smog. Our littered streets insult the eye. Concern mounts at the residual damage done to man's environment by such pesticides as DDT. Year by year, our loveliest countrysides are yielded up.

"The problem essentially is a problem of conservation—of conserving some of the greatest values of America; and conservatives, of all people, ought to be in the vanguard of the fight."

Mr. Kilpatrick went on to urge an affirmative conservatism, to translate broad conservative principles more frequently into specific affirmative action.

Since its creation in 1970, the Environmental Protection Agency has been doing just that. Under the basic environmental laws we have been taking specific affirmative action based on broad conservative principles to protect public health and welfare—in particular, under the Clean Air and Water Acts. It is, of course, significant that billions of dollars are being spent by public and private institutions to comply with these new laws and to control pollution. It is estimated that clean water under the new 1972 Act, for example, will mean a total estimated outlay of $18 billion by the Federal government for municipal sewage treatment plants by the end of Fiscal 1977. But equally important are the pollutants that are being removed from air and water. An EPA analysis shows that by the statutory deadline of mid-1975, 90 million tons of particulate matter will be removed each year from the air, plus 25 million tons of sulfur dioxide. In addition, nearly two dozen of our nation's important rivers either have shown positive improvement or will do so as the result of the discharge permits that have been issued. Under this program, 95 percent of the major industrial wastewater discharges are now under definite water clean-up schedules.

Without going into further detail, I would only add that over the past year EPA has put together most of the basic regulatory machinery in air, water, pesticides and solid waste. We are moving forward, despite a few setbacks, in carrying out the mission entrusted to us by Congress, to protect and preserve and enhance the environment. The authority provided in six of these environmental laws will have to be renewed by Congress this year. We will need new authority in all or part of the laws dealing with water, air, solid waste, noise control, pesticides and ocean dumping, authority which would otherwise expire June 30. Formal requests for these changes will be submitted to Congress soon, and I assume they will be approved without major difficulty. As you may know, the environment was an important issue in a number of States in last year's elections. Both in Congress and among the public generally environmental interest is strong.

I spoke a moment ago of the paradoxes in how we use labels as conservative and radical. There is another paradox in the public image of the environmentalist that is often projected. He is portrayed by his critics as a romantic, distracted by fantasies of bluebirds and daisies, a birdwatcher oblivious to the practical needs of making a living. In short, he is not a realist.

But I submit to you that he is far more realistic than those who would exploit this earth for short-term profit. He is worried about protecting the birds and the flowers because man is linked to them, part of the same web of life, sharing the same air and water, the same pollutants, the same hazards. He is concerned about the lesser creatures and plants because he is concerned also about the survival of man. By contrast, it is the wanton polluter, the thoughtless and quick-profit land developer, the promoter of urban sprawl who are the romantics of this world, out of touch with the realities of how today's careless lack of planning can waste energy and space and promise only ugliness and pollution to posterity.

Consider for a moment some of the beautiful cities of the world, cities like Florence, Athens, Berne, Copenhagen, and Venice. They are by common consent humane and attractive places to live because they put people first. They have been thoughtfully assembled, not overnight in a burst of technological dazzle, but over centuries. They have taken available land and carefully shaped plazas, pedestrian malls, vistas, waterside, parks and boulevards. They have sheltered their citizens from the elements with shade trees and arcades. They have brought nature into the marketplace with fountains and flowers. Curiously, all these cities also are busy centers of commerce. Somehow their industries and merchants manage to flourish without dehumanizing their surroundings. They work in harmony with their neighbors.

So we have to ask ourselves, who is the realist in these cases? Who sees things with greater vision and with more enlightened self-interest?

The cities of America are making steady progress in cleaning up their air and water, but there still is much we do not know about pollutants and their effect on the biosphere. Sometimes the best efforts turn out to be trading one set of problems for another. EPA has devoted years to enforcing and implementing the law to clean up auto exhausts, only to find that the chief device used by the auto industry for meeting air standards required by Congress, the catalytic converter, does reduce some pollutants but creates another, sulfuric acid mist.

Failure to control pollution also can result in international problems. Some time ago the Norwegians began noticing a build-up in the southern part of their country of sulfuric acid from the air. Fishing in the area has suffered severe setbacks in recent years due to acidification of the water, which especially affects salmon and trout. The sulfuric acid precipitation also attacked plant life.

Since it was known that air pollutants can be transported over long distances, and that Great Britain, West Germany, and other Western European countries have been burning increasing amounts of fossil fuel which spew sulfur oxides into the air, the Norwegians called for international action. The result was a conference by 17 countries in Oslo last December to help set up a network for monitoring air pollutants over Europe. Such cooperative arrangements will be increasingly necessary in the years ahead as the world community continues to learn more about the ways in which such pollutants are created and distributed, and the damage they can do in remote locations. The lack of communication not only between nations but between various branches of science contributes to the problem. One of those with a reputation for breaking down barriers between scientific disciplines is the British scientist, James Lovelock. He was the first to measure the amounts of fluorocarbons in the air, which led to the investigation now underway by several Federal agencies, including EPA, of whether this constitutes a danger to the ozone layer surrounding the earth.

Dr. Lovelock has evolved a theory that living things help control the environment in a way that ensures their survival. As an example, he has demonstrated that the production of methane gas in the earth by certain bugs helps in a round-a-about way to maintain the proper concentration of oxygen in the atmosphere. Such thinking has led him to a view of life which he calls the Gaia

hypothesis, after the earth goddess of the ancient Greeks. This interdependence of the environment and living things, he warns us, should not be tampered with. "We disturb and eliminate at our peril," Dr. Lovelock has written. "Let us make peace with Gaia on her terms and return to peaceful co-existence with our fellow creatures."

Let us indeed seek a detente in our often hostile and destructive relations with other members of the animal and plant kingdom, and recognize that we are dependent on them in the long run for our own existence. In short, let us practice conservation that we may survive.

Your organization is a conservative one in the original sense of the word, and has done much to alert America to the dangers of environmental abuses. EPA welcomes your support, and we will need your help in the years ahead.

On a final personal note, I would only add that I am very deeply honored, more than I can express in words, for your invitation to be here tonight. On behalf of the more than nine thousand men and women of the Environmental Protection Agency, without whose work America's efforts to enhance the quality of life could not succeed, and who are really the ones who have earned my award, I ant to say simply—thank you.

CONGRESSMAN RODINO'S REMARKS ON MEETING THE NEEDS OF THIS NATION

Mr. BENTSEN. Mr. President, last Friday evening, the honorable chairman of the House Judiciary Committee, Congressman PETER RODINO, addressed a Jefferson-Jackson Day Dinner in New York.

With the same thoughtfulness that marked his presiding over the historic proceedings of last summer, Congressman RODINO challenged Democrats and all Americans to make the interests of their party subservient to those of their Nation.

Others may have said this before, but Congressman RODINO has added immeasurable force to his wise counsel by his own conduct. Few Americans will forget the thoroughness, fairness, and dispassion with which he met one of the most difficult challenges ever assigned a Member of this branch of the Government. Throughout those long weeks and months, Congressman RODINO remained committed to doing what was right. He remains dedicated to that goal today and sets a standard of conduct for us all. He has earned the deep respect of us all.

I ask unanimous consent that Mr. RODINO's remarks be printed in the RECORD. They are wise counsel for us all and a tribute to a man to whom this Nation owes so much.

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

JEFFERSON-JACKSON SPEECH

(By Congressman PETER RODINO)

I am deeply grateful and extremely proud that you have chosen me to receive this Democrat of the Year award. Since tonight we celebrate Jefferson-Jackson Day, it is especially appropriate for me to accept the award in the spirit of Thomas Jefferson, who said that the receipt of an award was an occasion for gratitude and pride for the opportunity his contemporaries had given him to serve the public interest. I thank you for the honor you do me. I am grateful that I have been given the opportunity to serve, along with all of you, the public interest through the medium of our party . . . the people's party.

There is a tradition about Jefferson-Jackson Day dinner speeches: the speaker must always invoke the past, calling the roll of great Democratic Presidents, recounting in passionate prose the achievements, and even the dreams, of the Democratic Party.

The fact I do not intend to do that tonight is no indictment of tradition. It is simply a recognition that what might have been sufficient in past years is not adequate tonight.

What is before the American people as we gather here this evening is a national crisis which has been worsened by new and devastating changes in the world, and in ourselves.

That is why the usual speech is not suitable.

What is needed is plain talk and simple truth. What is required is a declaration of action on the part of the Democratic Party—a firm resolve to do what needs to be done in the service of our country.

What are the elements of change that will test us as never before, and require us as a Nation to rise to challenge?

For the first time in our history we have a President and Vice-President who have not been elected by the people.

For the first time in our history the confidence of the people has been shaken by a Presidential resignation.

For the first time in our history we are facing at the same time inflation and recession, rising prices and rising unemployment.

For the first time in our history, large segments of our economy are endangered by decisions made in other countries.

For the first time in our history, we face the possibility of running short of natural resources which we have for so long with such casual neglect taken for granted.

For the first time in our history, the traditional cures for what ails our economy do not work.

In truth, my fellow Democrats, we may be living through the most unusual political era since the very birthyears of the Republic.

So tonight I come to you, and talk with you, not about past glories or ancient dreams but the stark realities which confront the Democratic Party in the Congress and in the United States.

Every elected official knows that the voters are sick and tired of the usual campaign talk. We only have to walk our districts and speak to the voters to learn that they are fed up with unredeemed pledges, talk without action, action without aim, and the law morality which infected the highest reaches of the Government.

If the people are suspicious and skeptical they have ample cause to feel that way.

That is why we have to change traditional attitudes toward party politics, toward the duty of Government, and toward the role of the individual.

There can be no more politics as usual, we cannot assume or assert that we in the Democratic Party have all the answers, because we don't. We cannot oppose something simply because the President or the other party advocates it.

We cannot celebrate either the party or the individual: For whom do we serve? Surely not the party, nor ourselves! We serve the people who have chosen us to speak for them.

But to do so we must change our political attitudes as private citizens and public men and women. Attitude change is not easy, but it is not impossible. We in the Judiciary Committee proved it could be done, it was difficult for men and women of divergent ideology, from different parties and sections of the Nation, compelled by contrasting political loyalties to put their personal feelings aside. But there was something more important to them than party ideology or sectional difference. Within the hearts and minds of the members of the Judiciary Committee was a solemn commitment—a commitment to be fair—a commitment to do not what was expedient—but to do what was right.

And so we proceeded—with fairness, with decency and in the end it came out right. For there was no other way.

Nothing was hidden. The truth came through, fairness and justice from both sides of the aisle on display. And the Nation knew that this republic was not barren of promise.

And so I say to this Democratic gathering that we must look at this dismaying and terrible time in which we live with a new attitude—not of party but of nation—not of individual self-interest but of community purpose—not of winning an election but of doing our duty.

What should be the goal of the Democratic majority? That goal should not be based on what is good for the Democratic party alone or the Republican party alone. It should not be pro-President or anti-President. There is only one goal we should point to—and that is to do what is right.

Therefore, let us begin.

Our task is to recapture and build upon the confidence and trust of the public which has been squandered by officials scrambling to save themselves from disgrace.

Our responsibility is to understand, in detail and with accuracy, what it is that we face and to face up to it.

Our obligation is to lay before the American people in plain language the specific sacrifices we may be called on to make, in order to repair the damage to our Nation and our economy.

Our duty is to create the legislation that is required, and to prod the executive department to do its job.

All of this we can do and more—if we are firm in our determination to meet every challenge and fair in the challenge.

The people of this nation want strong, believable leadership and equitable programs and principles.

On this dais tonight are several candidates for the Democratic Party nomination for President. I say to you and all those who will join you in contesting for both the honor and the burden of leading the party in 1976—I say to you speak the truth, no matter how harsh the truth may be—I say to you be fair in your judgment in spite of those who would be unfair. In our Republic the majority will should prevail, but to quote Jefferson, "That will, to be rightful, must be reasonable." To paraphrase Jefferson in his inaugural address, we are all democrats and we are all republicans when the issue is the health and well-being of the Nation.

The people are looking to us for guidance and we cannot fail them by practicing politics as usual. The best politics is knowing what is right—and then doing what is right.

And so we begin a journey without any reassuring proof of where the journey will take us. But begin we must. If we are fair, if we are honest, if we recognize the dangers, if we rise to challenge without partisan prejudice, then the actions of the democratic party will be ample testimony that we faced up to grim realities—and that the course of conduct we recommended to the people was not only just, it was right.

That is why I am not afraid of what we have to confront in the months that lie ahead. For we have on this dais tonight and elsewhere within our party those with the talent, the dedication and the sense of mission and of urgency to meet these needs.

Now let me conclude my remarks to a Democratic Jefferson-Jackson Day Dinner with a story about a Republican President. During the Civil War, a clergyman said to Mr. Lincoln: "Let us have faith, Mr. President, that the Lord is on our side in this great struggle."

To which Mr. Lincoln quietly answered:

"I am not at all concerned about that, for I know that the Lord is always on the side of the right, but it is my constant anxiety and prayer that I and this Nation may be on the Lord's side."

That is my prayer also.

THE VETERANS' COST OF INSTRUCTION PROGRAM

Mr. BENTSEN. Mr. President, I would like to express my concern over the fate of the veterans' cost of instruction program. For the past several years, VCOI has been helping many of our institutions of higher learning provide for the special needs of the Vietnam-era veteran. It has done this with little or no help from the administration, and Congress will apparently again have to take the initiative to insure that it is funded this coming fiscal year. I want to urge the Congress to provide that funding.

Concerned that several million young veterans were not taking advantage of their education benefits, the Congress first enacted the VCOI program in 1972. The legislation offered Federal assistance to institutions of higher learning which agreed to maintain a full-time office of veterans' affairs, actively encouraged veterans to use their education benefits, offered a comprehensive program of peer and professional counseling, developed programs of remedial and tutorial services for veterans, and provided a multipurpose program of community outreach services.

In return, the qualifying institution was to receive $300 for each undergraduate veteran enrolled and an additional $150 for each educationally disadvantaged veteran enrolled. Because VCOI was funded as an entitlement program and the administration has sought minimal funding, however, the payment to the institution per veteran student has actually been only a fraction of the amount specified.

Although VCOI has a relatively short history, it has recorded impressive achievements. During its 2 years, more than 1,000 institutions have opened or maintained their own offices of veterans' affairs. The full-time equivalent number of undergraduate veteran students, the one means we have for measuring the number of veterans enrolled, utilizing VCOI's services has increased by 83,000 to over 539,000, and that figure may somewhat underestimate the total number of veterans participating since many have enrolled only on a part-time basis.

Moreover, as a result of VCOI's efforts, a growing number of young veterans with various educational deficiencies have enrolled, received special assistance, and completed their educations. The payments made for the full-time equivalent number of enrolled undergraduate veterans receiving tutorial and remedial assistance has risen by nearly two-thirds, to well over 40,000.

I am convinced that these accomplishments have occurred because the services VCOI has rendered are meeting the needs of so many of our veterans.

Unfortunately, VCOI has recorded these gains with little help from the Administration. Since the program's inception in June 1972, the Nixon-Ford administration has made at least three different assaults against it. In fiscal 1973, President Nixon impounded VCOI's funds, an action subsequently reversed only after the National Association of Concerned Veterans obtained a court order requiring release of the funds. On January 30, 1975, President Ford requested authority to rescind the $23.75 million appropriated for VCOI in fiscal 1975, and later in announcing his budget for fiscal 1976, the President refused to seek a cent for the program. On February 24, the Senate Appropriations Committee wisely denied the President's rescission request, and I am hopeful that it will appropriate adequate funding for an expanded VCOI effort.

Apparently, the administration believes that the services provided as a result of VCOI assistance are either no longer needed or can be maintained without Federal assistance. Neither conclusion can be upheld.

The need to help veterans complete their higher education remains because more and more of our young veterans are only now returning to the classroom. As of June 1974, less than half of the Vietnam-era vets had applied for even a single education payment. Of the total 7,088,000, no more than 3.3 million had received such assistance.

One can reasonably expect that their numbers will increase, and, in fact, initial reports indicate that the number of vets enrolled this semester is up an astonishing 12 to 25 percent. As the recession worsens, many vets are apparently deciding that with employment so difficult to find, this is a good time to acquire the skills which will later help them qualify for the good jobs they seek. In many instances, these young men and women will depend upon the assistance guaranteed them under the GI bill, and yet if prior experience is an accurate guide, they will encounter various problems in receiving that assistance along the way. VCOI will assure that at many of our institutions, these vets will have someone on campus sympathetic to their problems and determined to get them their due.

I believe that we should do everything in our power to encourage these young vets to obtain the education and skills they need to find rewarding employment. I have long been deeply troubled by the high unemployment among our youngest vets were without jobs, compared to 8.2 the national average. In February, for example, 17.3 percent of our youngest vets were without jobs, compared to 8.2 percent of our National workforce, and one wonders how many others have become so disillusioned that they, too, have stopped looking for a job.

And yet many of these young men who have been chronically unemployed since their discharge have serious disadvantages in attempting to acquire advanced training. Over 600,000 Vietnam-era vets never completed their high school education, and many more carry serious educational deficiencies. These are precisely the individuals who need special help, and in so many instances, that remedial and tutorial help has been made available through the VCOI.

And once these young vets have proven to themselves that they can succeed in college, they will nevertheless need assistance in locating employment in a tight job market. VCOI on many campuses is also providing this valuable service.

These are not easy times for our institutions of higher learning. During the past year, many have closed their doors, and most have been forced to cut back on the services and programs provided. Difficult decisions have to be made, and one wonders how many small and midsized institutions, in particular, will be able to fund on their own a special veterans' office. As a society concerned about repaying the debt we owe our youngest veterans, we simply cannot afford to make this gamble. We must provide the assistance needed to insure that VCOI continues to help institutions meet the needs of their student veterans.

I shall be urging the Appropriations Committee to reject the administration's efforts to stifle this important program. The Congress has initiated and provided for this effective program, and I urge it to maintain its strong support for it.

CITY IN RENAISSANCE

Mr. SYMINGTON. Mr. President, good news has become a precious commodity in our Nation. This is sad, but true about the problems of the cities of America. Inflation, recession, the energy crisis have all had a devastating effect upon cities—especially those still recovering from the serious urban crises of the 1960's.

Today, the very existence of our cities as social institutions is being challenged. Cities are being blamed for much that is both ugly and sordid in our society; in fact many of our cities, or so we are told, are either dead or dying.

Nevertheless, there is much good news in urban America—and Kansas City, Mo., is an excellent case in point.

The leadership of this progressive community have forged a unique coalition of urban forces that has literally raised the city so as to prepare it for the problems of today, as well as the challenges of tomorrow.

In the last 4 years, these good people have tackled this renaissance in their metropolitan area with a $5.3 billion construction program. We in Washington have followed it closely. They are rightfully proud, for it is clearly stamped, "made in Kansas City."

On March 13, our colleague Senator EAGLETON, Congressman RICHARD BOLLING, the dean of the Missouri delegation, and I had the privilege of hosting a luncheon attended by some 80 persons including Members of the Senate and the House, Federal departments and agencies. We had the rare opportunity to hear Kansas Citians tell the exciting story of this "city in renaissance."

Presentations were made for Mayor Charles Wheeler and by Dr. Charles N. Kimball, president, Midwest Research Institute, and Judge Charles E. Curry, president of the Kansas City Chamber of Commerce and chairman of the board of Home Savings Association.

Others present from Kansas City included Henry Block, president, H & R Block, Inc.; Robert H. Gaynor, vice president and general manager, American Telephone & Telegraph Co. Long Lines Division; Miller Nichols, chairman of the board, J. C. Nichols Co.; Richard K. Degenhardt, executive vice president, Chamber of Commerce of Greater Kansas City; Charles Jennings, president, Kansas City Stockyards Co.; Merrill Talpers, chairman of the board, Kansas City Convention & Visitors Bureau, and Ray Bennison, president, Kansas City Convention & Visitors Bureau. Mayor Charles B. Wheeler, who had planned to attend was forced to cancel because of airplane problems.

They were joined by a long-time friend—and Kansas City's most famous "chief"—Clarence M. Kelley, director of the Federal Bureau of Investigation.

Most of us have attended hundreds of luncheon presentations during our years in Washington. "City in Renaissance," stands out as one of the most effective meetings in which I have taken part.

I believe this story should be shared for the lessons it offers other cities elsewhere. I therefore ask unanimous consent that the remarks of the Kansas Citians be printed in the RECORD.

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

KANSAS CITY, A CITY IN RENAISSANCE

(Remarks of Mayor Charles B. Wheeler, Jr., delivered by Robert H. Gaynor)

Business and government have buried the hatchet in Kansas City—and not in each other's backs.

The kids would say, "We've put it all together in Kansas City." And we have. It's the foundation of our truly exciting renaissance.

It's also a direct benefit of the Prime Time program sponsored by our Chamber of Commerce.

We've gone beyond rhetoric. The businessmen in this room and government are working together on a day-to-day basis to solve our problems. This ecumenical spirit has had a dramatic effect on our city—our citizens—and our ability to overcome problems that other cities still face.

Here is our record:

On four different occasions, citizen support has manifested itself at the ballot box. It has come in the form of the two-thirds majority necessary in Missouri to pass bond issues for major civic improvements. Because of this "can do" attitude, Kansas City now has a new $250-million international airport; a $71-million sports complex with the world's only twin baseball and football stadiums; a brand new professional hockey and basketball arena; and a modern $30-million convention center under construction next to our Municipal Auditorium.

Our businessmen have paid profit dollars—not lip service—to civic improvements. Our Kemper Sports Arena is a reality because of a $3.2-million contribution from the family of banker R. Crosby Kemper. Business leaders have pledged $3 million to insure the construction of a new Center for the Performing Arts on the campus of the University of Missouri at Kansas City. On an earlier occasion, a group of 12 Kansas City businessmen (some of whom are in this room) advanced the city $1.25 million for the engineering plans for the new convention center—and they did so long before it was passed by the voters.

The Kansas City business community also actively supported our successful efforts to pass an additional half-cent sales tax last August for the support of our schools.

For its part, city government has been far from a silent partner in the area-wide renaissance.

We've supported the business community's efforts with money and manpower. The payoff of business and government working together toward common goals has been new business, new jobs, new conventions, new tourists—and a better place for all our citizens to live.

Despite the problems we face, Kansas Citians have not lost faith in our city, its government, its business community and its ability to handle challenges of the future.

This is not empty rhetoric from a Mayor who is running for re-election.

As a lawyer, I submit the following evidence:

Not long ago we asked a nationally recognized opinion research organization to find out how Kansas Citians compare our city with other similar-sized cities as a place to live. More than half of those questioned said they believed it was a better place to live—while only five per cent said they were disappointed.

Our city-government Action Center—which boldly advertises for citizen complaints—allows Kansas Citians not only a place to gripe, but also a chance to rate the quality of government service they now receive. After six months of operation—and 12,000 requests for help—the Action Center reports that an amazing 80 per cent of our citizens are pleased with the government service they've received.

As someone recently wrote, "Boss Pendergast wouldn't believe it."

This expression of citizen confidence hasn't come easy. It's taken a great deal of commitment on all our part—and perhaps more than our share of gambling on the future. But as the poker players say, "The pot is worth the ante."

REMARKS BY DR. CHARLES N. KIMBALL

I don't know if it's common for a city to come to Washington as we come today—seeking nothing, preaching no gospel, nor angry over Washington events.

I ask myself—as surely you must be asking yourself—Why are we here today?

Eight or nine years ago, Stu Symington's invitation would have frightened us. Kansas City in 1964–65 was a cozy—often glorious—place to live, blessed in its isolation with verdant parkland, and blue waters, and seated amid a hilly rocky topography of immense charm.

We seldom ventured out and we were rarely disturbed by visitors.

For many years after the siege of the Pendergast era, we slowly cultivated our famed inferiority complex. It hasn't always been good manners in our town to be ostentatious or too forward.

Every time we were told by outsiders that "Kansas City didn't have any allure" we retreated ever deeper into ourselves—satisfied with an enviable quality of life, yet envious, all the same, of San Francisco, Boston, Atlanta, Dallas, and even St. Louis—which put together the Arch and Busch Stadium on its riverfront.

Without any Grand Design or orchestrated ballyhoo, we slowly began to stir from our long hibernation. In the late 1950's massive annexation brought growth onto the city tax rolls. The klaxons of that Super Bowl Victory in New Orleans over the Vikings of Minnesota aroused a dormant civic pride, and suddenly, architecture and construction became our way of life.

Soon, our new hotels began hosting new visitors; aviation experts and aviation writers toured Kansas City International airport and TWA's unique operational headquarters; city planners and urban writers arrived steadily, as did photographers and feature writers.

Surprisingly, we began reading about ourselves.

More recently, other cities have sought our counsel, seeking the double magic of progressive growth and an enhanced life style. Some friends in St. Louis, once our model, asked me to visit them, then said—"What the heck is going on over there? All we hear about is Kansas City, Kansas City. How can we get it going here?"

Sixteen French urban specialists scheduled a Kansas City trip, then engineers from Thailand, then the leadership of Des Moines, then an invitation from Seattle, then Boston, then Little Rock, with Omaha and Sacramento coming up in April and May.

Kansas City was selected as host city for annual meetings of IT&T, A&P, F. W. Woolworth, and Chrysler introduced its 1974 model line in our town.

Suddenly business expansion was no longer passing us by. Eastern businessmen began looking our way—and new industry with new jobs and new taxes were the prizes.

Business and investment has been attracted to our metropolitan area. Kansas City businesses and industry are now encouraged to not only stay put—but to expand; tourism, meetings, and conventions are being pursued successfuly; and last—but certainly not least—Kansas City Spirit—famous at the turn of the Century—has been rekindled, nurtured, and force-fed.

Leadership—at the highest level—public and private has emerged in this meaningful renaissance!

The answer is what we call Prime Time, a joint business and local government program revitalizing Kansas City and its Spirit—and beginning to tell the world about it. This is not difficult selling—the troubled cities of this nation are hungry for successful solutions to our nagging problems.

Men of the caliber of Donald Hall, president of Hallmark Cards; Miller Nichols whose company has built the finest residential district in America; and former Mayor Ilus W. Davis set truth and credibility as our guidelines.

Our goals—then and now—are not conventional.

Manageable growth of our own choosing at our own pace.

Improvement of our superior quality of life. How people live is far more important to us than where they live.

Better employment, education, medical and cultural facilities for every citizen.

A city designed for the cultivated intellects we expect in the coming decades.

Retalistic new guidelines for the funding and operation of our modern metropolitan area.

We seek to create a city that people choose to work in, to live in. A city where their children are educated properly. We want them and all our citizens to live in grace and dignity.

If the companies we attract aren't concerned about the life quality of their employees—then we aren't sure those companies are right for us. We seek to marshall our talents and find a realistic alternative to urban living as it is known today, in so many less fortunate places.

That's how we started and, in part, why we are here today.

Now I'd like to ask Judge Charles Curry to highlight some of the specifics of Kansas City's past few years.

REMARKS BY CHARLES CURRY

Since its inception, the Price Time program has been a gathering of eagles—not a flocking of pigeons with their wing feathers clipped. This vital leadership ingredient has been indispensable to our success and our unprecedented progress.

Let's be completely honest with each other. Leadership is what made Prime Time a vital model that other cities can, and are, following.

When we first sowed the seeds of our $3.4-billion renaissance, few of us realized **where** we were heading. We knew what we wanted to do—and set out to accomplish it. We also realized we'd have to work together if a better Kansas City was going to become a reality.

In the process, business leadership invested more than $2.5 billion of their own money in Kansas City and its future.

As we moved beyond 1972, the magnitude of what was happening became crystal clear to us—and to the rest of America. Kansas City had grabbed the interest of the nation. Businessmen and government representatives from other cities visited us to get a first-hand look at what was happening in Kansas City.

They discovered that in only three years, we had given birth to a list of civic improvements that most cities don't realize in a lifetime.

Let me give you a quick tour of what people are calling, "The New Kansas City":

Kansas City International Airport, the first in the nation to be designed for people—as well as airplanes—is a reality. In its first year KCI stimulated more than $150 million in additional investment in Kansas City—and influenced the design of new airports in Dallas-Fort Worth, Munich and Frankfurt.

Crown Center—the $250-million jewel in Kansas City's crown—is the talk of the nation. With this city-within-a-city—a monument to the community involvement of Hallmark Cards—Kansas City has a luxury hotel, a new convention location, new shops, restaurants and offices. It's the most innovative private redevelopment project in the country.

There's new life in downtown Kansas City. New buildings valued at more than $150 million are either completed, under construction, or approved in the heart of our city.

They include the new convention center complex to be opened in July 1976; and the new $21-million Kemper Sports Arena—already known as the Madison Square Garden of the Midwest. There's the new Mercantile Bank Building, the Executive Plaza office building and City Center Square, a $30-million office complex is going up in the heart of our city.

Regency Hyatt plans a new $50-million convention hotel across from the Convention Center and Mutual Benefit Life is building its first regional headquarters just south of Crown Center.

We expect downtown development to add an additional 30,000 jobs in the central business district and boost downtown sales volume by $60 million.

The $71-million Harry S. Truman Sports Complex is now well-known. It's the home of the world's only matched set of professional baseball and football stadiums. Today Kansas City is Big League in every way—one of only nine U.S. cities with professional teams in all four major sports.

We've become a second home to Texas sportsman Lamar Hunt. Hunt has invested heavily in the Kansas City Chiefs—and also added some $25-million investment in Worlds of Fun, a tourist facility that drew more than a million people to our city last year.

River Quay, a new "old" town has brought people back to the waterfront where Kansas City began.

Social projects have not been forgotten. There's a new $13 million University of Missouri at Kansas City Medical School, a $29 million teaching hospital at the Kansas City College of Osteopathic Medicine, a $20 million Penn Valley Community College and a $5 million Dr. Martin Luther King, Jr., Memorial Hospital in our black community.

And when Kansas Citians thought the boom had crested—it produced a second wave of renaissance. During 1974, the original $3.4-billion program stimulated an additional $1.9 billion of investment in our city.

Success has bred more success. New business, new investment and new jobs were achieved—and our way of life hasn't changed.

Link Programs of Chicago and the Kansas City Terminal Railway Co. have announced plans for Pershing Square, a $500-million, 25-year phased development of historic Union Station—just across the street from Crown Center.

J. C. Penney Company is constructing a $35-million catalog warehouse.

Our unique foreign trade zone—the first in the heartland of the nation—has become not only the biggest in the U.S.—but larger than all others combined. With it, an international port has been born on the prairie.

Armco Steel, a long-time corporate citizen of our community, has announced an expansion of more than 50 per cent—and a potential growth of more than 2,000 new jobs.

Despite inflation and the energy crisis more than 100 new companies—equaling an all-time high—visited Kansas City during the past year. Eleven new businesses located in the city and some 36 local firms expanded operations creating nearly 5,000 jobs.

Convention bookings and attendance set records. More than 278,000 delegates accounted for more than $50 million in revenue for Kansas City. Tourism hit 3 million visitors—a new high—and added another $18 million to our income.

Kansas City will be one of only two American cities to host the famed Chinese Art Exhibition that is now showing at the National Gallery here. And for the first time, we, and the Midwest, will host the top-level Japanese-U.S. Businessmen's Conference in June.

Our litany of change has been far-reaching. It goes beyond the brick, mortar, steel and glass of new buildings. Our view—and our viewpoints—have changed. We've seized an opportunity that comes only once in a lifetime.

Now I'd like to ask Charlie Kimball to return to the podium and reflect for a few minutes of The Kansas City Experience—and what it means to the future of all urban America.

REMARKS BY DR. CHARLES N. KIMBALL

Before we wind up our presentation today, let me make a few closing observations that are pertinent to this discussion.

Kansas City is not yet Utopia. We still have problems to solve.

But, neither is our experience a one-time fluke of the American urban scene. It is probably best described at the crest of the urban wave of the future for some cities.

It symbolizes what is happening, to a perhaps lesser degree, in Minneapolis, Seattle, Little Rock, Cincinnati, Louisville, Denver and Houston for example. These cities are neither obsolete, unmanageable, nor crowded with crime, corruption and congestion.

Like Kansas City, they have the space, time, and environment to plan carefully for the future.

Perhaps the difference is that in Kansas City—its people and its leadership—are committed to demonstrating an attractive new option for urban dwellers throughout this nation—a new quality of life within a metropolitan center.

An obvious problem exists in how to handle our end-of-the-century population of nearly 300 million Americans. Left to its own devices, this massive population will drift in excessive numbers to the very large cities—and none of them can handle it. This uncontrolled growth cannot be checked by rigid attempts to set immigration limits. Expansion and ugly sprawl can be checked only by attracting growth to other cities that can survive.

In the past, the skilled craftsmen and the professionals went to the so-called centers of action—Los Angeles, New York and Chicago—which lack the alternative we now provide.

There are 75 metropolitan areas in the U.S. with populations under one-and-a-half million that appear to be able to absorb, in an orderly fashion, the population increase now forecast. Many of these cities have options open that if properly exercised can assure that they will be both liveable and governable in the year 2000. But only a few of these cities are exploring their options to bring this about.

The successful city of the future must take action now—and not rely on external forces, and passively flow with the tide. Few great cities are historical accidents wherever they are located. Great cities develop because thinking men take hold action.

We've learned a lot on our renaissance road.

A firm commitment toward controlled, manageable growth is a necessity. We will not hustle pell mell in any direction to achieve growth for its own sake. Our growth is slower than Dallas, Houston and Atlanta and we like it that way. Bigness for its own sake alone can only lead to the inhumanity found too often in many of our present cities.

An honest to God coalition of top-level business and government must be forged if cities are to continue to be places where our citizens want to work—and to live. Mutual respect and cooperation are the key words.

Despite the recessionary trends in the national economy, businessmen can't back off from the job of helping to rebuild our cities. Business leadership has to care as much about their cities, as they do about their P & L statements, and their country clubs. Without this concern, there might not be any business or country clubs to attend to.

Cities must act for themselves—and not wait for Washington to save them.

Good News on the U.S. Urban Scene—like leadership—isn't born, it's made. Cities like Kansas City are—and will be—exactly what we make them.

What we've made in Kansas City runs counter to the national recessionary trend.

Our outlook for 1975 is optimistic and bright.

Non-residential construction in Kansas City was up more than 12 per cent in 1974—and is headed for another boom year.

Ten new civic improvement projects—valued at more than $1.3 billion are now under construction. A backlog of another billion dollars is expected to be ready to go as the current projects near completion.

Thirteen capital improvements—including seven first-class hotels—were completed and open last year.

Bank resources, deposits and loans—which all hit record highs in 1974—are expected to continue their strong growth in '75. Retail sales—also at record levels during the last year—are forecast to continue to rise.

Agribusiness—which represents 53 per cent of Kansas City's $4 billion GNP—is off and running.

Although residential construction was sharply reduced in Kansas City, as it was in the rest of the nation, a 12 per cent increase is forecasted this year. Unemployment has hit an amazing high of 5.6 per cent for us—it remains two or three per cent beneath the fast climbing national averages.

Add to all of this the surprisingly diversified economy of Kansas City and you can see where we get almost unprecedented economic stability. As one fellow said, "We make everything but ships and cigars."

Thank you for joining us today. I hope we'll have the opportunity to show you Kansas City in the near future.

LORTON PENITENTIARY

Mr. WILLIAM L. SCOTT. Mr. President, I introduced a bill on Thursday, S. 1243, to encourage the District of Columbia government to construct penal institutions within the District as a substitute for facilities at Lorton in Fairfax County, Va. The Lorton problem has existed for a number of years and the frequent escapes and disorders within the institution have been a constant concern of Virginia resident for many years. So much so that the Attorney General of Virginia filed suit to have the prison declared a public nuisance and Fairfax County has instructed its attorneys to file a proceeding to obtain the removal of the facility from Virginia. Our State legislature has also overwhelmingly passed a joint resolution memorializing Congress to take action to eliminate this festering sore within our State.

The basis for the problem appears to be that we have one jurisdiction sending those convicted of crime within the District of Columbia into another jurisdiction, the State of Virginia, to serve their time. It would seem reasonable for those convicted of crime within the District of Columbia be housed within the District and I doubt that the friction between the two jurisdictions will ever be resolved without the removal of the penal institution from our State.

My bill would encourage the District of Columbia to construct new facilities within the District to serve as a replacement for those in Virginia. It would permit the $65 million appropriated by the Congress in 1972 for updating District penal institutions to be utilized for this purpose and would also provide that the proceeds from the sale of the 3,500 acres of land comprising the prison complex in Virginia be given to the District of Columbia to supplement the funds already appropriated for new facilities. Should the District of Columbia government fail to construct suitable facilities and remove the prisoners by January 1, 1978, the attorney general would have authority to sell the prison complex and to construct suitable replacement facilities in the District or as an alternative to absorb all Lorton inmates within the Federal prison system.

The measure was referred to the Committee on the Judiciary where I hope it will receive early and favorable consideration. No doubt all Senators are familiar with this controversy which has received publicity through the media for many years. The passage of this bill should remove a serious controversy between Virginia and the District of Columbia, and I do ask the support of my colleagues for its passage.

NUCLEAR PROPONENT ONCE KNEW BETTER

Mr. GRAVEL. Mr. President, over the past several months, and recently on the Today television program, nuclear physicist Dr. Ralph Lapp has emerged as one of the chief promoters of nuclear power. And yet, just 3 years ago, Dr. Lapp was a very convincing critic of our leap into nuclear dependence.

Mr. Ralph Nader recently reminded me of some very important testimony presented by Dr. Lapp at the national reactor hearings in 1972. Dr. Lapp testified on behalf of the National Intervenors, a coalition of more than 150 citizen groups working to stop nuclear power.

His subject was the emergency core cooling system, or ECCS, the safety backup mechanism that is meant to prevent nuclear catastrophe in the event of a loss of coolant to the reactor.

In his remarks, Dr. Lapp noted that the ECCS was an unproven system. The confidence of the Atomic Energy Commission that the ECCS would work was based solely on design criteria and computer programs—in other words, the AEC assumed that if the machinery was designed to work, that meant it would work.

The agency overlooked the fact that the ECCS failed all six of its semiscale tests. And even though the full-scale ECCS test—called LOFT—had not been performed, the AEC continued to license new power reactors which rely on the questionable safety system.

Dr. Lapp raised the most important question concerning reactor safety: Why are we building potentially hazardous reactors before safety equipment is verified?

Dr. Lapp said:

> Given the present timetable for deployment of nuclear stations, the LOFT experiments take on the character of a post facto safety program. . . . It is difficult for me to reconcile the fact that much AEC safety research is in the future tense, whereas power reactors are in operation. . . .

Mr. President, the LOFT testing still has not been performed. It is 10 years behind schedule. And yet we continue to license ever larger and potentially more dangerous reactors.

And I would like to point out that, just as reactors represent only one of the hazardous steps in the nuclear cycle, other problems are being left unresolved as we rush into the nuclear commitment:

The safeguarding of plutonium is inadequate, even though this byproduct of the fission process could be used by terrorists to construct atomic weapons:

We continue to defer meaningful development of the desirable clean energy alternatives that are available to us, so that it is impossible to know whether we need dangerous nuclear fission at all;

And, incredibly, we continue to produce radioactive poisons in our reactors without having a plan for the permanent disposal of these wastes. Without secure storage, these poisons could cause irreversible damage to our land, our health, and to the genetic integrity of future generations.

The logic is compelling: we must not accelerate the development of nuclear power if it is unsafe for us and for those who will follow us.

I hope Dr. Lapp will again recognize this inescapable conclusion and again state it as well as he did before the Atomic Energy Commission in 1972.

Mr. President, I ask that Dr. Lapp's testimony of March 23, 1972, be printed in the RECORD.

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

ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEMS

(By Ralph E. Lapp)

I appreciate this opportunity to appear as a witness to discuss an issue of serious concern to the future growth of nuclear electric power in this country. I am deeply concerned that the present light water generation of nuclear power reactors may not employ an adequate margin of safety to protect the public health and safety.

As of January 1, 1972, a total of 23 nuclear generating units, rated at 10 million kilowatts of electrical power, are in operation. Industry has accumulated about 100 reactor-years of experience with power reactors. It might be thought that this record, laudable as it is, should install confidence in the safety of this new power source. However, this experience has been primarily with reactors of modest power: Shippingport (90Mw), Yankee (175Mw) and Dresden–1 (200Mw) for which emergency core cooling is less of a challenge than in the 500–800 Mw class, for which about a fifth of the experience applies. Of course, there is no experience with the 1,000 Mw and large nuclear units. If we reckon reactor experience in the 1,000 Mw units, then we have about 18 reactor-years of record, i.e., 18 years of operation of all reactors normalized to a 1,000 Mw level. Clearly, however, the lower power reactors which are weighted in the statistics provide no experience base in the 1,000 Mw or large scale class of reactors.

The fact that there has been no major thermal emergency (ECC accident or LOCA, loss-of-coolant, accident) in the past is of little statistical significance. An accident probability of 0.01 per reactor per year or one chance that a reactor will exhibit an ECC accident in one year's operation is not acceptable as a public risk. This would mean a 25% chance of accident over the 25 year life of the power unit. Life time operation of four such units would obviously be hazardous in the extreme. Deployment of large numbers of reactors requires that the individual reactor risk must be extremely small since the total risk is summed.

The ECC challenge is greatest in reactors exhibiting the highest power densities [1] and I believe it is instructive to reproduce here the AEC charts displaying the time sequence-growth of power plant size:

The increase in power levels imposed upon reactor design a concomitant rise in power density and this, in turn, posed an emergency core cooling problem which, apparently, presented itself to the AEC's Regulatory Staff with the Consolidated Edison application for a construction permit (Indian Point 2 application of December 1965, awarded October 14, 1966, for an 873 Mwe PWR). It seems to me that it was at this point that there was a realization, a realization still valid today, that a high degree of confidence had to be assigned to reliance on the ECCS in order to make containment "honest." That is to say, the ECCS had to function reliably, otherwise a reactor transient could overwhelm the integrity of the containment and result in the release of fission products to the atmosphere.

It was on October 12, 1966 that the Advisory Committee on Reactor Safeguards (ACRS) stressed the need for emergency core cooling systems of high reliability and for

[1] By this statement I do not mean to imply that technical evaluation and experimental verification are unnecessary or not critical for emergency core cooling systems in reactors smaller than the larger scale reactors. My point is that with the dramatic increase in the size of reactors, it is all the more necessary that critical safety problems (and particularly the problems surrounding ECC) are resolved now.

investigation of the thermal behavior of uncovered cores.

On October 27, 1966 the Director of Regulation appointed a task force "to conduct a review of power reactor emergency core cooling systems and core protection." A year later the Ergen Task Force filed its final report, "Emergency Core Cooling," containing 12 conclusions. The Ergen report defines a large number of technical unknowns in the ECC field and makes many recommendations. The report could scarcely be regarded as a confidence-builder for the nuclear industry. It is significant that ACRS (in its letter of February 26, 1968) found itself in "substantial agreement" with some conclusions of the Ergen report. It is even more significant that thereafter, in letters dated March 20 and November 12, 1969, ACRS reemphasized its recommendations on additional safeguards and research on ECCS. This repeated emphasis, including reiteration on June 22, 1971, in testimony before the Joint Committee on Atomic Energy, supports my view that safety research in the ECC sector is lagging behind time goals consonant with the safe deployment of large power reactors.

Finally, the ACRS letters of January 7 and February 10, 1972, dealing solely with ECC, make clear that the ACRS shares the views expressed here that the step-up in power density and size of reactors are unreasonable without a concomitant positive resolution of the unknowns connected with ECC.[1]

This safety gap which has opened up between the accomplishments of AEC-industry research and development and the reality of the AEC's Regulatory Staff approval of nuclear-electric stations appears to me as most significant and for this reason I would like to direct my testimony to it.

As a specific example, I call attention to the long time delays which have been occasioned in the LOFT, loss-of-fluid test facility at the National Reactor Testing Station (NRTS). I wish to emphasize this particular facility since LOFT essentiality to reactor safety is described by the AEC as follows:

"LOFT is the only integral test in the world planned to carry out a major loss-of-coolant accident experiment which integrates all of the accident initiation, response, and consequence phenomena into a single test with engineered safety systems in operation.

"Additionally, it can be noted that—

"(1) LOFT is the focal point which provides a fundamental sense of direction to water reactor safety investigations

"(2) as a live reactor in an accident mode it makes investigators face reality and

"(3) it provides a central vehicle to build and hold a competent technical staff in a vital national program." (Joint Committee on Atomic Energy hearings, FY70, Pt. 2, p. 957.)

The conceptual design of LOFT was completed in 1963 and Kaiser Engineers was the firm selected as architect engineer for the facility. AEC testimony in 1964 stated: "This experiment is scheduled for test operation in late 1966." (JCAE Authorization FY65, p. 764). Testimony last year (JCAE Au. FY72, Pt. 2, p. 855) stated that LOFT was 60% complete in its construction and that initial operation was scheduled for late 1973.

Thus it appears that LOFT is seven years behind schedule and that high temperature operations will be delayed until 1975. Given the present timetable for deployment of nuclear stations, the LOFT experiments take on the character of a post facto safety program.

LOFT is not an isolated example of slippage in time-framing of the reactor safety research program. If we look at the AEC's WASH-1146 "Water Reactor Safety Program Plan" (February 1970), we find a tabulation of 50 individual programs in reactor safety, 15 of which are classified as *Class A Priority* defined (p. I-14):

"*A:* This is applied to *very urgent, key* problem areas, the solution of which would *clearly* have *great impact*, either directly or indirectly, on a major critical aspect of reactor safety." (Emphasis as in original document.)

In addition, 20 of the programs are stipulated as *Class B Priority*, meaning:

"This is applied to problem areas which are *demonstrably* of high interest due to their potential *effect* on reactor safety."

Many of these programs relate to the ECC issue: yet the document shows them extending over a four to five year time span, beginning in fiscal year 1970.

It is difficult for me to reconcile the fact that much AEC safety research is in the future tense, whereas power reactors are in operation. It seems to me that this situation places the AEC's Regulatory Staff in an awkward position when it is called upon to approve new plant construction and operation. The position will be very much more awkward as and if utilities continue to advance reactor designs employing higher power densities. It is pertinent to note that the ACRS (JCAE Au Hrg FY71 Pt. 1, p. 133) stated:

"While the resolution of the ECCS issue is believed acceptable for most reactors at listed powers and power densities, the Committee is not now prepared to advise on the acceptability of ECC systems for higher power density cores. Experimental work is required to provide a basis for evaluation of operating and accident behavior at higher power densities. The ACRS also notes that more experimental work is required to establish the degree of safety and conservatism in current ECC systems."

I note that the December 28, 1971, statement of Aerojet Nuclear Company (p. II-22) states:

"The development of analytical models used to analyze and predict the events of loss-of-coolant accidents in water-cooled reactor systems should be complemented with experimental tests which provide data to evaluate and verify the solutions of the analytical models. Without such experimental tests and resultant data, meaningful confidence limits cannot be established for the analytical models."

When over a year ago LOFT semiscale tests indicated a deviation of experiment from the predictions of calculational codes, the Regulatory arm of the AEC established a task force to review the data and in June 1971 Interim Criteria for ECCS were stipulated. In a number of public statements (*New Republic*, January 23, 1971), I proposed application of limits to reactor power levels and conservative siting policy to reduce the population at risk to the radioactive consequences of a thermal catastrophe. The AEC Regulatory Staff (p. 1-32 of its January 27, 1972 testimony) rejected such proposals in favor of the evaluation model approach. But how good is such a model when it lacks experimental verification?

LOFT experiments later in this decade will test the predictive capabilities of analytical models but complete verification may not be attained since LOFT is a 55 Mwt reactor and application of the results involves a scale-up of more than a factor of 60. Furthermore, a limited series of LOFT experiments can test only certain ECCS efficacies. Indeed, a full-scale test with an operating power reactor would provide only a single set of results applicable only to the specific accident mode and core history of the reactor.

The siting of nuclear-electric stations adjacent to large populations imposes extraordinary responsibilities on the regulatory agency which must license these plants. A nuclear power plant constitutes a unique metropolitan hazard both in nature and in potential magnitude. I can think of only one parallel of comparable risk, namely, siting a large population in a valley directly below a high dam. In such a case there is direct, line-of-vision perception of the threat and graphic comprehension of the consequences of a dam failure. It is, of course, a low probability event. Given no earth disturbance, such as a seismic shock, people could put confidence in the engineering record of the dam builders, but rare events, such as earthquakes, can have high consequences and this is precisely the statistical situation posed by siting nuclear plants near metropolitan populations.

However, the layman is not apt to have line-of-sight perception of the nuclear risk. If he objects to the siting of a nuclear plant in his vicinity, he is at a disadvantage in intervening to oppose the nuclear action. In order to match wits with the nuclear utility, the intervenor needs time, money and availability of competent technical authority. I would estimate that perhaps $500,000 is the sum needed to fund an adequate intervention. Very often an intervenor finds it almost impossible to obtain the services of qualified persons to serve as experts. Too often, the intervenor has felt that he was in contest with not only the utility and the nuclear vendors, but also with the Atomic Energy Commission. If local intervention is to serve as a check on deployment of unsafe reactors or of unsafe siting, then intervenors must have access to some independent authority with which to challenge the organized technical resources of the utility.

As an example of the problem of democratic application of checks and balances in a nuclear issue, I cite the 163-page statement submitted as the AEC Regulatory Staff Testimony. On page 2 of the Forward, it states:

"As the testimony indicates, the technical data available today have been combined with complementary conservative assumptions and procedures in the evaluation models. Together, these give reasonable assurance that a design meeting the criteria will provide adequate protection to the health and safety of the public."

But if we were to turn back the clock to the days before the Semiscale tests 845-851, and assume that the Regulatory Staff had then been required to prepare a statement like the 163-page testimony submitted in this proceeding, would it not have been quite different in its character? Would "reasonable assurance" as then posited have been as conservative as set forth in Staff Testimony or perhaps as additionally required by the data disclosed at the public hearing? We are not given a definition of what the Regulatory Staff means by "reasonable." In any event the health and safety of a large population is being decided by a small population of experts who put their trust in evaluation models whose predictive capabilities are subject to future verification. It is significant that neither the statement of Aerojet Nuclear Company nor the testimony of Milton Shaw defines the time scale for LOFT. The long delays in bringing the LOFT reactor into operation constitute a serious deficiency in the AEC's reactor safety research program and point to a need for examination of the mechanisms by which the AEC Regulatory Staff coordinates its research needs with the AEC's Division of Reactor Development and Technology. It would be pertinent to know how the Regulatory arm of the AEC has expressed its concern over the long delays in the LOFT and other safety programs.

In his testimony (p. 3), Mr. Shaw states:

"The background and pertinent information pertaining to our safety R&D program and its relationship to other ongoing R&D programs and to the U.S. civilian power program have been presented in many official AEC publications and covered in depth in

[1] See also Water Reactor Safety Program Augmentation Plan, Report of RDT, pp. 7-8, 26-27, November 1971, Exhibit 1026 herein.

annual testimony before the Congress. (References 4–7, 10, 11)."

In his testimony, at pages 11 and 13, Mr. Shaw appears to indicate that design analysis might somehow be a substitute for implementation of the research and resolution of the problems set forth in the Water Reactor Safety Program Augmentation Plan. I believe it very important to make clear that, whereas design modifications, operating experience and compliance investigation are all critically important to the safety of nuclear reactors, they are in importance considerably outweighed by the basic research and experimental verification which are now lacking. To put it another way, I am not satisfied with "defense in depth" without the step-up in research and resolution of ECCS safety problems and other limitations I have recommended in my testimony; indeed, the reliability of "defense in depth" is still in question.[3]

The introduction (Chapter 1) to the Staff Testimony and Mr. Shaw's testimony advance the argument that technical debate on safety issues can be endless and therefore trade-offs, including philosophical trade-offs, must be made. In my judgment, in the area of predictability of ECCS effectiveness, such trade-offs are an unacceptable substitute for experimental verification, particularly in connection with large scale reactors. This is all the more true when one realizes that trade-offs suggested by the AEC and industry include so-called "conservative assumptions" which also have no experimental verification. We thus cannot logically argue that safety is provided by a conservative or bounding assumption when that assumption has not been supported by experimental verification but rather by computer codes whose reliability is severely questioned.[4]

At page 18 of Mr. Shaw's testimony, he states that it is his conclusion that "no crucial R&D data is [sic] required to make a determination on these interim criteria for application to current designs" and at page 20 in the first paragraph he sets forth what are in his judgment "the necessary steps to achieve the requisite degree of safety considered essential by the nuclear community."

I wish to make it clear that these statements of Mr. Shaw are unsupported in that the hearing has thus far demonstrated that crucial R&D data are required and that there has been demonstrated thus far that many experts in the nuclear community believe that the most urgent steps necessary include prompt resolution of ECCS safety programs by experimental verification. Indeed, the statement in the first paragraph of page 20 of Mr. Shaw's testimony is directly in conflict with the report of his Division under date of November 1971.[5] Therefore, within the context of my testimony, I do not believe that the AEC Interim Acceptance Criteria for ECCS issued in June of 1971 are adequately conservative for use in analyzing severe, hypothetical design basis loss-of-coolant accidents.

I submit that the AEC's safety program is deficient in publication of up-to-date and critical evaluations. I admit that this deficiency is being corrected and the situation is improving. But I have taken the time to recheck the literature references cited by Mr. Shaw and I find that the AEC's safety program has been inadequately dealt with in Congressional hearings. In some years the Joint Committee on Atomic Energy glossed over the issue with no critical examination of the program. The most recent literature cited by Mr. Shaw (AEC Licensing Procedure and Related Legislation, Hearings before the Joint Committee on Atomic Energy, 4 parts, 2090 pages) is almost exclusively devoted to regulatory matters, with only little attention given to reactor safety. One would have thought that the Idaio Semiscale Experiments would have been treated in detail by the Joint Committee. Instead, the issue was dealt with by calling Mr. Shaw from the audience during a hearing to testify briefly on the problem. The Joint Committee concerned itself with studying means of expediting the licensing procedures; and most recently in connection with Joint Committee on Atomic Energy hearings on budget and interim licensing, safety problems were ignored.

I do not wish to appear to be unduly critical of the Atomic Energy Commission, but the nature and magnitude of potential nuclear risks demand a public accountability which imposes unusual responsibilities upon the AEC. Our democracy must invent mechanisms for dealing with technological risk so that checks and balances are applied to the decision making of the AEC, particularly since the emergency core cooling issue involves complex technology, as illustrated by the technical details of various testimony thus far presented here.

To summarize my position, I believe that the Atomic Energy Commission has allowed reactor safety research to lag so that its Regulatory Staff is called upon to judge reactor applications without an adequate experimental base which verifies the evaluation models and checks out the calculational codes of the safety statements submitted by the utilities. Furthermore, it is my opinion that new mechanisms are required to provide independent checks and balances for the protection of the public health and safety in areas where high power reactors are sited.

It appears to me that part of the explanation for the faltering AEC safety program in ECCS may be ascribed to the undefined role of the nuclear industry in this area. There was apparently a belief within the Atomic Energy Commission that it had fulfilled its promotional aspects of reactor development during the late 1960's and that it was up to industry to assume responsibility for the safety of the reactors which were being marketed. In this connection the Advisory Committee on Reactor Safeguards (JCAE Au. Hrg. FY71 Pt. 1, p. 115) commented:

"We are unable to determine what factors determine industry vs. AEC funding of reactor safety research programs, other than in those cases where the AEC discontinues support. Then the decision is clearly up to industry."

It is my impression that interest within the AEC shifted from safety research on water reactors to programs oriented toward the power-breeder and that this also accounts, in part, for deficiencies in the present water reactor safety program.

The proprietary nature of certain reactor safety information developed by nuclear vendors may be tantamount to a classification of data which denies the public access to information vital to their understanding and participation in public hearings.

In conclusion, I wish to summarize some suggestions and recommendations which may be constructive in increasing public confidence in nuclear power safety:

1. Require the Atomic Energy Commission to submit an annual report on progress in nuclear reactor safety programs. I would suggest that this report include the separate comments of the Regulatory Staff and of the Advisory Committee on Reactor Safeguards.

2. Amend the Atomic Energy Act to require biennial public hearings of the Joint Committee on Atomic Energy for the purpose of investigating the current status and adequacy of the AEC-nuclear industry safety programs.

3. Direct the Atomic Energy Commission to issue specific criteria for the siting of power reactors, defining the allowable population at risk as a function of distance from the reactor site. (The absence of specific criteria has allowed escalation of the population at risk to a point where the Newbold Island facility would, if approved, "see" 0.75 million people within a radius of 10 miles.)

4. Encourage the nuclear industry to redesign reactor cores to effect a reduction in power densities so as to ease the burden on the ECC system in the event of a coolant accident.

5. Require power derating of the large scale reactors under construction and presently seeking operating authority within a radius of 10 miles from the reactor in which are situated more than 10,000 persons.

6. Direct the Atomic Energy Commission to initiate a program to develop core restraint systems (i.e., "corecatchers") as part of a defense-in-depth safety system to insure the public safety and protect the environment. (I would add that such a safeguard becomes essential for offshore reactors, since a melt-through could result in extensive marine contamination.)

7. Consider type certification of power reactors, treating the reactor core and primary coolant system with ECC systems as a unit so as to facilitate licensing of nuclear reactors.

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[3] In connection with defense in depth, I call attention to the Reactor Operating Reports published by the United States Atomic Energy Commission, a summary of which appears as an appendix to other testimony of CNI, and to a recent publication of the Oak Ridge National Laboratory entitled "Safety-Related Occurrences in Nuclear Facilities" as reported in 1970 by R. L. Scott, ORNL–NSIC–91. These documents would appear to call into question the conclusions by Mr. Shaw that design research has been sufficient to provide for assurance necessary for the protection of the health and safety of the public. Moreover, it is well known that the regional offices of the Compliance Division are not adequately staffed.

[4] See Shaw Testimony, pp. 13–14, 18, 20 and 24.

[5] See Water Reactor Safety Program Augmentation Plan, Report of RDT, November 1971, and *supra*, N. 2.

TRIBUTE TO A DYNAMO

Mr. GRIFFIN. Mr. President, the sudden death last week of Prof. Keeve M. Siegel has stirred the sympathies of many Americans. Professor Siegel, scientist and owner of KMS Fusion Industries, Inc., of Ann Arbor, Mich., was testifying before the Joint Committee on Atomic Energy last Thursday when he slumped in his chair and suffered an apparent stroke. He was rushed to George Washington University Hospital where he died of a cerebral hemorrhage on the following day, March 14, 1975. His death is a great loss not only to his family, friends, and associates, but to my State and the entire Nation.

Prof. "Kip" Siegel was a former University of Michigan professor and an expert in electromagnetic theory. Since 1969, he has been in the forefront of research efforts to develop an alternate source of energy through the perfection of laser-fusion techniques.

Almost alone among private firms in

this field, his small company, KMS Fusion Industries, Inc. had done some of the most advanced work in nuclear fusion in America. Its achievements are a tribute to both the creative genius of private enterprise and the personal drive and commitment of Mr. Siegel himself.

Long before most Americans recognized the critical need to develop our country's own sources of energy, Professor Siegel and his associates were working on a potential solution. It is appropriate that we honor the memory of this man whose work will be a legacy to future generations of Americans.

Accordingly, I ask unanimous consent that the Washington Post editorial of March 19, 1975, and an article in Fortune magazine of December 1974 describing his company's research efforts into laser fusion, be printed in the RECORD.

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

[From the Washington Post, Mar. 19, 1975]

KEEVE SIEGEL AND FUSION RESEARCH

Last week, as he was beginning to read a statement urging Congress to provide more funds for nongovernmental fusion research activities, Keeve M. Siegel collapsed. He died a few hours later as the result of a cerebral homorrhage. His friends and his associates in a little known corporation called KMS Industries Inc. attributed his death to overwork. For years, he had been pursuing, day and night, one of those ultimate dreams—the successful generation of energy, in a controlled way, from the fusion reaction that provides the power of the hydrogen bomb.

The story of Mr. Siegel and KMS contains some insights that ought to be kept in mind now that the need for success in fusion research is so pressing. He organized his company in 1969 with the intent of tackling head-on the government's monopoly on nuclear energy research. His fights with the old Atomic Energy Commission were monumental—over patents, secrecy and personnel. The claims his company made for its research were often disputed by scientists at the AEC and elsewhere. But in the last year or so, after he and his associates had poured around $20 million of their own money into the research, the claims began to be taken more seriously. Several articles have appeared in various journals suggesting that KMS has developed the most advanced system in the world for using laser beams to generate the pressure and heat needed to make the fusion reaction work under controlled conditions. Just this month, the new Energy Research and Development Administration awarded KMS its first government contract—$350,000 for a series of experiments with its laser equipment. That led Science magazine to speculate that the new energy administrators had decided it was in the national interest for them to join forces with KMS.

We have no idea whether the laser process for fusion being developed by KMS will produce the kind of results needed for a major technological breakthrough. We do know, however, that such a breakthrough would be of immense importance. If energy can be generated someday on a commercial basis from the fusion reaction, the energy crisis will be over. The basic fuel for fusion, deuterium, is cheap and practically inexhaustible. Its by-products would be not nearly so dangerous as the by-products of the current fission reactors or of the planned breeder reactors or, even, of coal-burning furnaces.

While no one anticipates the use of energy from any fusion process on a commercial basis for at least 20 years, this is an area of research the government needs to push more in the future than it has in the past. To do that, the walls of secrecy about atomic energy that the AEC erected so carefully in the 1950s will have to be broken down more than they already have been, and the resistance to outside criticism and ideas that marked the old AEC will have to continue to disappear from the new energy administration. The existence of those two factors, as well as the AEC's rejection of entrepreneurs like Mr. Siegel, may well have slowed the development of atomic energy. Mr. Siegel's life work is a forceful reminder that even in this complex and extremely expensive area of research, there is a place for devoted and gifted scientists who don't fit into the conventional molds of normal government administration.

[From Fortune, December 1974]

KMS INDUSTRIES BETS ITS LIFE ON LASER FUSION

(By Gene Bylinsky)

In the world of thermonuclear-fusion research, a certain bigness prevails—immense potentialities for the future, grand-scale efforts to overcome the technical obstacles, huge costs that only governments can afford. Yet a small company in Ann Arbor, Michigan, has been agitating that world with some seemingly audacious claims of success. KMS fusion, Inc., says its scientists have mastered the key mechanism of laser-driven fusion—a feat that has so far eluded the big teams of government researchers in both the U.S. and the Soviet Union, as well as smaller groups in Great Britain, France, Japan, and West Germany.

What's more, the brash little company attained its results with exceedingly low laser energy. This raises questions about the soundness of U.S. and Soviet plans to build mammoth lasers, which many scientists in both countries think are needed to attain success.

Experimental proof that laser fusion can be made to work would strengthen hopes that this new approach will leap-frog the older, more ponderous schemes to achieve fusion through magnetic confinement. (See "Lasers Blast a Shortcut to the Ultimate Energy Solution," Fortune, May.) Trying to kindle on earth the fusion that powers the stars, scientists have attempted to confine ionized gas, called plasma, inside magnetic fields, or "magnetic bottles," in the innards of big and expensive apparatus. In the interior of the sun and other stars, fusion takes place because of enormous gravitational pressure. Inside the experimental devices on earth, the plasma has to be compressed and heated electromagnetically to ignition. (Fusion scientists use terms such as "ignition" even though fusion, in which nuclei of light elements merge, is a different kind of process from chemical combustion.) There has been encouraging progress in magnetic confinement lately, but after nearly a quarter century of research and expenditures of more than $500 million in the U.S. alone, that approach hasn't lit the magic fire. A major difficulty is leakage from the magnetic bottles.

THREATENING TO UPSET THE SCENARIO

Laser fusion greatly simplifies the confinement scheme. Converging laser beams would hold a tiny ball of fuel for a brilliant moment, compressing it to a density 100 times that of lead and thus start ignition. The resultant flux of neutrons would be captured as heat and transformed into electricity or made to do other useful work.

In the U.S. large-scale work on laser fusion began only about five years ago. The Soviet Union started earlier and now runs an impressive effort. The U.S. has been building up a similar enterprise, with $64 million in federal funds going into laser fusion in fiscal 1975. As part of the expanding federal program, a huge $25-million laser will be built at the AEC's Lawrence Livermore Laboratory near San Francisco to become operational in 1977. The Soviet Union is building a similar lasser. Official U.S. plans do not call for possible commercial use of laser fusion until about the end of this century.

When KMS Fusion barged in, threatening to upset this leisurely scenario, the not unreasonable question arose how a small company, the only private company working directly in the field, could have outdone the government projects of the superpowers. Some skeptics suggested that KMS Fusion had made up the story to raise funds so that it could continue research in laser fusion. But the doubts faded considerably as the company kept reporting further advances. At a meeting of the American Physical Society in Albuquerque in October, 500 scientists listening to a KMS scientist reporting on the latest tests burst into applause when he finished.

What KMS Fusion has done so far, to be sure, is a very early step toward eventual construction of laser-fusion reactors. The company's scientists succeeded at the end of 1973 in using laser light to produce a slight compression of tiny glass pellets filled with deuterium and tritium (isotopes of hydrogen). Last May, they compressed the pellets further and started getting some energy output in the form of neutrons from the pellets—the first time anyone had obtained compression neutrons. In late October, by turning up the laser power a little, they got much greater compressions and a lot more neutrons. The company thus appears to be on the right course toward the next step, ignition inside the barely visible pellet. This would be equivalent to the first successful chain reaction in fission.

A FIREFLY 100 MILES AWAY

There is a great difference, of course, between the tiny sizzle in the microscopic pellet that KMS has achieved so far and the brilliant intensity of a full-fledged fusion burn that must precede net energy production. In the words of one scientist, it is "the difference between a firefly 100 miles away and a giant lightning stroke." Still, KMS has overcome what many scientists in the field considered to be the critical challenge in laser fusion: compressing the fuel pellet symmetrically so as to avoid producing instabilities that would prematurely break it apart.

In a reactor, laser energy would implode perhaps dozens of such pellets each second, one after another. Before KMS conducted its pathfinding experiments there was a question whether the basic process that underlies the concept of laser fusion could be made to work. The company's experiments showed that it could. Scientists at the Atomic Energy Commission and their Soviet counterparts now call the KMS feat "a significant first step" toward attainment of controlled laser fusion.

That a small private company has outdone huge governmental research efforts is no surprise to the energetic man behind it, mathematician-businessman Keeve M. Siegel, fifty-one, who endowed his company with his own initials. Siegel believes in "the lesson of the Cavendish Laboratory," the famous British research establishment "where a few bright people outinvented the world for a long period of time. And they did this literally with wires and chewing gum. There, the people motivated each other. In a small company, there is that same kind of drive for success. Whether the drive is motivated by the scientific people like it was at Cavendish, or by the desire to make a buck, I think that's all incidental."

Siegel's own motivation includes but also transcends the desire to make money. He is

already a millionaire from a previous venture in high technology, so he can afford to indulge in some philosophy, too. A noted physicist says that Siegel "has developed a Jehovah complex over laser fusion." Siegel speaks intensely and persuasively about laser fusion as a new source of potentially unlimited energy, at once freeing the U.S. from its dependence on imported oil and cooling the inflationary fever too.

USING NEUTRONS TO FILL PIPELINES

A boldly innovative aspect of the KMS approach is the idea of utilizing fusion neutrons not to produce electricity, as almost everyone else in fusion research wants to do, but to produce methane, the principal ingredient in natural gas. The neutrons would be used to break down water molecules into their constituent elements, hydrogen and oxygen. The hydrogen would be converted into methane, which would be put straight into pipelines.

This novel idea evokes admiration on the part of some of the experts who have talked about a "hydrogen economy," in which hydrogen (produced by electrolysis) would be substituted for natural gas. Because hydrogen is so volatile, that transformation would be complex and costly, requiring extensive changeover in distribution lines, storage facilities, pumping stations, household appliances, and other hardware. The alternative "methane economy" that Siegel is preaching would supplement our supplies of natural gas (which is more than 80 percent methane) while leaving pipelines, pumps, and appliances intact. To prove out the process, KMS Fusion is already producing hydrogen "by the thimbleful and bucketful," as Siegel puts it, with neutrons from conventional generators.

Since fusion can generate more energy per pound of fuel than any other reaction, the use of fusion neutrons to produce hydrogen could be an inexpensive and highly efficient process. The lack of cheap hydrogen has been an impediment to economic coal gasification. With cheap fusion-generated hydrogen, it would be possible to produce methane cheaply and abundantly by making hydrogen react with coal or with carbon derived from limestone. "If it works," says the chairman of a pipeline company that supports research at KMS Fusion, "it will be like the invention of the electric light."

Siegel and his associates figure that by taking the shortcut from pellet to pipeline, their company could cut years from the development of economic fusion power. The design of a methane generator would be simpler than that of an electricity-generating fusion plant. Scientists at KMS Fusion talk about having a pilot methane generator operating about five years from now if the company gets enough financial and technical help from the government and from larger companies.

Most researchers at the AEC and at universities consider such optimism nothing short of reckless. Although they admire the technical achievements at KMS Fusion, these experts, almost to a man, don't see a demonstration power reactor until the mid-1990's.

STEEP HEIGHTS TO BE SCALED

Crucial tests to settle the issue may be performed in the next few months, or at the most in the next few years. Ignition will be a critical step. After that must come "scientific breakeven," where the flux of energetic neutrons and alpha particles from the fusion process equals the energy in the laser beam applied on the pellet. Another steep height to be scaled will be "total breakeven," or "engineering breakeven," where the energy produced by the pellet exceeds the energy put into the overall system that powers the laser. After that comes the tough engineering task of developing the fusion reactor.

So far, KMS Fusion has invested $19 million in laser fusion. Some outsiders doubt the company's ability to last out what they view as a long and arduous race. Siegel, who puts the cost of a methane pilot plant at about $85 million, readily concedes the possibility of having to drop out. "You are not talking to a corporation whose future is assured," he says, "and as chief executive I have told that to my shareholders."

A TOUCH OF THE GAMBLER

The answer to the question of what such a small company is doing in such an expensive and demanding field involves the ambitions and dreams of "Kip" Siegel. He is a man of huge girth and huge ego, energized by a pressing need to be liked, praised, and appreciated. An expert on electromagnetic theory and a former University of Michigan professor, Siegel has long cherished the dream of building a major corporation. He made at least $4 million from his previous venture, Conductron Corp. He has faced skepticism before. While running Conductron, for instance, he proposed a technique to make U.S. missile nose cones less vulnerable to enemy radar. Some scientists said it couldn't be done, but Siegel went ahead and proved it could.

Siegel is something of a gambler. He is part owner of a stable of trotters and likes to watch his horses run. What gamble, if it pays off, would pay more than a bet on a solution to the energy predicament? His bet on laser fusion is a big one. He has been selling off divisions of KMS Industries, the parent company, to keep KMS Fusion going, and has put in about $3 million of his own as well.

Siegel had no intention of getting into laser fusion when he started KMS Industries in 1967. Conductron, a profitable electronics company, had been absorbed into McDonnell Aircraft Corp., and Siegel had resigned after a disagreement with Chairman James S. McDonnell. Rebounding with amazing speed, Siegel took only a week to found KMS Industries. He assembled a pool of scientists—many followed him from Conductron—and began installing them in old, experienced, but technically backward companies that he acquired with KMS stock. His idea was to invigorate these companies with new technological skills and new products to be marketed through their established sales channels.

KMS Industries reached sales of $12.2 million in its first year, and leaped to $51.7 million in its second, partly thanks to acquisitions. During 1967–69, KMC Industries acquired no less than forty-six companies. Then, in late 1969, Siegel discovered laser fusion.

NEEDED: A NEW IDEA

The concept that KMS Fusion has used so successfully was worked out by Keith A. Brueckner, an imaginative theoretical physicist. Starting in 1968, Brueckner divided his time between the University of California at San Diego and a KMS subsidiary in southern California. He also spent about eight days a year as a consultant to the AEC's magnetic-confinement program.

In the course of his work for the AEC, Brueckner could observe the high interest in laser fusion in the Soviet Union and elsewhere. He tried to prod the AEC into starting an active program and even presided over a meeting to discuss the subject. But laser fusion got a cool reception because the AEC scientists at the meeting believed, among other things, that very large and much more efficient lasers would be needed to achieve success.

Brueckner then asked Siegel what it would take for KMS to underwrite a fusion project. "A new idea," Siegel said. Not long afterward, Brueckner came up with one. He worked out a compression and implosion scheme that by his calculations would require far less laser power than the AEC calculations suggested.

Siegel and Brueckner approached the AEC. From their understanding of the Atomic Energy Act, they assumed that Brueckner's results would not be patentable. Accordingly, they were surprised when the AEC's research director urged them to file patents.

It turned out, however, that a number of AEC scientists had secretly worked on implosion schemes on and off since the late 1950's. The news of KMS's entry into laser fusion therefore raised a lot of eyebrows in Livermore and other AEC labs. The AEC had no patents in the field because it had considered laser fusion to be related to weapons development. Yet here was a private company applying for patents that touched on the AEC's own secret work aimed at a potential use of the laser as an H-bomb trigger. (Even today, that concept remains impractical. A laser big enough to trigger an H-bomb would cost perhaps $10 million, and it would have to be transported by ship. Says Brueckner, "You could do more damage by dropping the laser than by dropping the bomb.")

BATTLING ATOMIC BUREAUCRATS

Brueckner and KMS got caught in the whiplash. The commission got tough and directed KMS to stop laser-fusion research, on the ground that the work related to nuclear weapons. The AEC conceded that it couldn't stop Brueckner from thinking, but instructed him to stop discussing the ideas with his coworkers. He was also prohibited from doing any calculations relating to laser fusion, except in his head.

The AEC tried to talk KMS into quitting the field, but Siegel decided to fight. He hired lawyers and even wrote a letter to President Nixon. Slowly, the AEC eased its restrictions. In February, 1971, the commission gave KMS a contract that allowed the company to work in laser fusion without government funds, without access to government information, but under government control. The AEC also reserved the right to contest any patents issued to KMS.

The toughest provision prohibited KMS from hiring any scientist, technician, or engineer who had ever worked in federal laser or nuclear-weapons programs. The AEC interpreted this provision literally. KMS officials recall that once when they submitted a list of fifteen proposed employees, the agency turned down thirteen; it approved only the two secretaries on the list. This kind of thing effectively limited hiring to people with no experience in the field.

To provide leadership for Siegel's scientists, Brueckner took a leave of absence from his teaching post. Late in 1971, he and five other scientists from the KMS subsidiary in California moved to Ann Arbor. To further strengthen newly organized KMS Fusion, Inc., Siegel had brought in Henry J. Gomberg, an experienced nuclear scientist, as president of the enterprise. Toward the end of 1971, Gomberg succeeded in convincing James Schlesinger, who had just become AEC chairman, to make a new interpretation of the contract with KMS so that the company could hire scientists and technicians who had left AEC or defense jobs at least two years earlier. That greatly eased the recruiting difficulties.

Delayed in its schedule for about two years, KMS was able to begin large-scale work only in 1971. For about $1 million it bought from Compagnie Générale d'Electricité in France the biggest and most powerful laser system that was commercially available. Made of glass containing a touch of the element neodymium, the laser was so large it could be flown to New York only in a Boeing 747 cargo plane. It was then shipped to Ann Arbor in specially equipped vans.

TRICKS WITH MIRRORS

In efforts to achieve symmetrical compression of the fuel pellet, most laser-fusion

projects split the laser beam into a large number of sub-beams and have them converge on the target from many directions. But this approach introduces the difficult problem of synchronizing and focusing the beams so that they will all hit a target the size of a grain of dust in the same billionth or trillionth of a second.

Under pressure to minimize costs, KMS took a quite different approach: splitting the laser beam only once, and using mirrors and lenses to illuminate the pellet from many directions. This was a much more elegant solution than the multiple-beam approach.

Another important advance was the "pulse stacker." With this instrument, the ultrashort laser pulse can be stretched, accordion-like, so that when the pulse hits the pellet the pressure is applied in a graduated way. Without a "pulse stacker," the laser's short blast would hit the pellet like a hammer.

KMS also started developing new types of fuel pellets and learning how to mass-produce them. This was no easy task since it involves extremely close tolerances and the use of radioactive tritium gas. The deuterium and tritium are diffused into the tiny glass spheres by heating under pressure; the gas becomes trapped inside when the pellets are cooled. KMS has mastered the process to such an extent that it can mass-produce the pellets for less than a hundredth of a cent apiece.

CANNIBALIZING A COMPANY

Even with innovative and successful efforts to hold down on costs, fusion research is very expensive. What's more, Siegel moved into fusion at a time when KMS Industries was already facing financial stress. The trouble came in an avalanche. First, the 1969 recession. KMS stock plunged from 73 a share to 12½. Then, early in 1970, the company was suddenly asked to repay $16.7 million to Detroit's Bank of the Commonwealth, which found itself in trouble, and a year later another $5 million to John Hancock Mutual Life Insurance Co., which had purchased a twenty-year debenture but now, wary of the fusion venture, wanted its money back.

To pay off the debts and get money for the fusion project, Siegel started selling off divisions. In many cases he tried to sell to previous owners, and often he succeeded. Graphic Services went back to its original owners for $1.7 million. So did the lens division, for $896,000. A few months later, Vail-Ballou, a book-manufacturing company, was sold to Maple Press for $4.8 million. The divisions went fast after that: two more in 1970, eight in 1971, five in 1972, two in 1973.

Today KMS Industries has only six divisions left, including fusion, and is seeking to dispose of most of the remaining non-fusion work. With most divisions gone, total sales have fallen from a high of $59 million in 1969 to $6 million in 1973; the stock declined to an all-time low of 1⅝ this year.

From the "cannibalizing," as Siegel calls it, the company took in $33 million. To get more funds for fusion research, Siegel tried to attract big companies as partners. In 1972, Texas Gas Transmission Corp., concerned over the possibility that its natural-gas pipelines would be only half full in 1980, decided to support KMS research into fusion-produced hydrogen. It has so far contributed about $1.6 million.

TOWARD THE MOST FOR THE BUCK

To help finance the fusion side of the work, Siegel succeeded in late 1973 in signing on Burmah Oil Co., Ltd., the huge British petroleum concern. Burmah has so far guaranteed bank loans of $12.5 million and has options to buy up to 20 percent of the company for up to $27.9 million.

With its own money and Burmah's guarantees, KMS Fusion constructed and equipped a "shooting gallery," where the rifle-like cracks of laser firings resound as the tiny pellets are blasted in a vacuum chamber at the rate of about ten shots a day.

Brueckner's calculations had looked so good that Siegel had expansively predicted that KMS would achieve scientific breakeven by December 31, 1973. But the technical problems turned out tougher than expected. By the end of 1973, KMS Fusion was still far from that goal, although it could report some slight compressions of the pellets, without generation of "true" fusion neutrons. (It is relatively easy to obtain "false" neutrons from the corona that forms around the fuel pellet.) The Russians were reporting similar results.

A major milestone in KMS Fusion's drive for what Siegel calls "the most neutrons for the buck" was reached at 4:30 p.m. last May 1. The pop of pellet shot No. 1036 had just echoed through the "shooting gallery" when Roy Johnson, a young physicist who supervises the experiments, tore off a Polaroid print from a recording camera and shouted somewhat hysterically: "We've got neutrons!"

CHAMPAGNE AND INCREDIBILITY

Other instruments were also indicating that the pellet had been compressed and imploded. If they were right, KMS scientists were the first in the world to see laser fusion taking place, though only on a tiny scale. Brueckner went out and returned with a case of champagne for the scientific crew.

Siegel telephoned the scientist he had recruited to be KMS Fusion's "test monitor": Novel Prize-winning physicist Robert Hofstadter of Stanford University. (He was then director of Stanford's big high-energy laboratory.) Hofstadter flew-in to observe additional tests. The experiment was successfully repeated four times before KMS reported the facts to the AEC, which reviews the company's progress and all its public statements about laser fusion.

The news, as released, met with a lot of incredulity. Part of the problem was that KMS was caught between the SEC, which requires immediate disclosure of important developments, and the AEC, which censored some important facts because of concern about security. Both criteria conflict with the scientific procedure of first presenting papers at meetings and publishing them in journals. Not until August did the AEC declassify the fact that KMS had been using a new kind of pellet, a glass sphere filled with hydrogen isotopes. One newspaper, not familiar with the AEC's role in the disclosures, even claimed that the AEC had questioned the use of the word "unambiguously"—which in fact the AEC had suggested—in the KMS news release. There were also other ill-informed press reports.

The skepticism generally faded after a large contingent of AEC scientists came to KMS for a briefing and after KMS scientists showed they could repeat the compressions easily. Says John Nuckolls of Livermore Lab, a leading theoretician: "These are the best laser-implosion experiments so far."

Continuing to scale up compressions and neutron yields, KMS recently achieved compressions of 250 times by volume and obtained seven million neutrons per shot. The company hopes to achieve ignition and scientific breakeven in the next year and a half.

In sunny Livermore, they proudly point to a big hole in the ground where a three-story building will rise to house that huge laser. AEC scientists there express doubt that KMS can move as fast as it says it can. "KMS," says Nuckolls, "has come out of the starting gate with a quarter horse in a mile race. The race has gone about a quarter of a mile so far and just watch the next quarter. I think they have about run their horse out. Now the longer-running horses can take over."

Nuckolls means that the KMS laser is not powerful enough for KMS to get much further, but he admits that he doesn't really know whether scientific breakeven can be achieved with a laser that size. It's a difficult time to be a theoretician in this fast-moving field, and KMS Fusion appears to be rewriting the theory. The AEC badly underestimated KMS when it blandly stated in 1971: "We do not foresee KMS proceeding at a pace in advance of our laboratories. We do not believe it will be possible for such a firm to compete with the vast experience and resources of our laboratories."

LIVING FROM MONTH TO MONTH

So far, KMS Fusion has proved the AEC wrong. But even if the company soon attains a net energy gain with its present laser, a number of tough engineering barriers stand in the way of a laser-fusion reactor. The laser would have to fire at pellets at a rate of as many as 6,000 times a minute. No such laser exists today, although there are prospects under development.

Another difficult task is designing reactor chamber walls that would withstand the constant battering by neutrons and alpha particles, and the mechanical strains of millions of consecutive pellet explosions, each amounting to several pounds of TNT. Siegel insists, however, that KMS has made significant progress in designing reactor walls for hydrogen production. He dismisses other scientists' doubts with an optimistic "What they think are hard problems aren't." In his view, the problems KMS faces are no longer scientific. "The major obstacle is me and my ability to raise money. I don't think it's science anymore. It's financial breakeven." Adds a KMS executive: "Everything is a cliff-hanger. We practically live from month to month."

Much more is at stake, of course, than the personal triumph or defeat of Keeve M. Siegel or any other scientist. It is entirely possible that KMS Fusion will fall for lack of funds before it has had a chance to prove its concepts. "If Siegel and his scientists are right in the parameters they've set," says a friend, "then everybody will be the loser if the project is not pursued to a successful conclusion."

VIEWS AND ESTIMATES ON PENDING BUDGET REQUESTS—ARMED SERVICES COMMITTEE

Mr. STENNIS. Mr. President, the congressional budget act requires that views and estimates of standing committees on the pending budget requests be supplied to the Budget Committee by March 15 so that the concurrent budget resolution can be prepared. Acting for the Senate Armed Services Committee, I have complied with that requirement in a letter dated March 12, 1975.

I am today making that letter available to the press, and I ask unanimous consent that it be printed in the RECORD so that it will be easily available to all Senators.

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

NEWS RELEASE BY SENATOR JOHN C. STENNIS

Chairman John C. Stennis, of the Senate Armed Services Committee, said today that "some very hard policy choices would have to be made before any drastic reductions could be achieved" in this year's defense authorization requests.

Senator Stennis made the statement in releasing a letter to Senator Edmund S. Muskie, D-Me., Chairman of the Senate Budget Committee. The new Congressional Budget Act requires that standing committees make recommendations by March 15th for inclusion in a concurrent budget

resolution which is to be enacted by May 15th.

With hearings still in process on Administration defense requests, Senator Stennis said, any judgment now on reductions would be "premature." He recommended inclusion of the Administration budget requests—$107.7 billion in budget authority and $94 billion in outlays—in the resolution for the category, national defense.

Each year this Committee has made substantial reductions in the Defense Authorization request. Between FY 1970 and FY 1975, the Committee cut a total of $10.0 billion from the Procurement and R&D fund request. In addition, some $2.6 billion in annual savings would be attributable to the reductions of 261,700 military and civilian personnel that were recommended by the Committee beginning in FY 1972. However, because of the uncertainty in the international military situation some very hard policy choices would have to be made before any drastic reductions could be achieved this year," Senator Stennis said.

His letter made these further comments: "Despite detente, real, substantial and potentially hostile military capability exists throughout the world, particularly in the Soviet Union. We simply don't know the real intention of the people who possess this large military power."

"The U.S. still remains secure and remains the most powerful country in the world. However, over the last 10 years the balance has been slowly but perceptibly shifting. While the Soviet Union has gradually increased its defense spending as well as its military manpower and equipment, the U.S. has gradually reduced its real defense spending and the amount of its military manpower and equipment."

"The Defense budget request is large—over $100 billion. However, because of inflation, increased personnel costs, and increased sophistication of weapons, it is buying less than 10 years ago. Since 1967, a series of increases in pay and benefits for military and civilian personnel have more than doubled the average cost per man."

Senator Stennis concluded by suggesting that the timing of the new Budget Act may force Congress to choose between setting overall budget ceilings or deciding which budget programs are needed.

"We should not have to make this choice," Senator Stennis said. He noted that the Armed Services Committee is required to report its Military Procurement Authorization Bill by May 15th—the final date for enactment of the concurrent budget resolution.

Congress may not have the time or the machinery to resolve the differences involved, Senator Stennis said, and may face a choice between an overall budget ceiling and a group of programs which ignore the ceiling.

"This was certainly not what I envisioned when this Congressional budget act was passed," Senator Stennis said.

The text of the letter from Senator Stennis to Senator Muskie:

MARCH 12, 1975.

HON. EDMUND S. MUSKIE,
Chairman, Budget Committee,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This letter, which provides our views and estimates on the national defense budget, is being provided as required by the Congressional Budget Act and requested in your letter of February 3, 1975.

As you know, the annual authorization process for the Department of Defense involves a comprehensive and detailed review by this Committee on the funds, manpower and line items requested for the Department of Defense. The Committee just received the Executive Budget recommendations on February 3 and has held hearings from February 5 to the present time. We have only been able to cover about half of the many matters in this bill and none of those to a final conclusion. Therefore, it is premature to judge how many reductions can be made in this request.

At this time and for purposes of preparing the first concurrent budget resolution, we recommend using the Executive Branch FY 1976 request for the overall budget category called national defense. Accordingly, the figures for the defense category would be:

[In billions]

Budget authority	$107.7
Outlays	94.0

These figures include the amounts for the Department of Defense military budget, the military construction budget, military assistance to Vietnam and to other countries and other activities related to national defense. They also include the assumption that military, civilian and retired pay increases in FY 1976 will be held down to 5% and that the oil import tax does *not* require increased Defense expenditures for oil. If these policy assumptions do not stand, it could add $3.0–$3.5 billion to the Defense budget request.

Each year this Committee has made substantial reductions in the Defense Authorization request. Between FY 1970 and FY 1975, the Committee cut a total of $10.0 billion from the Procurement and R&D fund request. In addition, some $2.6 billion in annual savings would be attributable to the reductions of 261,700 military and civilian personnel that were recommended by the Committee beginning in FY 1972. However, because of the uncertainty in the international military situation some very hard policy choices would have to be made before any drastic reductions could be achieved this year.

Internationally, the world continues to be marked by military tension and, in some cases, open conflict. The Middle East, Southeast Asia, the border between Eastern and Western Europe and the border between North and South Korea in varying degree represent potential opportunities for adverse action against U.S. interests. Despite detente, real, substantial and potentially hostile military capability exists throughout the world, particularly in the Soviet Union. We simply don't know the real intention of the people who possess this large military power. We cannot foresee if and when others would use military power to threaten important U.S. interests—some whose character is known (e.g., the security of energy supplies) and others which are presently unknown. We do know, however, that they possess the military power to do so. In this situation the U.S. simply cannot reduce its military strength to a level that would create unacceptable risks to our vital interests.

The U.S. still remains secure and remains the most powerful country in the world. However, over the last 10 years the balance has been slowly but perceptibly shifting. While the Soviet Union has gradually increased its defense spending as well as its military manpower and equipment, the U.S. has gradually reduced its real defense spending and the amount of its military manpower and equipment. In that period the Soviet Union increased its military manpower by some 750,000, while the United States reducted its military manpower by some 585,000. The U.S.S.R. retained about the same number of major combatant ships and submarines, while the U.S. reduced these kinds of ships by one-third. Similarly, the number of Soviet tactical aircraft remained level while the U.S. number declined 17 percent. Thus over the long run the quantitative military potential of the Soviet Union has been increasing relative to that of the U.S. and has substantially narrowed the clear margin the U.S. had 10 years ago. If this trend sharply speeds up or continues for a long time, our ability to influence the course of world affairs will be diminished. This could lead to a substantal threat to our national interests and to world peace.

The Defense budget requests is large—over $100 billion. However, because of inflation, increased personnel costs, and increased sophistication of weapons, it is buying less than 10 years ago. Since 1967, a series of increases in pay and benefits for military and civilian personnel have more than doubled the average cost per man. These raises, which were intended to make military and civilian pay comparable to the civilian economy and to achieve the all volunteer force, account for about 85% of the difference between the FY 1964 and FY 1974 defense budgets. With 600,000 fewer military and civilian personnel it cost $54.4 billion to operate the Defense Department in FY 1974, an increase of $26.4 billion, or 93%, in 10 years.

In the same period, research, procurement and construction costs increased $1.4 billion to $24.0 billion. This 6% increase is much less that the 85% that inflation increased the price of purchases in this period. As a result, fewer weapons can be brought. In FY 1976, the Defense Department request includes money to buy 271 fighter attack aircraft, compared to 583 in FY 1975. It includes 50 ballistic missiles compared to 454 in FY 1965; 2 nuclear attack submarines compared with 6 in 1965; 11 destroyers compared with 16 in FY 1965; 138 helicopters compared with 1226 in FY 1965; and no transport aircraft compared with 84 in FY 1965. These figures clearly show that while today's defense budget includes a large amount of money, it will not buy the same amounts of military equipment that we have bought in the past.

I would like to make one final comment on the budget process established by the Congressional Budget Act. Although we are now just getting into the "dry run" this year, the timing in the Congressional Budget Act may force Congress to choose between establishing figures on the overall Federal budget and determining which specific programs within the overall figure are best for the country. We should not have to make this choice. In the long run, some of those specific programs may be more important than the precise overall Federal budget figure for one year. Under the Budget Act, the Defense Authorization Bill must be reported to the Senate by May 15th. May 15th is also the date the first concurrent resolution on the budget must be enacted. If there are major differences between the defense authorizations reported to the Senate and defense budget figure contained in the concurrent budget resolution, Congress may not have the time or machinery to reconcile the differences. Since major differences would likely involve substantive policy issues, Congress might be faced with either an overall budget ceiling approach which, by its nature, puts the substantive policy decisions in the Executive Branch or choosing to ignore the budget figures. That was certainly not what I envisioned when this Congressional Budget Act was passed.

Sincerely,

JOHN C. STENNIS.

THE CIA WAS DOING ITS JOB

Mr. GOLDWATER. Mr. President, the Washington Star has an editorial in this evening's newspaper that comes as a fresh breeze on this first day of spring. It defends the CIA and its retrieval of the Soviet submarine. Imagine the courage of this fine newspaper, defending an action of one of the most important agencies of our Government, an action which will prove to be the most important gathering of intelligence in this Nation's history, a defense coming in the

teeth of a general kneejerk reaction by the fuzzy brained Members of Congress, other news media, and the general collection of those who would rather see this country suffer than do one little thing which might offend the Soviet Bear. I say to the Star: Thank you for your well-expressed attitude and may you keep at it.

I ask unanimous consent that the editorial be printed in the RECORD.

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

THE CIA WAS DOING ITS JOB

There are two major points to make in the case of the sunken Russian submarine that the Central Intelligence Agency tried to recover: First, the CIA was doing its job; second, the chances of keeping anything secret in the interests of national security are getting more remote every day.

It has become fashionable to kick the CIA around; and investigations into it and other intelligence-gathering agencies have sprouted thicker than spring crocuses. We have no quarrel with attempts to determine whether the CIA has over-stepped its bounds on domestic spying, nor with reining it in if it has—so long as the matter is handled in such a way as not to destroy the agency and its vitally needed functions in the process.

This is not a marshmallow world. Anyone who thinks the United States can lower its guard and dismantle its intelligence-gathering apparatus is living in dreamland. Soviet leaders and the KGB no doubt are rubbing their hands in glee over the public fix the CIA has gotten into.

The sunken sub case has given the CIA's critics some more ammunition. Boys playing at cops and robbers, it was a waste of money; whatever information that might have been gleaned from the Russian submarine would have been of minimal value, they say. All of a sudden everyone has become an intelligence expert.

We regard "Project Jennifer," as the submarine operation was known in official circles, as a tremendous feat. It was an extraordinary accomplishment for U.S. intelligence forces to pinpoint the location of the sub that even its owners couldn't find, and then to devise and have built a vessel with the capability of raising the sunken hulk out of 17,000 feet of water—and to pull it off apparently without the Russians knowing what was going on. That the submarine broke up and the important section sank back to the bottom certainly was a disappointment but it doesn't detract from the value of the project.

The significant thing that ought to be remembered is that the CIA was doing exactly what it was supposed to be doing: gathering foreign intelligence. It wasn't shadowing U.S. dissidents around Washington or New York; it was out on the high seas performing a function that was legitimate and potentially of high intelligence value.

Fear has been expressed in some quarters that it will harm the move toward detente with the Soviet Union and queer efforts to reach agreement on strategic arms limitations. That is absurd. Who believes for a minute that the Soviet Union would not do the same thing if it had the opportunity? If detente is so shaky as to be thrown off course by this, it was never going anywhere in the first place.

This brings us to our second point. If there are diplomatic repercussions, they can be put down to the publicity about the operation, not to the operation itself. The Soviets understand espionage and the need to keep it from public view. If they complain in this case, it will be because they feel that public exposure of the sub-raising operation somehow has made them appear inept or has challenged their national manhood.

If secrecy on this kind of operation is not in the national interest, what is? CIA officials are reported to have made strenuous efforts to keep the operation from being printed or broadcast by the U.S. news media, but to no avail.

What has been gained by spreading this over the airwaves and across the front pages of the nation's newspapers? Sure, it was interesting reading. Sure, someone gets to claim he was first to blab it to the public. Well, first is not always best—and especially it is not best when the national interest is involved.

FOOD FOR PEACE

Mr. CLARK. Mr. President, although the Food for Peace program began 21 years ago, it only recently has been the subject of close congressional attention—as world food shortages have forced everyone to focus on all areas of our agricultural policy. In an excellent five-part series in the Washington Post, Dan Morgan considers the program's purpose and potential. Morgan explains how "Food for Peace develops markets, expands trade, and when necessary, drives out a competitor." His articles go on to demonstrate how "Food for Peace has often served as a tool in the foreign policy of the Department of Agriculture." The questions raised in each article in the series are not new. The analysis, however, forcefully suggests that the old answers are too old for the times and the fundamental problems with the operation and intention of Food for Peace require review and solution.

The very purpose of food assistance is at issue. What is the goal of Food for Peace? Should Food for Peace—Public Law 480—be an instrument of foreign policy or should it simply get food to hungry people whoever they are, wherever they live.

Congress will be considering those questions in the weeks ahead, and the Post series provides background and information that will prove very valuable in that process.

I request unanimous consent to have the series of articles by Dan Morgan printed in the RECORD.

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

BYZANTINE WORLD OF CARGO CONTRACTS

(By Dan Morgan)

Washington, a city where vessels larger than the President's yacht are seldom sighted, is one of the nation's main centers of shipping business activity.

Congress holds a life-and-death power over the subsidized American shipping companies here, trade and aid decisions are made here and millions of tons of cargo generated by federal programs are divided up by shipping companies here.

The U.S. Food for Peace program is expected to provide at least $250 million in ocean freight fees this year. And the chance to reap a profit is what draws the shipping crowd to Washington, to mingle with diplomats and court ambassadors, lobby members of Congress and argue with bureaucrats.

The food aid business in Washington spawns intrigue, rivalries and a cast of characters which sometimes seems to be drawn from an Agatha Christie mystery novel.

The shipping business is one facet of American food aid—a 21-year-old $24.5 billion undertaking that has been used to promote the State Department's foreign policy and open new agricultural markets abroad, in addition to its role in fighting hunger overseas.

It involves dozens of shipping brokers, who may be here today, in San Francisco tomorrow and in Europe the day after; broker commissions that can net tens of thousands of dollars; mysterious foreign shipowners; Bermuda-based corporations; foreign bank accounts; reports of kickbacks to diplomats, and even frequent rumors that the Central Intelligence Agency is involved in the ocean transportation business.

The choice of which shipping lines get the subsidized cargoes is anything but automatic. It can hinge on countless small decisions by a myriad of little-known people who comprise the players in a game with multi-million-dollar stakes.

According to a report prepared by Rep. Otto E. Passman (D-La.), "Many millions of dollars in commissions are paid in such a way that they are not subject to U.S. income tax laws."

Some of the money winds up in Hong Kong bank accounts, the congressman said.

Passman, chairman of the House Appropriations Subcommittee on Foreign Operations, claims that 'a large percentage of the cargo moving to recipient nations is moving under contracts handled by foreign nationals who either own or control the management of the freight brokers."

He said he got his information about alleged tax-dodging and questionable "self-dealing" practices of brokers from government witnesses, but he was unable to say which witnesses had so testified.

Several brokers, asked about the statements, said that virtually all of them operating here are American citizens, though many were born overseas.

However, several of them, who asked not to be identified, said they have heard that "cost-of-doing-business payments," or kickbacks, to diplomats here or governments abroad often were required to win Food for Peace business for shipowners or operators.

Privately, several of them accused Passman of personally meddling in the ocean shipping program by getting South Vietnam, and, more recently Bangladesh, to hire American shipping agents.

Such charges and countercharges are endemic in the fiercely competitive world of the Food for Peace cargo business.

To keep the costly-to-operate American ships at sea, the government grants the U.S. shipping industry a bewildering array of subsidies. One of the most important benefits American companies get is an assurance that the government will give them preference in assigning cargoes.

The direct benefits of this provision of Food for Peace are evident.

Over $1 billion worth of commodities will be shipped abroad this year in hundreds of vessels under the auspices of the program's low-interest, long-term loans. The U.S. government finances the buying of the agricultural commodities. But the foreign governments, except for Cambodia, pay the transportation costs.

The law says that at least half those cargoes must travel in American flag vessels.

The U.S. government pays the additional ocean transportation costs that importing governments pay because of this requirement. Between 1970 and 1974, these "differential" payments amounted to $229 million.

From 1970 through 1973, U.S. flag ships hauled 12.9 million tons of Food for Peace commodities. They also transported 9.5 million tons of fertilizer and technical aid of the foreign assistance program, and hauled military equipment for the Pentagon.

According to Hans Blocklin of Lykes

Brothers Steamship Lines—the largest American shipping company—"We could sustain a regular service without it [Food for Peace], but we probably couldn't call at as many ports. There's no question that [Food for Peace] is important."

One indication of that is that Lykes carried 29 of the 32 shipments of upland cotton transferred under Food for Peace to Indonesia in the last 18 months.

In cases like that, the government-financed freight can serve as a basic cargo, justifying a ship's service to a remote port.

The Pacific Far East Line, which was acquired last year by John Alioto, son of Mayor Joseph L. Alioto of San Francisco, fills almost 20 per cent of its cargo orders with rice, wheat and cotton of the Food for Peace program.

Alioto, an aggressive businessman, called Washington in January when he learned that one of his vessels might be edged out of carrying Food for Peace rice to South Korea by bureaucrats at the Agriculture Department.

At Alioto's request, a representative of his line helped set up an emergency meeting Jan. 15 in the office of Rep. Robert L. Leggett (D-Calif.), a member of the House Merchant Marine and Fisheries Committee.

Present were shipping people, rice people, brokers and bureaucrats.

Basically, the officials from the Agriculture Department were not happy with the decision of South Korea's supply agents in New York City to take all of some 60,000 metric tons of Food for Peace rice from the West Coast.

They felt a case could be made that it would be cheaper for the Koreans to buy at least some Gulf Coast rice and haul it from there, given the rather low ocean transportation rates prevailing then in the gulf.

After some debate, during which the West Coast rice and shipping interests challenged the Agriculture Department's arithmetic, there was a compromise.

It was agreed that about 10,000 tons of rice would be shipped from the gulf. The rest would be taken from the West Coast, with the Pacific Far East Line's China Bear carrying 8,000 tons, the Madsen Line's Koppa another 21,671 tons and Korean vessels the rest.

If the Food for Peace business is good for American operators, it is also valuable to certain foreign shipowners as well.

Nearly half the tonnage carried goes on ships not flying the American flag.

One foreign ship operator, Abbas Gokal, was described by a Washington broker as "coming out of nowhere in just three years."

Gokal, a Syrian-born Pakistani, is reported by reliable sources to have backing from an Abu Dhabi Bank in London in expanding his operations.

Foreign flag ships owned or operated by Gokal's Gulf Shipping Co. or various other companies run by him have run up a remarkable record in winning Food for Peace contracts to carry freight to Pakistan and Bangladesh.

Saeed M. Sheikh of Star Trading and Marine, Inc., which represents Gulf Shipping in Washington, estimates that his agency has placed a million tons of food and economic assistance cargoes to those two countries in recent months, about 90 per cent of the foreign flag vessels.

Alioto said the Department of Agriculture allows foreign governments to select Gokal's ships "Even when American ships are in position."

The department reviews all shipping awards and has overall responsibility for making sure the American-financed commodities arrive safely.

Yet the department does not have a single licensed merchant marine officer or employee with commercial shipping experience assigned to the ocean transportation division.

The division's director retired in mid-February, at a time when department auditors were investigating the program.

At least one lawsuit alleging mismanagement is pending against the department. A New York City shipowner claims his vessel departed from a gulf port without a Food for Peace cargo because of the department's inefficiency.

The broker system has grown up because shipowners normally rely on private brokers to find cargoes for them, and because governments and most embassies don't have the technical expertise, communications facilities or knowledge of ships, ports, markets and prices to perform the service. The commissions are paid by the shipowners. Indirectly, they are a cost of running the Food for Peace program.

The private broker who represents the most foreign governments is Harry J. Smith Jr., president of St. John International, Inc., with offices at 1666 K. St. NW., and in New York, Brussels, and Kinshasa, Zaire.

His competitors concede that Smith has had a "phenomenal track record" in getting accounts. His firm represents South Vietnam, Bangladesh, the Philippines, Ghana, Guinea, Jamaica and Bolivia. Previously, it represented Cambodia, Zaire and the United Nations' World Food Program.

Smith, an urbane, restless man, alumnus of Georgetown University and former lecturer on ocean transportation there, credited his success to chance and hard work. In 1965, he registered as a lobbyist for the American Log Exporters.

Smith is a strong defender of the broker system.

He said shipowners "would love to see embassies standing naked with fluttering hands, but as long as the agent is there that is not going to happen."

He says that he "aggressively" seeks accounts with embassies. It is a cutthroat business, requiring legwork and some mingling in the diplomatic cocktail circuit to get a start, he said. When Cambodia changed ambassadors several years ago, St. John lost the agency to Joseph Harari's American Trade Sales, Inc., in New York City.

Present shifts in the emphasis in the Food for Peace program from the Far East to South Asia have intensified rivalries among brokers and shipowners.

"Food for Peace is running hot in the Bay of Bengal," was how one broker put it.

On Feb. 1, Smith's firm took over the account of Bangladesh on a six-month trial, after guaranteeing to save the embassy money in its ocean transportation. Until then the embassy had done its own chartering.

Smith's Bangladesh coup prompted four competitors to send an open letter to the Dacca English language newspaper "Holiday" charging that the "exclusive" arrangement with St. John would cost the Bangladesh foreign exchange. St. John International fired off a letter to Holiday claiming that a few shipowners monopolized the business to Bangladesh and that St. John's assistance would save the Dacca regime money.

St. John's Bangladesh success received an indirect nudge from Passman on Capitol Hill. While St. John's application was at the embassy, Passman urged Ambassador Hossain M. Ali to obtain the services of an American freight agent.

Passman said he never mentioned any company and had met Smith briefly only once in his life.

"It is my belief that there should be a firm policy that all cargo under economic assistance or Food for Peace should have an American freight broker," he said. Otherwise foreigners might earn "juicy commissions," he said.

Passman also sought several years ago to get South Vietnam to move its commodity and freight procurement operations out of Saigon, where he said he was convinced that corruption was rife.

Since then, a Vietnam government procurement office has been opened in Washington. There was a scramble among Washington shipping brokers to represent it, and Smith won.

The broker system inevitably sparks charges of special relationships and favoritism in the relationship between shipowners, brokers and embassies.

Smith said he is very careful to keep shipowners at arms' length.

He scoffs at suggestions by competitors that he favors Central Gulf Steamship Corp. of New Orleans.

Two ultramodern Central Gulf ships were recently picked to haul 27,000 tons of rice to Bangladesh. Vessels of the same company, or of its associated, Bermuda-based foreign flag company, Mammoth Bulk Carriers, scored heavily last summer in winning government-financed cargoes of bagged urea fertilizer for South Vietnam.

"We like their style," Smith said. "We have supported them; they're responsible; they are the sharpest American shipping company, in my opinion."

John H. Maxwell, the new acting director of the Department of Agriculture's Ocean Transportation Division, said he is reviewing the overall system of tendering and awarding contracts for shipping.

There is a requirement that the bidding be competitive. But there is no rule that they must be opened publicly or that they have to be awarded to the low bidder at time of deadline. Many bids are submitted by telex and negotiation continues after the deadline.

Some brokers, like Smith, said this system is preferable because of the extreme complexity of matching cargoes with vessels—an art in which economic factors are often changing and the ships in competition are all different.

However, Lykes Brothers' Blocklin said that "publicly opened bids are the safest way to make sure that no advantage is taken."

"You are dealing with a business where there is always going to be backbiting," said a government official with shipping experience. "It is a business where only one person ends up happy; the owner who gets to carry the cargo."

Opening Markets

(By Dan Morgan)

The United States' eviction of the Soviet Union from the lucrative Iranian vegetable oil market in 1968 and 1969 was an American agricultural policy victory made possible by the Food for Peace program.

Throughout most of the 1960s, the U.S. Department of Agriculture regarded Iran as its domain in world oil seed trade.

Then, as retired department official Harry I. Dunkelberger recalled it, Iran "found there was such a thing as competitive prices." The Iranians bought lower-priced Soviet sunflower seed oil. By 1968, U.S. deliveries were down to 4,000 tons annually.

The department met the challenge by pouring in $19.5 million of low-interest, long-term loans under the Food for Peace Program. These credits enticed an Iranian bank and a private Iranian company to buy 83,000 tons of American soybean and cottonseed oil.

The Soviets soon dropped out of the market; the United States then asked Iran to pay cash for the vegetable oil.

The example illustrates how Public Law 480, better known as Food for Peace, has often served as a tool in the foreign policy of the Department of Agriculture.

Food for Peace develops markets, expands trade and, when necessary, drives out a competitor.

The phenomenal growth of this country's farm exports—from $2.3 billion in 1955 to $21 billion in 1974—is linked to Food for Peace. The program enabled the United States to satisfy two traditional national drives: helping the needy, and also opening new markets for American products.

It moved a mountain of U.S. farm surpluses overseas in the 1950s and 1960s. In the process, new tastes and diets evolved abroad that established a permanent market for this country's farm output.

Ronald Muller, co-author of "Global Reach," a work on multinational corporations, cites some aspects of P.L. 480 as textbook examples of what he calls "government-corporate interlock"—instances in which private and public interests are almost indistinguishable.

The best example is the little-known "private trade entity" (PTE) loans, relatively recent innovations. The U.S. government grants credits to American subsidiaries overseas to buy commodities in this country. The subsidiaries then use the proceeds of the resale of the commodities on the local economy to raise the currencies they need to function.

South Korean subsidiaries of Ralston-Purina, and the Cargill and Peavey grain companies, have received such Food for Peace credits to help establish highly successful poultry raising and animal feed operations.

A similar Food for Peace PTE loan for buying commodities in this country is aiding an American-Korean joint venture to build a grain silo at the port of Inchon.

The Soviet eviction from Iran's vegetable oil market was arranged under similar provisions of P.L. 480.

Soon after that success, the Agriculture Department used P.L. 480 wheat-buying credits to pull another coup in Iran. The credits undercut Australian wheat exporters. Department sources allege that the Australians used kickbacks and rebates to corner the wheat trade with Iran, so that the P.L. 480 response was justified.

Between 1959 and 1971, Public Law 480 also directly subsidized a number of private American and foreign businesses overseas, through the Cooley loan program, named after the late Rep. Harold D. Cooley of North Carolina. The U.S. government loaned 420 businesses a total of $415 million worth of local currencies collected by American embassies abroad as repayment of earlier American Food for Peace shipments. The Cooley loans made it possible for U.S. companies to start businesses abroad with little or no outlay of dollars.

The U.S. pharmaceutical industry received many such Cooley loans in South America. Well known companies such as a Ralston Purina, Sears Roebuck, and General Electric also are among the firms whose names appear frequently on the Cooley loan lists.

In South Korea, some Cooley loans went to the Chase Manhattan Bank, the First National City Bank, the Bank of America (all for "business development promotion"), as well as to a brewery and a mink ranch.

Official say the program stimulated substantial business activity, though very few of the Cooley credits were for projects or enterprises associated with agricultural development.

* * * * *

Food for Peace also spurred a surging growth of American feed grains, mostly corn. U.S. feed grains now make up more than half the world trade, and may increase further if global tastes for grain-fed chicken, pork and beef spread further.

The Agriculture Department has promoted this development and subsidized poultry operations that require feed grains all over the world. A byproduct can be seen in the the Kentucky Fried Chicken emporiums in such far away places as Panama City.

An example of how Food for Peace has encouraged that trend are the private projects operated by subsidiaries of Purina, Cargill and Peavey in South Korea.

They were instrumental in founding that country's first modern poultry industry, which in turn gave the country "a good, low price source of protein," as an official said. It also established a national requirement for 500,000 tons annually of animal feed grains, where almost none had existed in 1965.

Robert P. Bratland, director of the private U.S. Wheat Associates office in Seoul, credits P.L. 480 with "getting the poultry industry started here, and also swine and dairy."

"Right now it is a very heavy burden to South Korea because of high prices and lack of foreign currency," he added. "If things improve, this market for U.S. grains could be great."

The P.L. 480 dollar credits to the three private companies totaled $12 million. They financed the importation of 193,000 metric tons of corn, some animal fat and wheat flour. The U.S. government's Commodity Credit Corporation also financed portions of the ocean freight. An Agriculture Department spokesman said the terms of the credits were "better than commercial rates."

The United States, on behalf of the companies, also sought and obtained other concessions from South Korea, including guarantees against restrictions of feed grain imports for three years and conversion of local proceeds into dollars so Washington could be repaid.

Meanwhile, proceeds from local sale of the corn and of processed feed grains were used by several of the ventures to establish egg-laying and broiler operations.

According to E. E. Hurst of Ralston Purina's International Division, "We wouldn't have put capital into that market without this arrangement . . . What it did for us was provide for a capital influx at a time when the market was very small . . . basically small farmers and primitive operations. A lot of people were trying to raise chickens, but the quality of the feed was bad. Basically what this did was to bring in a lot of U.S. companies."

According to a U.S. agricultural attache in Seoul, the private P.L. 480 deals have introduced a level of sophistication and technology not previously known. Other officials say they have benefited chicken farmers as well.

Less successful was another effort to use South Korea as a proving ground for American-style cattle raising.

The project involved airlifting 264 steers from Oklahoma in "the longest cattle drive in history," as a pamphlet of the U.S. Feed Grains Council described it. The council financed the effort in an attempt to expand the Asian country's grain-fed cattle industry.

Subsequently, the Seoul regime barred foreign exchange outlays for importing more of the cattle because of depleted government reserves. "As a result, [South Korea] was left with a feedlot facility and trained personnel but no readily available supply of feeder cattle," said the council's report.

That setback in expanding the market for American grains is minor compared with the overall success of the Agriculture Department in boosting cash exports, however.

Statisitcs indicate that Public Law 480 has been enormously successful as a "come on" for later cash deals.

In 1960, total commercial agricultural exports from the United States totaled $3.2 billion, compared with agricultural exports under the law of $1.2 billion.

In 1974, total commercial farm exports were $21 billion and Food for Peace exports were under $1 billion.

Yugoslavia, Brazil, Taiwan and Japan are examples of countries that have gone from heavy dependence on food aid to being all-cash customers.

In many cases, acceptance of food-buying credits requires a commitment to make a substantial commercial purchase.

Accepting credits this year, Egypt agreed to buy 2,144,000 tons of wheat from the United States and South Korea promised to purchase at least 150,000 tons of rice for cash.

In food aid idealistic concerns about malnutrition abroad and solid business rationales often dovetail.

An example of this is the activity of the American blended foods industry on behalf of increased humanitarian assistance to hungry nations this year.

The credits for food that the United States gives are mainly used by governments abroad to purchase bulk commodities such as wheat, corn and rice. These commodities are usually resold by the governments in cash markets and become available to the population for local currency.

By contrast, blended foods—one fortified with vitamins and high protein sources such as soy—are purchased directly by the U.S. government from American producers, and distributed abroad as part of this country's food giveaway program in some 93 countries.

The humanitarian cause and the market development rationale merge in the selling of these blended foods.

Herbert J. Waters, president of the American Freedom from Hunger Foundation, which lobbied aggressively at the World Food Conference for increased American food aid, is also the Washington representative of Archer Daniel Midland Co., which manufactures wheat and soy blended products.

Waters testified before the Senate Agriculture Committee recently in favor of increasing the blended food component of Food for Peace.

Waters said that instead of providing just bulk commodities, the United States should send processed products, to support the industry here and keep jobs at home, rather than subsidizing processing industries abroad.

Dr. F. James Levinson, director of the International Nutritional Planning Program at the Massachusetts Institute of Technology, said blended food promoters were extremely active in India while he was there as a member of the AID mission. India is the No. 1 recipient of American free food.

He said "very active" corn industry lobbyists tried to prevent the Indian government from starting its own indigenous processed food-making program.

"The introduction of wheat soy blend was an effort (by AID) to appease the wheat people," he asserted. Partly as a result of similar lobbying, "Pakistan went from corn soy milk to wheat soy blend to whey soy beverage . . . you can imagine what kind of havoc this plays in running a feeding program.

Nutritionist Alan Berg wrote in his book, "The Nutrition Factor," that the U.S. government annually buys more than $30 million worth of corn soy milk, a high protein cereal.

The General Accounting Office, Congress' watchdog agency, says that since 1970 only two companies have supplied this commodity to the government.

Many independent experts consider blended foods excellent, though expensive, and would like to see them marketed much more widely all over the world. They also add that without Public Law 480, blended foods would not have made the inroads they have around the world.

According to Berg, however, the problem remains to "reconcile the demand for corporate profit with a product low enough in cost to reach the needy in large numbers."

HIGH RICE PRICES PROBED

(By Dan Morgan)

American rice growers produced a record crop of 5.2 million tons last year. Only about half of it will be needed by millers, brewers

and other rice consumers in the United States.

Yet rice prices have not declined substantially in supermarkets, or in the rice trade.

Some government agricultural specialists are convinced that the explanation for this seeming contradiction of the basic law of supply and demand is that influential friends of the rice industry in politics manipulate the prices through the Food for Peace program.

U.S. Department of Agriculture investigators have been quietly studying the relationship between profits and politics in this country's rice trade for some time.

Sen. Hubert H. Humphrey (D-Minn.), a member of the Senate Agriculture Committee, has demanded to know "what kind of monkey business is going on with these rice prices," and suggested that "somebody's taking us for a ride."

No sooner was it clear last fall that a large crop was in prospect than friends of the industry on Capitol Hill, such as Rep. Otto E. Passman (D.-La.), began pressuring government agencies to allocate more rice to the Food for Peace program.

As a result, 1 million tons—almost a fifth of the entire crop and nearly half of all anticipated exports—have been earmarked for the government-subsidized food aid program by an interagency group.

In December and January, Passman made a tour of rice-eating nations abroad and urged them to buy more rice for cash, while indicating that he could be helpful in getting the government to earmark food and under the low-interest, long-term loans of Food for Peace. One such country was Bangladesh.

At the same time, Richard T. Hanna, who retired from Congress in January, swung into action.

Hanna journeyed to Seoul to try to break a bureaucratic logjam that was delaying the shipment of 7,000 tons of Food for Peace rice to South Korea.

"I was in a position to go to the top of the bureaucracy, to the President and to the deputy prime minister, Nam. We're good friends," said Hanna, who won the nickname "the California rice salesman" among American diplomats during his Asian tours as a six-term Democratic congressman.

Hanna said that some Korean officials apparently believed American rice prices would decline if they waited. Soon after Hanna's mission, the rice transfer was approved. Hanna, whose district, covering Orange and Los Angeles Counties, grows no rice, went to work for George E. Koppel, Inc., of Long Beach, Calif., after leaving Congress. The company exports vegetables and bulk foods, including rice.

In some respects, the way the government handles its rice policy is a humanitarian's dream. In effect, a fifth of American rice is being grown for the food aid program.

However, there are several drawbacks.

Much of the food aid rice does not reach the hungriest people.

Since 1968, the main receivers of it have been relatively well-to-do Asian countries, or military client governments of the United States. Five countries—Cambodia, South Vietnam, South Korea, Indonesia, and the Philippines—received almost all the rice shipped under the program. Small amounts went to India, Liberia, Guinea, Ghana and Zaire.

The first shipment of 150,000 tons of Food for Peace rice to Bangladesh left only in February.

Sen. Mark Hatfield (R-Ore.) charged recently that most of the aid rice airlifted into Cambodia now goes to soldiers and civil servants, with less going to refugees.

Almost all the rice is transferred abroad under Food for Peace's dollar credits program. The United States gives loans to governments abroad on favorable credit terms, to buy the commodity in this country.

Rice industry officials speak of Food for Peace as a means of financing exports, to be used in combination with other methods such as straight commercial purchases.

Another anomaly of the rice aid is that a single company, the Connell Rice and Sugar Co. of Westfield, N.J., has had over $679 million worth of the export contracts under Food for Peace since 1968 out of a total of $1.3 billion, according to records at the Agriculture Department.

Grover Connell, the company president, attributes his success to aggressiveness, and to underbidding his competitors.

However, Agriculture Department officials say that Connell's superior capacity to hold large quanties of rice has made it possible for his firm to make sales at higher prices than smaller export operators.

When Cambodia procured 50,000 tons of Food for Peace rice in late January, Connell was able to win a contract to supply 23,296 tons while three of its competitors were offering the remainder at prices as much as $13 a ton lower.

In other words, higher-priced Connell rice was needed to complete the Cambodian order because other firms didn't have enough rice on hand.

A mystery man in the closely knit circle of big-time rice dealers is a wealthy American-educated South Korean now resident in Washington, Tong Sun Park.

Park is friendly both with Connell and with a number of members of Congress, including Passman and Hanna.

According to Connell, Park represented the New Jersey firm several years ago in Seoul, when the company was competing to provide rice under the Food for Peace credit program to Seoul.

Connell said Park was paid a "nominal" commission and has not represented the company since the South Korea government transferred its government purchasing operations to New York City.

Passman, who has known Park for a long time, describes the South Korean as a "fine negotiator."

In September, 1972, Park arranged a lavish banquet for Passman at the Sejong Hotel in Seoul during a visit by the congressman to South Korea.

On Passman's latest trip to South Korea in January, Park was booked into a $150-a-day suite adjoining Passman's in the Chosun Hotel in Seoul, The Washington Post's Don Oberdorfer reported. The hotel told Oberdorfer that the accommodations were arranged by Park's Miryang Navigation Co.

The shipping company, according to reliable sources, owns only a few South Korean vessels. The sources said Park also operates Japanese-owned vessels under the Korean flag for at least one major Japanese shipping company.

Park also runs the exclusive Georgetown Club on Wisconsin Avenue, where diplomats and shipping brokers—including some who vie to obtain contracts for transporting Public Law 480 rice—dine off pewter plates in dark-paneled elegance.

Several American businessmen acknowledged in response to questions that they have asked Park to do favors for them in South Korea, Park did not return any of the calls placed to him in connection with the preparation of this article.

The debate about the role of rice in the Food for Peace program has gone on between government agencies in Washington for some time, though it has not surfaced publicly.

A government economist who formerly worked on budget matters recalls that officials argued against allocating large quantities of foodaid rice to Indonesia on grounds that it was discouraging that country from realizing a vast potential for increasing its own rice output.

"It was always the same we would make this point, and then the rice people would come storming in and Indonesia would get its rice, it was very discouraging."

A former coordinator of the program, Irvin R. Hedges, maintains that the Food for Peace program was, in effect, setting the market price for the commodity during the four years he was running the food aid program.

He also maintained that Passman and others were bringing strong pressures to bear to get more rice put into the program.

"It was our government-financed purchases that were setting the price," Hedges said. In 1972, he said, he attempted to get the Office of Management and Budget to place a ceiling on the government-financed rice prices.

"We could have saved millions of dollars if we had announced a ceiling at which the government would finance. The government was making the market. A couple of companies got hold of the market and just gouged. The profits were going to two or three."

Herbert J. Waters, president of Tadco Enterprises, Inc., which buys commodities in this country for Jamaica, says that when "we knew there was a (Food for Peace) tender coming up on rice, we'd have to get out of the market."

Waters said soaring rice prices brought on by the demand created by Food for Peace financing forced Jamaica to turn to Guyana as the main supplier.

Connell strongly denies that there is any connection between the Food for Peace program and the market price of rice today.

He said only 400,000 tons of rice have been committed abroad through the program—not enough to hold prices up. "It's world demand for rice," said Connell. Trade sources confirm that cash demand from wealthy countries such as Saudi Arabia and Iran is strong. In money value, though, Food for Peace has already given the rice industry more than $200 million worth of contracts, only slightly less than the value of wheat shipments, with more to come.

Connell also noted that Jamaica has always looked to Guyana to supply most of its rice needs, and now has a trade agreement with that country.

Others say that food aid rice is not very price-competitive with commercially sold varieties because much of it consists of inferior "No. 5" grade with up to 20 per cent broken grains.

In defense, rice officials say that just as large a proportion of the American wheat crop was moved under Food for Peace in the 1960s. Also, they add, rice tends to be the poor man's food in Asian and South Asian countries, while wheat products are consumed by more affluent people.

James J. Naive of the Agriculture Department's Economic Research Service, however, says Food for Peace "very definitely" influences rice prices by adding to demand.

Many rice trade people acknowledge their dependence on the program, and say they feel very vulnerable to shifts in American foreign policy that could affect their fortunes.

The export trade is especially crucial to California growers because there is almost no domestic markup for short-grained California rice.

Gordon Dore, a Passman friend and president of the Supreme Rice Mill of Cronley, La., criticized congressional limitations on foreign aid to countries not seriously affected by food and fuel shortages—a list that includes such traditional rice recipients as South Korea, South Vietnam and Indonesia.

"This has really cut into us," he said.

Rice industry publications also make clear that Food for Peace allocations are our vital concern.

The Jan. 15 Washington Riceletter predicted high demand and continued good prices. But the Riceletter noted at the time that Congress's Food for Peace restrictions were "hurting exports."

IMPACT OF U.S. FOOD HEAVY ON S. KOREA

(By Dan Morgan and Don Oberdorfer)

South Korea is "the greatest success story worldwide" of the Food for Peace program "in terms of its contribution to the growth of that nation," according to Assistant Secretary of Agriculture Clayton K. Yeutter.

The program, also known as Public Law 480, has turned South Korea from a "zero" market for American farm products to a $700 million annual customer, one of the fastest-growing in Asia, Yeutter said.

Opinion is mixed on the value of the program to South Korea, however. Its effect on farmers, on agricultural productivity, on distribution of wealth and on the country's general economic development has been questioned by some economists.

Food for Peace's heavy impact on South Korea is undisputed by officials of both countries.

The program has changed the eating habits of an entire nation. Today, there are 7,000 bakeries in a country where there were almost no bread-eaters until food aid wheat was introduced in the 1950s. Koreans now even eat Italian-style noodles made from wheat flour.

American officials said transferring Public Law 480 commodities to South Korea freed foreign exchange for economic investment that otherwise would have been spent importing food. It helped the balance of payments and softened the impact of inflation, they maintain.

"It was a tremendous resource in days of low economic activity," said Michael H. B. Adler, mission director of the Agency for International Development in Seoul.

As more people had money, the introduction of American food helped prevent a spiral of heavy demand for food, too little of it and consequent inflation.

Fransis X. Carlin, director of Catholic Relief Services in Seoul, recalled that after the Korean War "the people wanted money but there wasn't any. There was food, though, from U.S. surpluses. The food was a form of payment."

South Korea has received more Food for Peace commodities than any other country in the world except India.

The value of those commodities is estimated at just under $2 billion. Of that, $500 million was free.

The United States also extended food aid loans to the Seoul government at extremely favorable terms, so it could buy nearly $1.5 billion worth of wheat, rice, corn, tobacco, cotton and other farm products here.

American officials estimate that South Koreans, on average, have each consumed $50 worth of U.S. food that came to their country as food aid—enough for each of them to buy nine bushels of wheat, two bushels of feed grains and 100 pounds of rice.

Nevertheless, Bernie Wideman, a Fulbright Fellow in Korea from 1971 to 1973, harshly criticized the program in a chapter of "Without Parallel."

He maintained that the program "allows the government to maintain its stranglehold on the country's grain supply."

He argued that the massive subsidized American imports of food reduced pressure on South Korean government to increase agricultural output in the countryside by offering peasants higher prices.

In 1974, South Korea imported 3 million tons of cereal grains, including rice, and may soon become a $1 billion market for the United States, said Agriculture Secretary Earl L. Butz. In 1970, it produced 81 per cent of its food grain needs, in 1973, 68 per cent.

By contrast, North Korea is nearly self-sufficient in cereal grains and may be exporting some, some officials said. North Korea has about the same amount of farmland. However, North Korea has half the population of the south and a very tough regime that can control consumption patterns, according to State Department officials.

The south's food deficits recently have had a serious impact on South Korea's balance of payments, as commodity prices doubled and tripled in world markets in 1973 and 1974, officials conceded.

As a result of cheap, government-subsidized rice available to consumers, South Koreans went on a "rice binge" in the last half dozen years.

An alarmed government is now trying to check this trend by requiring rice meals in restaurants to be mixed with 30 per cent barley or other grains, decreeing two riceless days a week in restaurants and ordering less polishing of rice in mills to leave more bulk.

These adjustments coincided with United States attempts to convert South Korea from a beneficiary of Food for Peace credits to a cash purchaser. The massive American food assistance program to South Korea actually ended temporarily, between mid-1973 and early this year, because of scarcity of commodities in the United States. Rice shipments under the program are now resuming.

The cutoff prompted top Korean government officials to write the Treasury Department and other Washington agencies, reminding them of a U.S. commitment to increase Public Law 480 sales by $175 million in return for Seoul's voluntarily restricting textile exports to this country.

United States officials conceded that the promise by Treasury Secretary David Kennedy in October, 1971, has weighed on relations between the two countries.

The impact of U.S. food aid on the economies of recipient countries has been a matter of debate for years.

During a two-month investigation of Public Law 480's operation by The Washington Post, officials named four countries where they believed the inflow of food had adversely affected domestic agricultural production. These were Colombia, Pakistan, Indonesia and South Korea.

Government economists are aware of the pitfalls of aid that is not carefully integrated with countries' development plans. Among these are disincentives to domestic food output diversion of agricultural resources to other economic sectors, and price disruptions.

Although the U.S. government has operated a massive program of loans to foreign governments for food buying in the United States for 21 years, studies of the impact have been few—and almost all by outsiders.

One of the most detailed studies, by Leonard Dudley of Canada's University of Montreal and Roger J. Sandilands of the University of Strathcyde in Scotland concluded that in one country—Colombia—the benefits were "positive" on balance. But they concluded that food-pricing policies induced by Public Law 480 imports caused Colombia to sacrifice the greater part of the potential benefits from this foreign aid program."

Between 1955 and 1971, Colombia imported 1,023,000 tons of wheat under the credit program. Dudley and Sandilands noted that Colombia's wheat production fell continuously in the 1960s until, by 1971, it was a third of peak levels in the 1950s.

"A large part of the 165,000 hectares that went out of wheat production could not be accounted for by any increases in other crops," they wrote in the January issue of Economic development and Cultural Change, published by the University of Chicago. Meanwhile, total imports rose sharply and imposed a "substantial strain" on Colombia's balance of payments, they concluded.

In 1965 the United Nations Economic and Social Council published a mildly critical report of the impact of American agricultural surpluses imported into South Korea under Public Law 480.

The report said that imports of U.S. farm surpluses influenced the prices of domestic farm products and maybe prices in general.

From 1960 on, South Korea's economic development strategy was based on building export-processing industries on the Japanese model. Light, and later heavy industry, using a fairly cheap work force, received the main emphasis.

Rice prices were kept low so labor costs were kept low. The government encouraged migrations from farms to cities to swell the labor force. That boosted urban rice consumption.

Outwardly, that presented no serious problems during years of very low world rice prices and generous American food aid credits.

However, a 1974 World Bank economic analysis noted a "sharp deterioration" in the position of farm families in comparison to city households between 1963 and 1967.

Lately, the government has sharply increased the rice support price to induce more rice production and to narrow the rural-urban gap, with some success.

Food aid critic Wideman maintained that the long-term, low-interest U.S. loans to South Korea for food buying were damaging, not helpful, in some respects.

He said the loans enabled the regime to hold down rice prices, since ample amounts of cheap rice were available. The effect was "to stifle the income potential of peasants, and the wage demands of [urban] workers," Wideman argued.

Food aid loans "obviously are of no benefit to the South Korean people," he wrote. "The main beneficiary, aside from the government, is the U.S. farmer . . . U.S. agricultural circles are delighted that, thanks to Public Law 480 loans, South Korea is the fastest growing market for U.S. farm goods in the Far East."

Not all of the Public Law 480 commodities shipped to South Korea in past years were used as food. Substantial amounts of wheat have gone into making makkalli, a traditional Korean wine. Makkalli once was made from rice, but processors shifted to wheat as a result of rice shortages and an abundance of subsidized wheat. Wheat for Makkalli is officially recorded as "home and industrial use."

Wheat is also used to make cakes, donuts and noodles. One local entrepreneur became rich selling his countrymen noodles made from food aid wheat.

South Korea's imports of American wheat climbed from 52,000 tons in 1954 to 1.17 million tons in 1974—a trend that the United States Wheat Associates, based in Seoul, believes is sure to continue. "The U.S. can expect to keep the lion's share of the market," the organization noted in its briefing paper for visitors.

Early this year, the United States resumed food aid credits to South Korea, and rice bought with the dollar credits is on its way. Some officials question the need for the credits. But policy-makers conclude that the possible drawbacks are outweighed by political and security requirements of keeping friendly with South Korea's regime.

The 1965 United Nations study found that 85 per cent of the proceeds of resale of surplus U.S. commodities by the South Korean government until then had been earmarked for "common defense purposes." Use of funds for this purpose were stopped by Congress, as of June 30, 1974.

Government revenues can still be shuffled in such a way that the congressional restriction is meaningless, foreign aid officials admitted.

Also a requirement to use the proceeds for development is difficult to enforce, they added.

The United Nations study said that few imports of food were made under Public

Law 480 for the express purpose of financing development projects in the first 10 years.

In 1971, 1972, and 1973, the AID extended three loans totaling $77 million from "development funds" to enable South Korea to purchase rice on the open market. There was no pretense that the loans were for "development purposes."

President Park Chung Hee still has the confidence of many American officials working in the food aid and economic assistance fields.

"Park is extremely devoted to development as the *sin qua non* of more than doubling the standard of living," said a now retired AID officer. "Park has been the driving force . . . a classical, benevolent dictator."

FREE FOOD EFFECT UNCLEAR

(By Dan Morgan)

The scene could be in any one of many ports around the world:

A ragged line of peasant laborers—men and women wearing sarongs and head towels in the noon heat—inches in and out of the belly of a freighter, hauling bags of rice or other commodities to a nearby warehouse.

Often, mothers among the workers break from the line to nurse babies or cook meals under trees or by buildings.

This scene took place at a river dock in Phnom Penh, shortly before Communist forces cut the river link to the Cambodian city. But it could have taken place in many ports where the United States sends gifts of food.

The United States has distributed more than $5 billion in free food, to children, nursing mothers, workers, refugees and disaster victims in more than 100 countries.

Surprisingly, the government has only sparse data to prove that these giveaways significantly improve the health and nutrition of populations abroad.

Emergency relief to the Sahel region of Africa, to Bangladesh and to India's famine-stricken province of Bihar in 1966 and 1967 indisputably saved lives.

Less certain is the long-range beneficial impact of dozens of mass feeding programs utilizing the free American food.

In the first detailed study of such programs, conducted in Colombia, Kenya and the Philippines by the Washington consulting firm of Chechi and Co., the assessment was mixed.

It concluded that programs that are sporadic, badly organized or of short duration do not have much more impact on the health and nutrition of recipients than no program at all.

School lunch programs, the Checchi research indicated, "require a high number of feeding days and a very low level of interruptions to be effective."

It has been obvious for a long time that U.S. food aid alone cannot eliminate malnutrition in the world, aid experts insist.

U.S. aid helped establish school lunch programs all over Brazil in the 1960s. The value of the free food provided was $276 million—more than the $259 million in U.S. military assistance. Yet World Bank health officers say Northeast Brazil has some of the world's worst pockets of malnutrition.

According to nutritionist Alan Berg in his book, "The Nutrition Factor," protein supplements provided to people over extended periods in the Philippines and El Salvador brought no significant change in health.

Random samples that are much less sophisticated than the Checchi study have offered only vague conclusions about the nutritional impact of various feeding programs.

The fundamental limits on what American free food can achieve can be seen clearly in India. India receives far more free American food than any other country in the world—200,000 tons in 1974.

Yet the food reaches only slightly more than 10 million people out of a population nearing 600 million. Its impact is seen best in only two states, Tamil Nadu and Kerala, according to The Washington Post's correspondent in India, Lewis M. Simons.

In emergencies and famine, the food from America (and increasingly from Canada and Europe) often lifts a population's calorie and protein levels above what they were before the disaster, studies have shown. But followup is seldom reliable. CARE noted in a report after the 1966–1967 Bihar famine relief project that the hopes of government and private agencies to continue a preschool feeding program were "not fulfilled."

In some rural areas of the world where malnutrition is most severe, there is no distribution system to deliver free food.

America's donation program is spread too thin globally, some government experts contend.

This year 93 countries will divide up the $350 million worth of free food available. Some will get only a few thousand tons.

There has been resistance from some America-based relief agencies against closing down programs in countries where nutritional results seem only marginal, because they are anxious to keep representatives in many parts of the world.

Relief organization officials say that would smack of immoral "selection" of some countries over others by the United States.

Despite occasional, well-publicized scandals involving abuses in the giveaway program, the amount of food lost or pilfered may be less than 5 per cent worldwide, according to some reliable estimates.

Abuses do occur. A priest in northern Brazil boasted he had financed the construction of his church by selling "free" U.S. food. And an official of the U.S. Department of Agriculture said, "Heaven knows how many millionaires this program has made in Cambodia." Cambodia military officers with rice quotas for their troops have been reprimanded and quickly reinstated when their troops mutiny because they never get the food.

Yet the majority of experts interviewed by The Post during a two month study of Food for Peace agreed that bureaucratic snarls and uncertainties in U.S. governmental policy were a far greater problem than corruption.

A study by the General Accounting Office, found a number of lapses in the program. It concluded that the giveaway mechanism "should be examined by the Congress and the administration."

Among its findings:

As a result of a shortage of commodities in this country in 1973 and 1974, 26 feeding programs in 23 countries were ended ahead of schedule and "significant reductions were made in most of the remaining programs."

The number of persons receiving free food dropped from 74 million in 1973 to 55 million in 1974, just as the world was moving into a period of food shortages and malnutrition.

In fiscal 1974, the United States gave away only a little more than half the amount of commodities it averaged in each of the preceding 13 years.

Between June and September, 1973, the Department of Agriculture stopped buying food altogether for the donation program—resulting in confusion and uncertainty in volunteer organizations which distribute it.

A senior Food for Peace program official said that, even today, "getting commodities is an ad hoc thing—sometimes month to month."

Herbert J. Waters, president of the American Freedom From Hunger Foundation, a private organization that lobbies for food aid, said a longer-term commitment from the U.S. government is needed. That way, supplies will be allocated to the feeding programs on a long-term, regular basis.

If the Secretary of Agriculture would calculate a food aid component in setting farm production targets, it might induce farmers to continue producing, and earning, even when grain supplies were large, he said.

The U.S. food aid program initially wasn't meant to be a humanitarian effort. When passed in 1954, Public Law 480, later called Food for Peace, was to dispose of excess farm commodities. The goal of using the surpluses to combat hunger and malnutrition, and to encourage economic development, was written in by Congress only in 1966.

Since then, officials at the Agency for International Development have started setting targets for the purpose of achieving nutritional results.

Today, only one dollar out of every five that the United States spends for food aid goes to the food giveaway program. The rest is for long-term, low-interest dollar credits to friendly governments (and some private firms) for food buying in the United States.

The United States has little control over how the food purchased with those loans is used by governments abroad, other than to see that it is not re-exported by the recipient government.

Much of it ends up in commercial markets which are not necessarily accessible to the lowest income groups, though some of the food does reach hungry people.

In India, the commodities which the government procures through such credits go into the pool of food the government distributes to fair price shops, where prices are kept artificially low. (No official statistics on how the country distributes its food are available.)

An educated guess is that between 7 and 17 percent of all food—imports as well as what is grown by peasants and bought by authorities—goes to the subsidized fair price shops in India.

These shops are mainly in towns and cities, so that the poorest of the country's poor, the landless laborers, get little benefit from them.

Some economists say the credit program is more like a commercial food-selling operation than like food aid.

Berg suggests that the United States ought to require the governments getting the credits to give poor people the same chance to obtain the food that middle class and rich people have.

A universal ration card system would be one plan for meeting such a requirement.

In India, the richest Indians as well as the poorest buy in the fair price shops, where much of the wheat and rice purchased with food aid credits from the United States ended up in the past.

Others argue that it is difficult to attach strings to a foreign government's use of food that was purchased in a semi-commercial transaction.

Still others say that the food acquired with American food aid credits must be doing good, because it is eaten. Yet that is not true of the tobacco and cotton that the United States ships abroad under Food for Peace—a projected $84 million in this fiscal year.

Faced with the seemingly unsolvable task of winning the war on world hunger, some Americans are discouraged.

Feeding hungry people abroad turns out to be a far more complicated undertaking than many had expected.

Yet some in government are encouraged. They say there is a trend now to recognize limitations, define what is possible, spot weaknesses of old programs, and use resources more cleverly.

Nutrition experts say that even small scale feeding programs can be extremely useful as models. This year, Brazil is taking over

responsibility for a national school lunch program that was introduced by the United States.

Models of good nutritional practices are especially important to counteract the negative effects of well-advertised high-cost, low-nutrition products, they say.

In his book, Berg maintains that some companies are persuading mothers in Africa and Latin America to switch from human milk to costly baby formulas in nursing their infants.

This is one reason U.S. government officials are wary of the well-publicized claims of certain agribusiness firms that they will develop "new products to feed the hungry of the world."

FOOD AID ROLE WEIGHED

(By Dan Morgan)

"The food aid program today exists as an arm of Kissinger's foreign policy," a senior bureaucrat said recently.

The Secretary of State has granted more than $50 million in food-buying credits to Egypt, Syria and Jordan to buttress his peacekeeping efforts in the Mideast.

Food for Peace rice is helping the Cambodian government feed its people while troops stave off Communist attacks.

Henry A. Kissinger's State Department supported a resumption of food credits to the military regime in Chile and backed plans to ship 61,000 bales of surplus cotton to South Vietnam and Indonesia this year under Food for Peace.

American food has served a wide variety of diplomatic purposes: luring the Soviet Union toward détente, rewarding Pakistan for its intermediary role in the Nixon-Kissinger opening to China, and bolstering South Vietnam's soldiers.

It also has been employed to support U.S. foreign economic policy. In 1971, then Treasury Secretary David Kennedy promised South Korea increased food-buying credits in return for Seoul's reduction of textile exports to the United States. As partial payment of that pledge, the United States recently issued South Korea a $22.8 million food-aid credit to buy rice here.

Such political uses of food aid sparked debate last year in Congress, which acted to restrict politically motivated food aid for the first time in the 21-year history of the program.

Defenders of Kissinger's priorities say there is a legitimate political use for food aid, especially since other nations use oil and raw materials to accomplish their own economic or diplomatic ends.

Assistant Secretary of State Thomas O. Enders says the distinction between humanitarian and political aid is, in any case, artificial since some of both elements are always involved in American largesse.

If American food aid can deter aggression in the Middle East, it may be the most humanitarian assistance this country gives, State Department officials maintain.

The debate on "political" versus "humanitarian" aid is only one of the controversies surrounding Public Law 480, the 1954 statute under which America has distributed more than 200 million tons of commodities valued at $24.5 billion around the world.

That program has relieved hunger in such places as India, the Sahel region of Africa, Bangladesh and Cambodia.

As this series of articles has indicated, PL 480 also serves American self-interest: it disposes of crop surpluses, develops new markets, provides indirect subsidies to farming branches, gives business to the U.S. shipping industry and buttresses American diplomacy.

Critics of the program's operations say there is nothing wrong with that, but they add that clearer goals and more coherent policies are needed as this country's resources become more limited.

Many Americans are confused about the nature of the program, said James T. Grant, president of the private Overseas Development Council here.

Americans supported the postwar aid to Western Europe because political, humanitarian and security motives were inseparable, he added. Now the aims of food aid seem much less clear and the food deficits abroad seem almost endless, not temporary as they did in Europe in the late 1940s.

An Agriculture Department official said, "We haven't got a national consensus on how to handle the question of food aid."

Sen. Dick Clark (D-Iowa), a member of the Senate Agriculture Committee, said the ultimate solution is to develop more productive agricultural economies abroad in order to close the widening food deficit between rich and poor countries.

In the meantime, he said, "It's time we had a total look at the program and wrote a new bill. We have got to get the domestic politics out of it. "We've got to get more consistency into the program, even if it means a somewhat lower level" of food shipments.

Numerous officials contracted during a two-month investigation of the operations of PL 480 said that the program has become an increasingly unwieldy weapon in fighting hunger and in encouraging other nations to increase their own agricultural productivity.

A number of officials claimed the "self help" requirements that the United States writes into many of its food aid agreements with foreign government are seldom enforced. Such agreements usually require the governments to use revenues from the local sale of the American farm commodities for development.

Several officials in foreign assistance said this was a "cosmetic." Budget officials note that revenues raised by governments anywhere go into a single pot. Thus, they question the effectiveness of the June 30, 1974, congressional ban on using the food aid funds for defense purposes.

Some American officials say that the United States could help farmers abroad if it required governments receiving food-buying loans to establish rural credit systems or give price incentives to growers.

The administration has said repeatedly that it wants to shift its foreign aid priorities to help countries abroad produce more food. However, that new emphasis was not evident in the House Appropriations Committee Monday. The committee slashed the administration's request for overseas aid this fiscal year in the agriculture and nutrition fields from $546 million to $234 million. The full House approved the cut yesterday.

Along with such actions, the possibility of the country's return to low farm prices and big farm surpluses worries proponents of food aid reform.

"The one thing we all agree on is that what we have done in the past—dumping huge amounts of food when we have too much and holding back when we have too little—was abominable," said a government economist who deals with the food-aid program.

Clark and others say that a long-term commitment of some kind is essential.

According to Susan Sechler, of the Agribusiness Accountability Project, which is now looking into PL 480 programs, machinery should be set up to allocate supplies and food aid recipients, if necessary. The Agribusiness Accountability Project is a public interest group here that focuses on conglomerates and concentration in agriculture.

"We've got into a situation where what we want to give has little to do with what they need or with getting them on their feet agriculturally," she said.

Many administration officials say the future of the food aid program cannot be divorced from complicated decisions about world trade, Kissinger's proposed international grain reserve and price supports for American farmers.

Harald B. Malmgren, who resigned recently as a deputy special trade representative at the White House, and others agree that American farmers cannot assume all the risks of producing surpluses against disasters.

Major grain producers and consumers have started negotiating on a 60 million-ton international grain reserve, in which participating countries would share responsibility for holding reserve stocks and would release them during scarcity.

The reserve would be the centerpiece of the United Nations' plan for a system of world food security, in which international food aid would be a component.

However, domestic and international politics could well decide the success or failure of the reserve plan.

Many farmers in the United States fear it could depress prices. Agriculture Secretary Earl Butz maintains the reserve is no answer to the perennial problem of American overproduction. However, Malmgren and some others say that it could be sold to American farmers if there was something in it for them, such as better access to European grain markets during periods of worldwide stockbuilding.

But it might be hard to persuade the Europeans to trade an easing of their economic barriers for the reserve idea, particularly as a big American grain surplus this year seems possible.

Extreme care will have to be taken to make sure that neither the reserve scheme nor future food aid serves as a substitute for expanded investment in agricultural production abroad, officials say.

Others say food aid will be needed for years to come. Lowell Hardin, agriculture specialist at the Ford Foundation, said it can act as insurance that sudden agricultural disasters will not be a "critical issue for developing nations in getting on with other elements of national planning."

Carefully applied, he added, food aid can stabilize economies abroad, fight inflation and help balance-of-payments problems of developing societies.

A former aid worker in Brazil summed up the dilemma facing United States policymakers this way:

The question is whether the 1954 mentality of dumping surpluses abroad can be tolerated in the finite world we live in now. Can the self-serving rationale for the program be admitted in the conditions we have today?

THE AMERICAN REVOLUTION

Mr. GOLDWATER. Mr. President, I have never been especially happy with the description of American's drive for independence as a "revolution." And the reason is that word conjures up all kinds of horrible incidents which occurred in other revolutions such as the French Revolution which had a reign of terror running from May 1793 until July 1794, a 15-month period during which some 17,000 persons were executed in the name of legal reform. The number of persons in prison reached the hundreds of thousands, many of whom died before they were released.

Nothing of this sort accompanied the

American Revolution. It was a revolution only in the sense that standards, values, and orders were overturned. Even so the American political system continued with the principles of liberty and justice which had been adopted and established by the English people. Actually the American Revolution was fought in the beginning for Americans the basic English principle of that which concerns all should have the consent of all. Another way to say it is, "No taxes without representation."

Mr. President, I do not think I have ever seen the American Revolution described in its true colors and better than in a speech by Mr. F. J. Ryley before the Episcopal Church Women of Arizona Diocese, All Saints Church in Phoenix on March 4. Mr. Ryley takes us back to those difficult days of the 1770's and describes what occurred in terms of how Rousseau perhaps saw them. In all events Mr. Ryley's speech is one that every Member of the Senate should study and think about in these days of stress. 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:

If, by way of illustration, we liken our American polity and order to a tree, then we can carry the illustration further and say that freedom is the fruit of this tree.

And what are two of the necessary roots for this tree—the two roots without which the tree dies?

George Washington and Benjamin Franklin both agreed that these two roots were: individual morality and religion.

What were the religions of these two leading architects of our government? Two hundred years may seem like a long time to go back and look at their beliefs, but in number of generations it is comparatively few, and the character of man has not changed in this period.

Many of you know Archdeacon Jenkins of this diocese. He died a few years ago and was in his 90's. He came to Prescott as rector of St. Lukes and missionary to the Indians in 1909, and was made Archdeacon in 1914. His great grandfather was a chaplain in the Continental Army at Valley Forge. Here in our own lifetime lived a man in whom only two generations separated him from an ancestor who was a chaplain in the Continental Army at Valley Forge.

What was the religion of George Washington? George Washington was a worshiping and devout member of the Church of England and its successor, The Protestant Episcopal Church of the United States. He was made warden of his parish in Virginia in 1762. The Pohick Parish vestry minutes record that he attained 23 of the 31 meetings between the time of his appointment as warden and his appointment as Commander-in-Chief of the Continental Army 11 years later. Of his 8 absences in these intervening years, one absence was due to sickness, two because of attendance at the House of Burgesses, and five because he was out of the county.

The Pohick Parish records also show that on his appointment as a warden he signed this declaration: "I will be confirmable to the doctrine and discipline of the Church of England as by law established."

The Reverend Charles Green, rector of Pohick Parish from 1738 to 1765, wrote: "I never knew so constant an attendant in church as Washington and his behavior in the House of God was ever so deeply reverential that it produced the happiest effect on my congregation and greatly affected me in my pulpit labors."

George Washington, in the second general order which he issued as Commander-in-Chief on July 4, 1775, directed "a punctual attendance on divine service to emplore the blessings of heaven upon the means used for our safety and defense."

Upon Washington's urging, Congress authorized the employment of chaplains in the Continental Army and, immediately upon the enactment of this authorization, he issued a general order on July 9, 1776 (when the army was in New York City) stating:

"The colonels or commanding officers of each regiment are directed to procure chaplains, accordingly persons of good character and exemplary lives, to see that all inferior officers and soldiers pay them a suitable respect and attend carefully upon religious exercises. The blessing and protection of heaven are at all times necessary, but especially in times of public distress and danger. The general hopes and trusts that every officer and man will endeavor so to live and act as becomes a Christian soldier, defending the dearest rights and liberties of his country."

Washington was president of the Constitutional Convention held in 1787 and Bishop White, the first Protestant Episcopal Bishop of Pennsylvania was chaplain of the Convention.

Washington had strong views as to the necessity of human morality and religion. In his Farewell Address on September 17, 1796, Washington told his countrymen:

"Of all the dispositions and habits which lead to political prosperity, Religion and morality are indispensable supports. In vain would that man claim the tribute of Patriotism, who should labour to subvert these great pillars of human happiness, these firmest props of the duties of Men and Citizens. The mere Politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in Courts of Justice? And let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure—reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

'Tis substantially true, that virtue or morality is a necessary spring of popular government. The rule indeed extends with more or less force to every species of Free Government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?"

Benjamin Franklin held the same views as to the importance of individual morality and religion as did Washington.

Franklin has to be one of the most remarkable and talented men of all times and countries.

Marquis, who publishes Who's Who in America, prepared a galley proof on Franklin as he would have been listed if Who's Who had been published in his lifetime. The list of Franklin's honors and achievements is from 15 to 20 times longer than that of the average person listed in today's Who's Who. Fritzi has posted this listing on a board with other materials which she has prepared and placed so that you can see it when we adjourned.

It would have been fun to have followed Franklin around England while he was there as representative of the American colonies—not the least interesting would have been his argument with King George regarding an architectural feature of a building then being built in London. It would have been interesting to sit in while he and Lord LeDespensor revised the Book of Common Prayer in the 1750's.

When one reads Franklin's autobiography, it is as though you were sitting down listening to him talk directly with you. In his autobiography, Franklin described his religion as follows:

"I had been religiously educated as a Presbyterian; and tho' some of the dogmas of that persuasion, such as *the eternal decrees of God, election, reprobation, etc,* appeared to me unintelligible, others doubtful, and I early absented myself from the public assemblies of the sect, Sunday being my studying day, I never was without some religious principles. I never doubted, for instance, the existence of the Deity; that he made the world, and govern'd it by Providence; that the most acceptable service of God was the doing good to man; that our souls are immortal; and that all crime will be punished, and virtue rewarded, either here or hereafter. These I esteem'd the essentials of every religion; and, being to be found in all the religions we had in our country, I respected them all, tho' with different degrees of respect, as I found them more or less mix'd with other articles, which, without any tendency to inspire, promote, or confirm morality, serv'd principally to divide us, and make us unfriendly to one another. This respect to all, with an opinion that the worst had some good effects, induc'd me to avoid all discourse that might tend to lessen the good opinion another might have of his own religion; and as our province increas'd in people, and new places of worship were continually wanted, and generally erected by voluntary contribution, my mite for such purpose, whatever might be the sect, was never refused.

"Tho' I seldom attend any public worship, I had still an opinion of its propriety, and of its utility when rightly conducted, and I regularly paid my annual subscription for the support of the only Presbyterian minister or meeting we had in Philadelphia. He us'd to visit me sometimes as a friend, and admonish me to attend his administrations, and I was now and then prevail'd on to do so, once for five Sundays successively. Had he been in my opinion a good preacher, perhaps I might have continued, notwithstanding the occasion I had for the Sunday's leisure in my course of study; but his discourses were chiefly either polemic arguments, or explications of the peculiar doctrines of our sect, and were all to me very dry, uninteresting, and unedifying, since not a single moral principle was inculcated or enforc'd, their aim seeming to be rather to make us Presbyterians than good citizens."

When we refer to the American War of Independence as a revolution, it is not a revolution in the sense that standards, values, and orders were overturned. The American political order continued with the principles of liberty and justice which had been adopted and established by the English people.

King Edward I of England, who reigned from 1272 to 1307, declared as a principle of English government that that which concerns all should have the consent of all. He called the first English Parliament. The American revolution was fought to gain for Americans this basic English principle of that which concerns all should have the consent of all. No taxes without representation.

Were the beliefs of Washington and Franklin then universally accepted Unfortunately, no.

All through history there has been two philosophical roads in opposite directions. In ancient Greece these two roads were hypostatized by the god Apollo and the god Dionysius.

Apollo stood for the divine law and order around which the universe was structured and the divine wisdom was the center of all. Those who broke these laws were punished and those who obeyed them were rewarded.

Dionysius, on the other hand, represented the irrational in which man was the center of everything and his will and desires were the only law.

Socrates, of course, believed in divine laws and in the logos—the divine wisdom. Socrates is often called the first witness to Christ; he said we have gone as far as we can go in our philosophy without a divine revelation.

Washington and Franklin were on the Apollo, Socrates and Christian road.

Two years after Washington's Farewell Address, the French Revolution had begun. The Bastille was stormed on July 14, 1789. With the French Revolution, the Dionysiac road was wide open and France went roaring down it.

The reign of terror began in May 1793 and ended on July 27, 1794, with the killing of Robespierre. In this 15 months period, 17,000 persons were executed under a form of law. No one knows how many were shot, drowned or otherwise killed outside the law, but it was far greater than 17,000. The people imprisoned reached the hundreds of thousands; many died in prison; 150,000 persons were listed as emigres. Every kind of eminence marked men for death, and all classes and ages were included. In 1799 the man on horseback—Napoleon—seized control of France.

You can have order without freedom, but you can't have freedom without order. France had no freedom, neither under the revolution of the mob nor under Napoleon.

During the French Revolution so-called reason displaced God. Religious services ceased and statues labeled reason were placed on altars, and Christ and Mary were taken down.

Who is the author of the French Revolution, and what were his beliefs? Rousseau has been given the credit. What was Rousseau's religion? He did not have one. Did he have individual morality? The answer is NO. He has been called a sentimental deist:

Deism was a philosophical movement existing from, roughly, 1650 to 1800 and then it expired. It started in England, and Rousseau was the main exponent in France.

Paul E. More described Rousseau's deism as follows:

"Gist of his faith is a pure deism, a trustful reliance on some beneficial god who is united with nature by a mutual sympathy corresponding to that which he himself feels, and who is in fact no more than a magnified projection of his own innocent personality into the infinite void—himself and nature; god and nature."

The deists thought a god created the universe and then started it running, like a watchmaker makes a clock—winds it up and it goes on ticking away. The deists nature is a very unsentimental force.

I would like to hear an imaginary discourse between the late Bishop Johnson of the Episcopal Diocese of Colorado and Rousseau. They tell the story of Bishop Johnson riding on a train and a noted astronomer was sitting beside him. He told the Bishop that his idea of religion was the golden rule; the Bishop replied his idea of astronomy was "twinkle, twinkle little star."

However, sentimentalism was the essence of Rousseau's philosophy; deism was an accident of his creed.

Briefly, Rousseau's sentimentalism lay in this theory: man is infinitely good; if he does wrong, it is society's fault. "In his view the primitive savage was the perfect being, living in solitude, mating by chance, following undisturbed his healthy animal instincts. The first law of nature is love of self and in this paradise of primeval isolation, there is nothing to distort that innocent impulse. When by chance man meets with man, he is kept from wrongdoing by the feeling of sympathy and pity which is after the instinct of self preservation—the second law of nature." [Paul E. More]

In the opinion of the sentimentalists, the first fall from this social Garden of Eden was when the first man said—"this is my parcel" and hence all troubles and disputes arise from property.

Rousseau's views on educating a child were that the instincts planted in a child by nature are right. Therefore, the aim of education is to place the child in such a position that these instincts may develop freely without any thwarting control from master or society.

Under this education theory, it is: instinct instead of experienced judgment; impulse instead of control; unbridled liberty instead of discipline.

Rousseau would foster emotions, as if the uniting bond of mankind were sentiment.

The founding fathers of our country knew that in each man there is a will to power which has to be curbed through self-mastering. The sentimental deists say there is no such will to power if people own no property.

The agency which has existed to chain this beast in man has traditionally been the church, but the church appears to have lost its moral leadership.

In colonial and pioneer days, the church did not hesitate to preach hell fire and damnation. The church was concerned with eschatology—the end; the return of Christ; a man's death, his resurrection; the weighing of his soul; judgment, heaven or hell.

Eschatology throughout the history of the church has had periods when it was emphasized and when it was soft-pedaled. The extent of the moral influence of the church appears to have a direct ratio with the concern with eschatology.

The eminent christian apologist, C. S. Lewis, in his writings makes it clear that we should ever remember The Four Last Things: Death, Judgment, Heaven, Hell.

It appears that there are these two roads going in opposite directions. It isn't important whether you are on the right or the left side or the middle of the road, the important things is which road are you on!

There is the Rousseau road—and it is traveled by the Bernard Shaw and Webb Socialists. Shaw and Webb, in their book on Socialism, state that the first thing that must be accepted if you are going to be a socialist is that man is the creature of society and, second, that the elite who understand socialism must be allowed to establish the perfect society without hindrance or obstruction.

Another group which is traveling the Rousseau road are those who espouse the Freudian ethic, which holds that man cannot and should not be provident or venturesome and that he must and should be supported, protected and socially maintained.

One has only to read Poor Richard's Almanac by Benjamin Franklin to see where he stood on the question of self-reliance and enterprise.

It is a useless exercise to study or recount history unless we relate it to the problems of the present.

The two roads I mentioned still exist and are being traveled today. I will leave it to you which is the heavier traveled today.

I bought, on the street corner from a vending machine, the weekly newspaper, The Weekly People, published by the Socialist Labor Party of America dated February 22, 1975. One of its articles contained this paragraph, which is pure Rousseauism:

"At the outset of historical evolution, there were neither class divisions nor a state. The primitive organization of society knew only the democratic communal authority of the group. It is only after material necessity has forced the classless primitive society to break up into class divisions, into rulers and the ruled, that the state appears. And as society evolved through different forms of class rule, from ancient chattel slavery to feudal serfdom to capitalism, with its system of wage slavery, the state remained the vehicle of the dominant class in society, the more or less adequate expression of ruling-class interests. From the time it sprang up with the advent of class society, the state has used its organs of force and coercion primarily to maintain the suppression of other classes."

I do not think any American wants to be a primitive.

The socialists talk about the proletariat. It is a Latin word and it is interesting to know what it meant in ancient Rome. It was a man who gives nothing to society but his children.

The question, I suppose, is really: which road are we going to travel; which road will produce the best men and women?

It is not hard to ascertain which road some educators are traveling. The following news story would be humorous if the results would not be so tragic. The Arizona Daily Star newspaper of February 19, 1975, carries a Washing Star report:

OVERHAUL IN EDUCATION IS PROPOSED

WASHINGTON.—Children should not be required to learn how to read until the seventh grade. Arithmetic and all other mandatory subjects, as well as grades and achievement tests, should be abandoned by elementary schools.

These controversial proposals were made here Monday by William D. Rohwer, Jr., of the Institute For Human Learning at the University of California, Berkeley, who contends that millions of children—most of them from middle-class families—are programmed by elementary schools for failure at an early age.

"The only kinds of children for whom school is congenial are those who have a bent for reading or arithmetic, and who can profit from early formal instruction in these subjects," Rohwer said. "For the remainder of the population, schooling is experienced as a constant struggle dotted with repeated notices that failure has been achieved."

Most schools, Rohwer said at a conference sponsored by the National Education Assn., have misplaced priorities: requiring students to succeed in the early grades, rather than attempting to insure success in junior and senior high school.

Priorities should be turned around, he said, so that children in elementary schools will be guaranteed against failure, thereby increasing their chances of finding schools congenial and pleasurable places in which they can succeed as they grow older.

Under Rohwer's radical overhaul of schooling, no children would be required to attain any subject matter level of achievement before the seventh grade. In elementary schools, students would be free to work on any projects they desired, including traditional subject areas, or even topics of their own choosing such as computer programming or the lore of professional baseball. Students who wanted to learn how to read would be allowed to do so, if teachers felt they could achieve without difficulty.

During two or three years of junior high school, he said, all basic skills of reading, mathematics and other subjects could be taught.

In closing, I would like to quote from three sources: Edmund Burke, the Arizona Bill of Rights, and the Bible.

Edmund Burke, in referring to Rousseau, said:

"We have had the great professor of the philosophy of Vanity in England—Benevolence to the whole species and want of feeling for every individual with whom the professor comes in contact, form the character of the new philosophy."

Section 1 of the Bill of Rights of the Arizona Constitution says: "A frequent recurrence to fundamental principles is essential to the security of individual rights and the perpetuity of free government."

Jesus in Matthew 12: 33: "Make a tree sound and its fruit will be sound; make a tree rotten and its fruit will be rotten. For the tree can be told by its fruit."

And last: "What does the Lord require of you?" The Prophet Micah answered: "But to do justice, and to love kindness, and to walk humbly with your God." Micah 6: 8.

MIA AWARENESS YEAR

Mr. STONE. Mr. President, I rise today to express my concern over the fate of our servicemen missing in action. I have joined many of my colleagues in cosponsoring Senate Resolution 48, a resolution directing the State Department and the President to pressure the North Vietnamese and Cambodian Governments into providing additional information concerning our MIA's. I have also cosponsored S. 624, a bill that would prohibit any change in the status of any member of the uniformed services who is missing in action until such time as the provisions of the Paris Peace Accord of January 27, 1973, have been fully complied with.

I am very pleased that concern over our servicemen missing in action has also been formally expressed by Florida's Governor Reuben Askew. Mr. President, I ask unanimous consent that Governor Askew's proclamation proclaiming the year 1975 to be "MIA Awareness Year" be printed in full in the RECORD.

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

PROCLAMATION

Whereas, in January, 1973, the Vietnam Cease-Fire agreement was signed in Paris, and

Whereas, the provisions of that agreement called for the return of American Prisoners of War and an accounting of the Men Missing in Action, and

Whereas, today, almost two years later, the fate of 1,300 of our men as prisoners or missing in Vietnam, Laos, Cambodia, or China is unknown, and

Whereas, there is no evidence that the Communists intend to comply with the provisions of a return of all prisoners, an accounting of the Men Missing in Action, and return of the remains of those who died on foreign soil, and

Whereas, VIVA (Voices in Vital America) and the National League of Families have undertaken the task of bringing to focus attention on the plight of our Prisoners of War and Missing Men, and

Whereas, the focus is in the form of a rededication for freedom;

Now, therefore, I, Reubin O'D. Askew, by virtue of the authority vested in me as Governor of the State of Florida, do hereby proclaim the year 1975 as MIA Awareness Year in Florida, and do urge all citizens to join in proclaiming support for the efforts of the families and friends in bringing to the attention of America and the world the plight of our Prisoners of War and those Missing in Action in Southeast Asia.

THE SUMMER LUNCH PROGRAM

Mr. CASE. Mr. President, nothing is more important to the future of our country than the health of our Nation's children. And all of us in the Congress know this. That is why I have joined in sponsoring legislation to expand and improve all our child nutrition programs, including the summer lunch program.

A particular problem has arisen in connection with this year's summer lunch program however. It is almost the end of March, and the time is upon us when the States are gearing up for this summer's program. But they cannot do so unless Congress acts to authorize the program, and the funds for it. We do not have the time, before the Easter recess, to consider and come to agreement on amendments to all of the Federal feeding programs. That is why I am joining in the effort to pass legislation authorizing the summer program through September 30 of this year, at the fiscal year 1974 level.

In New Jersey alone last year, there were 532 sites serving lunches to 56,770 children each day during the summer. The amount of Federal money for the program amounted to $2,860,655. This year, with the unemployment rate still on the rise in New Jersey and currently touching almost 11 percent, continuation of this program, at least at the level of last year, is vital.

As we all know, unemployment is not the only thing that has increased in the past year. Food costs have also continued to rise, by some 10 to 15 percent. We have acted in Congress to tie food stamps to the Consumer Price Index, and I hope that we will succeed in doing the same thing for the summer lunch program. If we do not, we will be reducing the level of the program by as much as 15 percent. This is something that we simply cannot afford to do.

THE WARWICK EMBLEM CLUB'S WINNING AMERICANISM POLICY

Mr. PASTORE. Mr. President, the Warwick Emblem Club No. 416 has shared with me the essay that won the Americanism essay contest that the club recently sponsored in the secondary schools of Warwick, R.I. The essay contest is an annual event, and all the students in the Warwick secondary school system can participate. This year, Beth Pagliarini wrote the winning essay. She chose as her topic the American flag.

Mr. President, Beth's thoughts on the symbolism of our flag are so beautiful and so sensitively expressed that I would like to share them with my colleagues who, I know, will enjoy them.

I ask unanimous consent that the essay be printed in the RECORD.

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

OUR FLAG

Holding his head high and publicizing his appearance, the flag cordially waves to those scurrying below. Expressing himself as an easy-going character he readily cooperates with the friendly wind swaying him gently. He is totally conscious of his sailor-type collar accented by a red and white shirt ablaze with patriotic spirit. The flag reveals his inner feelings and sensitivity by paying strict attention to each of the thirteen original colonies. Each one has its own "souvenir" engraved individually into the flag; proudly representing what they accomplished in the past. Little stars, printed on his cloth "twinkle" with pride—bearing the name of each state in the United States. Careful of coordinating his outfit, the flag deftly chose the colors that would express the outstanding characteristics of his country. Deep in his heart he feels that there are three colors that would announce us precisely. The red would express the outstanding men of the United States who "blaze" inside our hearts. The blue would speak for us by gently broadcasting "the peace and good will of men." Standing on top, however, is the white—free to reveal our number one characteristic—the liberty and freedom that is pure and delicate.

Undaunted by our faults, he continues to be loyal to us. Optimism and confidence flare up inside of him and he flaps enthusiastically in the air—American air. With the skill of an experienced baker, he blends the weight of our mistakes with an equal portion of our accomplishments. Proudly presenting the results for others to admire he smiles in spite of himself—America is America, good points and bad!

BETH PAGLIARINI,
St. Rose of Lima School.
WARWICK, R.I., *February 1975.*

GOV. SHERMAN W. TRIBBITT RENEWING DELAWARE'S SUPPORT FOR OUR NATION'S MIA'S

Mr. ROTH. Mr. President, the letter of the Foreign Minister of North Vietnam released by Senator KENNEDY shows that Hanoi continues to withhold information on Americans missing in action in a crude attempt to further its political and military goals. This is a flagrant violation of the Paris Peace Accords and of any standard of decent, civilized behavior.

North Vietnam's behavior shows that their leaders are obviously aware that the United States has not forgotten its missing in action. Indeed we have not. In the past several months, proclamations of support for MIA's have been issued in cities and States all over this country. One of these proclamations was issued by Delaware's Governor, Sherman W. Tribbitt.

The families of our missing in action have asked for support on several bills, including S. 494 and S. 624. I urge the Armed Services Committee to give these bills speedy attention.

I also ask unanimous consent that Governor Tribbitt's proclamation be printed in the RECORD.

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

STATEMENT BY GOV. SHERMAN W. TRIBBITT, RENEWING DELAWARE'S SUPPORT FOR OUR NATION'S MIA'S

Whereas, in January, 1973, the Vietnam Cease-Fire Agreement was signed in Paris; and

Whereas, the provisions of that agreement called for the return of American Prisoners of War and an accounting of the Men Missing in Action; and

Whereas, today, almost two years later, the fate of 1,300 of our men as prisoners or missing in Vietnam, Laos, Cambodia, or China is unknown; and

Whereas, there is no evidence that the Communists intend to comply with the provisions of a return of all Prisoners, an accounting of the men Missing in Action, and

return of the remains of those who died on foreign soil; and

Whereas, VIVA (Voices in Vital America) and the National League of Families has undertaken the task of bringing to focus attention on the plight of our Prisoners of War and Missing men; and

Whereas, the focus is in the form of a rededication for freedom.

Now, therefore, I, Sherman W. Tribbitt, Governor of the State of Delaware, do hereby proclaim support for the efforts of the families and friends of the American Prisoners of War and Missing in Action in Southeast Asia, and call upon all citizens to support this cause and help bring to the attention of America and the world, the plight of our Prisoners of War and Missing in Action.

MANPOWER TRAINING

Mr. CLARK. Mr. President, the Environmental Protection Agency, under Administrator Russell Train's leadership, has been making a most commendable effort to help State and local officials solve their environmental manpower shortages. In November, Train contacted all Governors, mayors, and county commissioners alerting them that title I and II funds of CETA, Comprehensive Employment and Training Act of 1973, Public Law 92-203—a Labor Department program—could be used to employ and train needed pollution abatement and control personnel. Concurrently with Administrator Train's letter, regional EPA administrators contacted State environmental agencies and local public works directors alerting them to the same possibility and offering technical assistance, if needed.

To further familiarize State and local environmental officials with CETA and other manpower resources, EPA sponsored the National Environmental Manpower Planning Conference in December. Over 245 officials representing all 50 States, Puerto Rico and Guam attended this Conference. I was pleased that a number of Iowans were asked to be speakers at this Conference because of their record and national reputation in the environmental education fields.

They were:

Robert H. Lounsberry, secretary of agriculture, State of Iowa, Des Moines.

Dr. William M. Baley, associate superintendent, area school and career education branch, Iowa Department of Public Instruction, Des Moines.

Charles C. Miller, acting director of land quality management, Iowa Department of Environmental Quality, Des Moines.

Michael E. Crawford, director of development, Kirkwood Community College, Cedar Rapids.

Mr. President, I understand that State and local officials are interested in this program which will make it possible to train the unemployed to fill environmental and public works jobs. I am providing this information to my colleagues for two reasons: First, with the Nation's unemployment rate soaring to 8 percent, I believe every worthwhile effort to help decrease the unemployment rolls should be recognized. Second, I am pleased to see the EPA and the Labor Department working together in such a constructive manner.

VIETNAM MILITARY AID CUTOFF

Mr. MATHIAS. Mr. President, yesterday, the Senator from Illinois (Mr. STEVENSON) and I submitted an amendment to S. 920, the military procurement authorization bill for fiscal year 1976, which would cut off all military aid to the Government of South Vietnam on July 1 of this year, with a one-time 120-day extension allowed if the President certifies to the Congress that such an extension would promote a peaceful solution to the Vietnam conflict. I ask unanimous consent that our amendment be printed in the RECORD.

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

On page 14, between lines 10 and 11, insert a new section as follows:

SEC. 802. (a) Notwithstanding any other provision of law, no military assistance and no defense article may be made available (whether by cash, credit, guaranty, lease, gift, or otherwise) to the Government of South Vietnam on or after July 1, 1975; and all licenses heretofore issued for the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to or for the Government of South Vietnam shall be invalid (to the extent unused) on and after July 1, 1975, and no new licenses may be issued for such purpose after such date.

(b) The President is authorized to suspend the provisions of subsection (a) of this section if he certifies to the Congress that such suspension will further a peaceful solution of the Vietnam conflict in accordance with the Paris agreement on ending the war and restoring peace in Vietnam, but the authority of the President to suspend such provisions shall be effective only for a period of 120 days after June 30, 1975. In no event may any amount be obligated for military assistance (in any form) for South Vietnam during any period of suspension invoked by the President under this subsection in any amount in excess of an amount equal to one third of the amount appropriated for such purpose for the fiscal year ending June 30, 1975.

Renumber section 802 through 804 as sections 803 through 805, respectively.

SOCIAL SECURITY RECIPIENTS FAIRNESS ACT: DISABILITY APPEALS

Mr. PELL. Mr. President, on March 6, when I introduced the Social Security Recipients Fairness Act, S. 985, I made reference to the provisions under title II of that bill, which would require that disability insurance appeals be concluded within 110 days from the date of initiation, barring delays imposed by the appellant. I said then that the enormous disparity in the amount of time it took to hear these appeals in the different regions of our country was disgraceful and absolutely unjustified.

At the time, I was using statistics which were slightly dated so I would have expected that if the SSA has been making a good faith effort to correct this problem, that new statistics, both national and regional, should reflect an improvement in their administration of these more than 60,000 cases each year. I have just learned, however, that the contrary is true.

April 1974 statistics indicated that on a national basis, appeals took an average of 163 days. I was shocked to learn yesterday that in December 1974, far from an improvement in this situation, the national average was 213 days. This is practically a 30-percent increase in waiting time nationally. The delay in my region is still a full month longer than this average.

Imagine if one of us were sitting at home disabled, waiting for the Federal Government to respond to our pleas for assistance, assistance which we as taxpayers contribute to every day while we work. Imagine waiting 7 months on the average for this machinery to grind out a decision which national statistics indicate will be in our favor, and imagine at this time of incredible inflation, how fast our savings would be depleted.

Mr. President, the issue here is whether this bureaucracy cares about whether it runs well or not, and whether it cares about its constituency, which it should be reminded is not the dollars and cents of the social security trust fund, but the people whose dollars and cents those are.

MONTANA AND THE NCAA WESTERN REGIONAL BASKETBALL SEMIFINALS

Mr. MANSFIELD. Mr. President, I invite the attention of the Senate to an article in today's Washington Star entitled "UCLA Has Its Hands Full With Montana" and an article in today's Washington Post entitled "UCLA Nips Montana In West." In last night's NCAA Western regional basketball semifinals in Portland, Oreg., UCLA had considerable difficulty edging 67 to 64 a University of Montana basketball team who by many was at best rated an underdog going into that contest. I remind Senators that UCLA has won the Western regionals 8 consecutive years and has won seven of the last eight national collegiate basketball championships. We in Montana are proud of the University of Montana and its basketball team. I offer my congratulations to the Grizzlies' coach and team who ended the season as Big Sky Conference Champions and gave UCLA a fight to the finish last night. They have represented Montana well.

I ask unanimous consent that the articles from the Washington Post and the Washington Star be printed in the RECORD.

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

[From the Washington Post, Mar. 21, 1975]

UCLA NIPS MONTANA IN WEST, 67 TO 64

PORTLAND, OREG., March 20.—Second-ranked UCLA, chased all the way, held off hustling Montana, 67-64, and struggling into the NCAA Western Regional basketball finals tonight.

The victory moved UCLA, 25-3, into Saturday's regional championship game against the winner of the evening's second game between seventh-ranked Arizona State and 16th-rated Nevada-Las Vegas.

Montana, the Big Sky Conference champion, was a big underdog, but the Grizzlies challenged UCLA from start to finish, led by the scoring of Eric Hays and Ken McKenzie.

The Bruins were ahead by only two points with 1:10 remaining, but put the game away on a free throw by Marques Johnson with 38

seconds left and two more foul shots by Pete Trgovich with 16 seconds to go.

Montana led briefly twice in the first half as Hays, 6-foot-3 senior hit all nine of his shots from the floor and scored 19 points.

UCLA, the Pacific-8 Conference champion, led 34–33 at halftime.

The Bruins, behind all-America forward Dave Myers, went ahead by nine points with 12 minutes left, but Montana would not fold.

Montana, 21–7, trailed 64–55 with about 4½ minutes left. The Grizzlies then scored seven straight points to pull within 64–62 before the Bruins put down the rally.

Hays, who wound up 13–16 from the floor, led all scorers with 32 points. McKenzie, 6-9 senior, added 20.

Trgovich and Richard Washington, a former Portland prep star, led UCLA with 16 points each. Myers finished with 12.

[From the Washington Star, Mar. 21, 1975]

WESTERN REGIONAL—UCLA HAS ITS HANDS FULL WITH MONTANA

PORTLAND, Oreg.—Second-ranked UCLA which has won seven of the last eight college basketball championships, and seventh-ranked Arizona State will meet Saturday afternoon in the finals of the NCAA Western regional tournament.

Neither team was exactly perfect in Thursday night's first round. UCLA edged underdog Montana 67–64, and Arizona State erased an eight-point deficit late in the game to stop 16th-rated Nevada-Las Vegas 84–81.

UCLA, which has won the Western regionals eight consecutive years, needed all the help it could get in disposing of Montana. The Bruins may need more to get past Arizona State for a berth in the NCAA semi-finals.

"I can't have anything but praise for Montana," UCLA Coach John Wooden told sports writers after the game. "If you gentlemen as writers try to downgrade UCLA for it being a tight ball game, you'd be very unfair to Montana. They could have beaten a lot of teams tonight. They came close to beating us."

"Call me Mr. Lucky," said Arizona State Coach Ned Wulk after the Sun Devils rallied to overtake Nevada-Las Vegas. "Certainly we were most fortunate, and that is almost an understatement."

UCLA, the Pacific-8 Conference champion, and ASU, the Western Athletic Conference titlist, will square off in Portland following a Saturday morning consolation game between Nevada-Las Vegas and Montana.

If All-America forward Dave Meyers had elected to sit out the Montana game, UCLA might have suffered one of the season's biggest upsets. Meyers, a 6-foot-8 senior, has been having trouble with both of his legs in the past month.

"I try not to say too much about it," Wooden said of Meyers. "David isn't playing well." The injuries have discouraged Meyers, he added. "I discussed not playing him at all tonight, win or lose, but he wanted to play."

Meyers finished with 12 points and five rebounds.

Eric Hayes, a small 6–3 forward, gave Montana a big lift with 32 points. He was 9 for 9 in the first half and wound up 13–16. Ken McKenzie added 20 points.

"I'm happy with the way I played, but I didn't come here to put on a show," said Hayes, who guarded the taller Meyers most of the way. "I came here to win."

Montana, behind by one point at halftime, trailed by only two points with 1:10 to go before UCLA finally put the Big Sky champions away.

Pete Trgovich and Rich Washington scored 16 points each for UCLA.

SOME JOBS TAKEN FROM CIVIL SERVICE

Mr. PELL. Mr. President, on Thursday, March 6, an article appeared in the Washington Star by Joseph Young discussing the administration's intent to use the regional offices as political arms of the administration.

It was reported that, over the opposition of the Civil Service Commission, the President issued an Executive order removing from the civil service coverage of top career jobs in the regional offices of the Departments of Interior, Transportation, Housing and Urban Development, Labor, Health, Education, and Welfare, and the Environmental Protection Agency.

The administration has attempted to beef up the regional offices under the rhetoric of "bringing the Government to the people." What in effect they do, however, is create a fourth layer of government between the traditional local and State agencies and the Federal Government here in Washington. When you have a regional layer of government, you have an illogical situation such as Washington educators having to travel to Philadelphia in order to deal with the Department of Health, Education, and Welfare, and educators from Puerto Rico having to go to New York to do the same.

I can only speak for education programs, for, as chairman of the Subcommittee on Education, I have followed the whole question of the regionalization of Health, Education, and Welfare education programs. I have found that, on a purely substantive level, when a program is regionalized, it takes longer to be funded, and any inquiries we make on behalf of constituents or with regard to legislative oversight are shunted between the regional offices and Washington with each saying that the decision is up to the other. Regionalization, in effect, means that there are 10 different criteria for grantmaking in that they are administered in 10 different regional offices. More and more money is being gobbled up by administering programs rather than putting it into schools, and now we see the regional offices being turned into mouthpieces for the administration.

In the Education Amendments of 1974, we stopped all regionalization which had occurred after June 30, 1973. We had previously looked upon regional offices as centers for technical assistance and dissemination of information. Judging by the Star article, a big reason of the administration for the continued existence of regional offices is political. If this be the case, it confirms me in my intention to do what I can to cut back on any regional involvement with Office of Education programs.

I ask unanimous consent that an excerpt from the aforementioned Washington Star article be printed in the RECORD.

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

SOME JOBS TAKEN FROM CIVIL SERVICE

(By Joseph Young)

Despite his statement of strong support of the merit system, President Ford has taken action to politicize some key federal career jobs.

Over the reported opposition by the Civil Service Commission, Ford on Feb. 15 issued an executive order removing from Civil Service coverage top career jobs in the regional offices of the Departments of Interior, Transportation, Housing and Urban Development, Labor, HEW and the Environmental Protection Agency.

The jobs are those of regional directors and administrators, and principal regional representatives. The jobs will be transferred to excepted Schedule C for Grades 15 and below and to non-career executive assignments for those in Grades 16 through 18.

Incumbents in these jobs are not affected by the order as such. However, in these situations they are usually "encouraged" to take another position or to retire if they meet the age and service requirements.

In his executive order Ford said in justification of his action:

"The program to decentralize federal policy and decision making and to involve local governments and other interested parties in federal, state and local policy and program development requires a capability for deep involvement in the development and advocacy of Administration proposals and policies, and support of their controversial aspects on the part of certain senior regional officials."

Ford's action as well as his statement has been a matter of concern to Chairman David Henderson and other members of the House Civil Service manpower subcommittee which disclosed the executive order as part of its hearings into what can be done to strengthen the government's merit system.

Henderson and his colleagues feel that Ford's action could be a prelude to further moves to remove additional career jobs from civil service protection under the argument that key positions should be filled by political loyalists to the administration's programs.

It was arguments like these that Nixon administration officials used and that led to the most serious assault ever on the merit system.

When Ford took office, he issued a statement pledging his support and protection of the merit system and instructed the heads of departments and agencies to adhere to merit system principles.

However Ford's executive order in removing top career jobs from Civil Service in regional offices has raised concern anew over the future of the merit system.

Henderson and his colleagues seek to determine whether legislation is necessary to give stronger protection to the merit system.

CORRUPTION IN VIETNAM; U.S. AID DOWN THE DRAIN

Mr. PROXMIRE. Mr. President, I have received information that American citizens have conspired with Vietnamese contractors to bilk the United States out of $1 million in military aid.

The information is contained in an exchange of letters with the staff of the Joint Chiefs of Staff which provides evidence of fraud and collusion in Vietnamese purchases of defense goods.

The massive fraud and conspiracy occurred during 1973 and 1974 in Vietnam under the in-country procurement program of the Defense Attaché Office.

The Defense Attaché Office is responsible for building up an industrial base in Vietnam by funneling U.S. military aid through local businesses.

An audit of just 12 contracts under this "Buy Vietnamese" program has revealed that over $1 million of the total

contract price of $6.6 million was fraudulently diverted by U.S. civilians and Vietnamese contractors.

Delivery documents have been falsified. Receipts have been submitted for materials not delivered. Overpayments were made due to overstatement of the weight of delivered goods. Signatures have been forged.

In one case, the delivery of lumber was overstated by adding a series of new numbers to the delivery notices. A delivery of 15,242 board feet of lumber was changed to 315,242 board feet in one document. Eleven instances of this type of fraud by three Vietnamese companies were uncovered.

In other cases involving lumber, the payment was made but there is no record that the lumber was delivered. Over 3.3 million board feet of lumber are unaccounted for.

Fraudulent delivery and altered documents also were discovered in contracts to deliver sandbags, nails—the same contractor—and barbed wire.

In each of the cases above, one U.S. citizen working in the contract administration branch certified the payment for the United States. He left on leave to the United States in December 1973 and has not returned. The Army Criminal Investigation Command has concluded that this individual was "involved in considerable collusion."

A number of U.S. quality assurance personnel quickly left Vietnam when the investigation began.

Eight formal criminal investigations have been opened in this case, with five still pending. The investigation has been hampered by the destruction of records in the procurement branch of the Defense Attaché Office.

The Defense Attaché Office has found that four contractors are indebted to the U.S. Government for improper payments involving eight contracts. Repayment for the fraud has not been forthcoming, however, since the companies involved have appealed to the Armed Services Board of Contract Appeals.

This situation was brought to my attention in 1974 by anonymous letters from Americans in Vietnam: These letters indicated that the Defense Attaché Office was not vigorously pursuing the investigation, that U.S. civilians were fleeing to the United States to avoid prosecution, and that the Vietnam contractor swindles were far more widespread than indicated.

I am asking the Army's Criminal Investigations Division to verify whether or not fraud occurred on this scale prior to 1973 and specifically what action was taken against the Americans involved, either in Vietnam or those that fled to the United States.

We have all heard that corruption is a way of life in Southeast Asia. But we had thought it was only by the Vietnamese. Now we find American officials involved.

The million dollars may be small in terms of the $150 billion we have poured into Vietnam but it undoubtedly represents only part of everyday bribery, collusion, and fraud.

As the summary of the Army audit report states:

Considering the possibility of skillful fraud and collusion, the extent of fraud within the In-Country Procurement Program could be substantially more significant than disclosed in this report.

OPERATING EXPERIENCES UNDER THE STATE AND LOCAL ASSISTANCE ACT OF 1972

Mr. HATHAWAY. Mr. President, I ask unanimous consent to have printed in the RECORD a press release relating to the intention of the Subcommittee on Revenue Sharing to hold hearings on operating experiences under the State and Local Fiscal Assistance Act of 1972.

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

[Press Release, Mar. 21, 1975]

HEARINGS ON OPERATING EXPERIENCES UNDER THE STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972

The Honorable William D. Hathaway (D., Maine), Chairman of the Subcommittee on Revenue Sharing, announced today that the Subcommittee would hold hearings on operating experiences under the Federal Revenue Sharing program.

The hearings will be held in April, 1975. The specific dates for these hearings will be set at a later time so as not to conflict with the schedule of business before the full Committee on Finance.

Senator Hathaway stated: "These hearings will attempt to focus on a general review of the administration and operation of the revenue sharing program. According to the Finance Committee report when the bill was enacted, the purpose of the program is to provide the States and localities with a specified portion of Federal individual income tax collections to be used by them in accordance with local needs and priorities and without the attachment of strings by the Federal government. In our hearings we hope to develop information concerning the administration and monitoring of this program by the Office of Revenue Sharing and to review the way in which these funds have been utilized by the various recipient governments. In addition, the Subcommittee intends to examine the ramifications of this program on the structure and organization of units of local government."

Senator Hathaway added that a number of Government officials and private individuals who have been intimately involved with the revenue sharing program will be invited to appear before the Subcommittee as witnesses in order to obtain a full and well-balanced discussion of the issues involved in extending the revenue sharing program. In addition, interested State and local officials, as well as other persons interested in appearing before the Subcommittee to express their views on this subject, are invited to submit requests to testify.

Requests to Testify.—Persons desiring to testify during these hearings must make their request to testify to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C. 20510, not later than April 7, 1975. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. Once the witness has been advised of the date of his appearance it will not be possible for this date to be changed. If for some reason the witness is unable to appear on the date scheduled, he may file a written statement for the record of the hearing in lieu of a personal appearance.

Consolidated Testimony.—Senator Hathaway also stated that the Subcommittee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Committee. This procedure will enable the Committee to receive a wider expression of views than it might otherwise obtain. Senator Hathaway urged very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

Legislative Reorganization Act.—In this respect, he observed that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Senator Hathaway stated that in light of this statute and in view of the large number of witnesses who desire to appear before the Subcommittee in the limited time available for the hearing, all witnesses who are scheduled to testify must comply with the following rules:

(1) A copy of the statement must be filed by the close of business two days before the day the witness is scheduled to testify.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 50 copies must be submitted by the close of business the day before the witness is scheduled to testify.

(4) Witnesses are not to read their written statements to the Subcommittee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for oral presentation. Written statements.—Persons not scheduled to present oral testimony and others who desire to present their views to the Subcommittee are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be submitted to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building.

"OUR FLAG"—BETH PAGLIARINI WARWICK, R.I.

Mr. PELL. Mr. President, I should like to ask, at this time, unanimous consent to have printed in the RECORD, an essay by Miss Beth Pagliarini, of Warwick, R.I. Beth is an eighth grade student at St. Rose of Lima School, and she was judged the winning contestant in an essay contest sponsored by the Warwick Emblem Club No. 416.

When Miss Pagliarini read her essay before the Emblem Club, her audience was spellbound. That is why I commend to my colleagues this magnificent—almost poetic—statement entitled "Our Flag." It speaks of optimism and confidence, of liberty and freedom, and it expresses with great clarity the accomplishments of the people of America.

It is with a sense of great personal

pride that I ask my colleagues to join me in paying tribute to Miss Pagliarini and her winning epic, "Our Flag," as well as to the Warwick Emblem Club for bringing this to my attention.

I ask unanimous consent that the essay be printed in the RECORD.

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

OUR FLAG

(By Beth Pagliarini)

Holding his head high and publicizing his appearance, the flag cordially waves to those scurrying below. Expressing himself as an easy-going character he readily cooperates with the friendly wind swaying him gently. He is totally conscious of his sailor-type collar accented by a red and white shirt ablaze with patriotic spirit. The flag reveals his inner feelings and sensitivity by paying strict attention to each of the thirteen original colonies. Each one has its own "souvenir" engraved individually into the flag; proudly representing what they accomplished in the past. Little stars, printed on his cloth, "twinkle" with pride—bearing the name of each state in the United States. Careful of coordinating his outfit, the flag deftly chose the colors that would express the outstanding characteristics of his country. Deep in his heart he feels that there are three colors that would announce us precisely. The red would express the outstanding men of the United States who "blaze" inside our hearts. The blue would speak for us by gently broadcasting "the peace and good will of men." Standing on top, however, is the white—free to reveal our number one characteristic—the liberty and freedom that is pure and delicate.

Undaunted by our faults, he continues to be loyal to us. Optimism and confidence flare up inside of him and he flaps enthusiastically in the air—American air. With the skill of an experienced baker, he blends the weight of our mistakes with an equal portion of our accomplishments. Proudly presenting the results for others to admire he smiles in spite of himself—America is America, good points and bad!

PROPOSED CPSC HANDGUN AMMUNITION BAN

Mr. SCHWEIKER. Mr. President, the Consumer Product Safety Commission has published in the Federal Register a solicitation of written public comments concerning a proposed ban on the sale of handgun ammunition, except to police, licensed security guards, the military, and licensed pistol clubs.

I am opposed to this proposal. When the Committee for Hand Gun Control, Inc., of Chicago, originally requested this prohibition, I was pleased that CPSC denied the request, but thereafter, the U.S. District Court for the District of Columbia ordered the CPSC to reconsider this request, and the Federal Register solicitation of comments followed.

Mr. President, I would not presume to advise the district court how to interpret legislative history, but every Member of this body knows that literally dozens of legislative proposals have been considered to restrict handguns or ammunition in recent years. This is not an issue that has never been addressed by Congress; to the contrary, there have been numerous and heated debates on this subject in Congress. In these circumstances, I think it is highly improper for a regulatory agency, which has not been elected by anyone, to attempt to superimpose its judgment over the judgment of the elected representatives of the American people.

The simple answer, Mr. President, is to make it absolutely clear, not only to the CPSC but also to the Nation, that Congress will not permit regulatory agencies to usurp its basic legislative authority in this fashion. My colleague from Idaho, Mr. MCCLURE, has proposed legislation to prohibit the CPSC from restricting the sale or manufacture of firearms or ammunition, and I am pleased to cosponsor this legislation

But beyond the clear impropriety of agency action in this area, there is another issue, and that is the basic issue of gun and ammunition control itself. I have opposed such measures in the Senate, Mr. President, because I do not see how these measures deter anyone intent on committing a crime with a gun. Restrictions of this nature impose great hardship on sportsmen and others with legitimate needs to use weapons, without reducing criminal activity. I will continue to oppose this type of counterproductive restriction, and I will oppose efforts to accomplish gun control or ammunition control through the backdoor, by agency action.

Finally, I would like to emphasize that I share the widespread concern about violent crime—and I think we should move promptly to counter it, by imposing mandatory, additional sentences for those convicted of crimes while carrying firearms. If the criminal setting out to commit a crime knew, beyond any doubt, that simply putting a firearm in his pocket would add a mandatory 5 to 10 years to his sentence if apprehended, I predict the crime rate would drop fast.

In closing, I urge the CPSC to reject the proposed handgun ammunition ban, and I urge my colleagues to join me in moving for prompt action on Senator MCCLURE'S bill to prohibit CPSC action in this area.

AMERICAN INTELLIGENCE SUFFERING

Mr. NUNN. Mr. President, I am deeply concerned about the present and future status of our Nation's foreign intelligence gathering operations. Surely many foreign agents are worried about being out of work because America is doing such a thorough job of publicly exposing our intelligence functions. This current climate portends grave risks because crucial future decisions by our Government could possibly be based on inaccurate and skimpy data.

I am unalterably opposed to illegal intelligence activities in the domestic arena. Any such improprieties should be rooted out and permanently stopped. I believe that strong and appropriate measures must be formulated to do just that.

I remain, however, deeply troubled by recent events which are uncloaking our foreign and military intelligence activities to the potential enemies against whom these legitimate weapons are directed. The Central Intelligence Agency is losing valuable sources of vital information throughout the world because no foreign source wants to risk his life knowing his name may be in tomorrow's headlines.

The recent press reports on the salvage attempt of a Russian submarine is a case in point. There is no doubt that the Soviets have submarines loaded with nuclear missiles aimed at the people of the United States. There is no doubt that in the future crisis involving the United States and the Soviet Union, our President and Congress should have the best and most current information available as the basis for decisions. I can foresee circumstances where such intelligence information could prevent a nuclear holocaust.

Throughout our history, thousands of American lives have been saved because of our country's intelligence-gathering operations.

An American secret weapon in the basement of a building in Hawaii—a small code-breaking intelligence group—enabled the United States to turn the tide of the war at Midway. American censorship in World War II fingered Nazi secret-ink spies by winning a battle of test tubes and shortened the war. An American intelligence official was running toward the State Department early in the morning of December 7, 1941, with the crucial intercepted and deciphered message an hour before the Japanese planes roared off the carrier decks and even hours before the Japanese Embassy had deciphered their own message. All this valuable intelligence information would have been worthless if the opposition knew their intelligence and codes were in the hands of the United States.

The publication of the details of the recent CIA operation regarding the Russian submarine—listing the precise location of the sunken sub and the intelligence gathered—effectively ended this potential source of valuable intelligence data. This public disclosure created the danger of an international incident between our Nation and the Soviet Union. It is inconceivable to me that the CIA and its officials are being criticized in the American press by Members of Congress and other distinguished citizens for undertaking an operation in the middle of the Pacific Ocean to find out more about the real Russian nuclear capabilities. I believe that the CIA action was entirely appropriate and in the best, long-term interest of every American.

In addition, there has been some implication that the funds for the submarine project were somehow spent without congressional approval. I have been told that the funding for this project was handled in the normal congressional process that applies to all our intelligence activities.

One of my congressional colleagues recently asked for a cost-benefit analysis of U.S. intelligence operations. I am convinced that the benefits of the American intelligence community greatly exceed the total cost. I might add that a cost-benefit study of some of the cur-

rent public criticism would show that the cost to our Nation far exceeds any possible benefit.

I did not know and did not have a need to know the specifics of this CIA operation with the Russian submarine, but I agree with the New York Times editorial of March 20 that—

> The CIA is only to be commended for this extraordinary effort to carry out its essential mission.

If we are going to have an able and efficient intelligence operation—which I believe is essential—we should not criticize these men when they have brilliantly accomplished their mission. Unfortunately, we cannot afford to herald the CIA's successes as front page news, because destroying the secrecy of the successes destroys the success itself. The members of our intelligence community must be satisfied to have their information remain secret so that it can be used by our country's leaders when needed. To criticize them at every turn and in some cases, unjustly, is to tear down this capability our country needs. I will not be a party to this undermining process because I believe the American people know we need this capability and information and know that their own lives would be jeopardized without it.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the United States has led the way in establishing protection of basic human rights. The premise of the inalienable rights of man on which this country was founded has been a constant example of morality and ethics to all countries.

When this human rights convention was first initiated, we were one of its major proponents. We spoke out in support of the Genocide Treaty. But, we have not followed our words through with actions. We are jeopardizing our potentially good influence with hypocritical actions and empty words.

I have mentioned before that I feel we have a duty to lead the world in establishing a code of international law because I felt that it would provide a basis for understanding between nations. That duty demands that we ratify the Genocide Treaty in order to make genocide an international crime.

In a statement to the Subcommittee on Foreign Relations, Mr. Richard Gardner, representing the Ad Hoc Committee on the Human Rights and Genocide Treaties, said:

> Another practical consequence is that it will give us greater influence in the drafting of new standards in the future, because as long as the U.S. abstains from ratifying any human rights convention in the United Nations, it will necessarily diminish our influence in drafting other conventions. Foreign countries will say the United States does not ratify these, why should its views be taken so seriously into account.

We must stop talking and begin acting to preserve the power of our example.

THE MISERY OF JOBLESSNESS

Mr. PELL. Mr. President, cold statistics cannot, in themselves, express the agony and misery that unemployment brings to a family. But statistics can give us some indicators of the extent of the misery being caused by increasing joblessness.

I have just seen the most recent report on unemployment in my own State of Rhode Island. I can only say it is shocking and depressing. As of a month ago, 15.8 percent of the work force in Rhode Island was jobless. By now it has increased. That is nearly 1 out of every 6 workers and family breadwinners is now experiencing the agony of wanting work, searching for work, and facing the frustration of not being able to find work. It is an unemployment rate nearly double the national average.

Mr. President, our Nation has not suffered joblessness of this magnitude since before World War II.

Compounding the misery of unemployment now is a high continuing rate of inflation. Some economic analysts have suggested a new economic index, called the discomfort index, computed by combining the jobless and inflation rates. In Rhode Island that index has gone completely off the discomfort chart into the economic distress area.

We are in a situation requiring urgent action. There is growing and understandable impatience among the jobless, those whose jobs are threatened, those whose fixed incomes are being relentlessly squeezed by rising prices, and the average worker who is uncertain about what the future—tomorrow, next week, or next month—may bring for him and his family.

Most of all, however, I believe what is needed is a sense of urgency and a realization that mere hand-wringing in Washington does very, very little for the jobless throughout the Nation.

In the present context, the time is past for fine-line academic debates among economists over the precise size of a stimulative tax cut, or for hair-splitting disputes. It is time for effective action. It is time for action that will assure the people of this Nation that their Government is capable and responsive.

In my own view, the actions that are necessary include a program of wage and price controls to bring inflation under control, coupled with greatly increased Government employment, including public service employment and public works projects. We should act promptly on tax measures that will most directly stimulate productive employment, particularly in housing and in providing the new energy-conserving transportation systems we need. At the same time, we must insure that any tax cut we pass is not so large that it increases the cruelest tax of all, inflation.

And we must act to minimize the suffering that unemployment brings, by making certain that the jobless have adequate unemployment compensation payments, and that the unemployed and their families have food, shelter, and necessary medical care during this crisis.

THE ARROGANT SECRETIVENESS OF THE FED

Mr. HUMPHREY. Mr. President, I found an excellent article by Mr. Kohlmeier who writes for the Chicago Tribune Syndicate. It is entitled "The Arrogant Secretiveness of the Fed." It is worth the attention of those who are concerned about monetary policy. I ask unanimous consent that it be printed in the RECORD.

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

THE ARROGANT SECRETIVENESS OF THE FED

WASHINGTON.—It's your money. Money is a job instead of an unemployment line. Money is a steak instead of a handout.

The country is in its worse money crisis since the Great Depression. The government is paralyzed. The recession is six-months old and Congress still has not cut taxes.

President Ford's right hand doesn't know what his left hand is doing. Mr. Ford orders up make-work jobs on public highways at the same time he takes food stamps from the unemployed.

I know of nothing in government more outrageously stupid in these bad times, however, than the secrecy inside the marble palace where an autocratic government agency regulates the nation's money supply.

The Federal Reserve Board's marble palace is on Constitution Avenue, of all places. Our government is a democracy, and money is the most common of all commodities regulated by the government.

Regulation of the money supply either puts money into or takes money out of the pockets of every one of us.

But the Federal Reserve Board, otherwise known as the Fed, regulates the money supply in deepest, darkest secrecy.

The Fed won't tell the White House, Congress or the public what it's doing.

The gnomes of the Fed claim money is too complicated to be understood by the people or their elected representatives.

The business of bureaucracy often is to complicate and obfuscate what is simple and clear and the Fed is one of the oldest and most arrogant of bureaucracies.

In fact, there is nothing terribly complicated about regulating the money supply.

Basically, the Fed buys government securities in the open market to increase the money supply. It sells securities in the market to decrease the money supply.

A Fed committee meets frequently to decide whether to increase or decrease the money supply.

But the meetings are so secret that the Fed does not publish even brief summaries of its decisions until 90 days later.

The minutes of meetings, which don't tell all, are not published until five years later. The 1969 minutes are being published only now.

Theoretically, the Fed is accountable to Congress. But in fact, the Fed is accountable to no one.

Many bureaucracies run wild on long leashes, but they must return to Congress annually for appropriations to pay salaries and expenses.

Not the Fed! It pays lavish salaries and expenses from its money operations.

While most top federal officials are paid $40,000 a year, the president of the Federal Reserve Bank of New York pays himself $90,000.

Other bureaucracies are audited. Not the Fed! It won't admit auditors from the General Accounting Office, Congress' watchdog agency.

Secrecy hides mistakes, and prevents public and congressional criticism. The Fed has plenty of mistakes to hide.

The Fed is supposed to regulate banks to keep them sound. Three of the largest bank failures in history occurred in the past year. The Fed secretly helped arrange takeovers of the insolvent banks by other banks.

Much more seriously for you and me, the

Fed for years has been hiding its mistakes in regulating our money supply.

Economic historians agree the Fed made the Great Depression worse by failing to increase the money supply enough between 1929 and 1932.

The Fed unquestionably made inflation worse by expanding the money supply too rapidly between 1971 and 1973. And the Fed may very well now be making recession worse by expanding the money supply too slowly.

Secrecy is a disease as natural to government as cirrhosis of the liver is to drunks. Bureaucracies hide their mistakes like an alcoholic hides bottles.

The Fed's marble palace is full of hidden bottles.

"RUN FOR THE MENTALLY RETARDED" FUNDRAISING DRIVE

Mr. INOUYE. Mr. President, in keeping with America's tradition of generosity and compassion, some 2,354 service personnel stationed in Hawaii recently participated in a marathon that raised $30,000 for the Hawaii Special Olympics.

The Hawaii marathon was the first in a national "Run for the Mentally Retarded" fundraising drive by the Noncommissioned Officers Association and the Joseph P. Kennedy Foundation. More local marathons are scheduled, and next week a 3,182-mile run is planned.

The money raised in Hawaii will enable many of the State's 4,500 mentally handicapped children to compete in the Special Olympics in May at the University of Hawaii. Fifty winners from that meet will advance to the National Special Olympics at Mount Pleasant, Mich.

Hawaii marathoners ran on three courses ranging from 27 to 38 miles in length. Participants solicited sponsors before the marathon and were paid on a per mile basis.

Thanks to the marathon, the Hawaii Special Olympics will have twice as much money as ever before to spend on this year's event. The previous record for private contributions was $14,000. And the marathon not only raised money, it focused public attention on the Special Olympics and the problems of the mentally retarded.

On March 25, one group of runners will leave from Los Angeles and another from the White House in Washington. They will meet in Houston on April 2. Each group will run 1,591 miles.

Ninety percent of the money raised by this marathon will go to the State in which it was pledged. The remaining 10 percent will go to the Kennedy Foundation.

I wish to commend the Noncommissioned Officers Association for its involvement in this worthy project. I am happy to see military personnel involved with improving the quality of life where they are stationed. Efforts like these do much to enhance the military's image with the general public.

I also wish the Association and the Kennedy Foundation continued success with the "Run for the Mentally Retarded" program. The Special Olympics have done unmeasurable good for the children who have competed in them. They deserve the active support of all Americans.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Honolulu Advertiser of March 2. The story discusses the recent Hawaii marathon.

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

2,354 RUNNERS "GIVE A DAMN"

(By Janice Wolf)

Chances are that they went home with burning feet and aching muscles.

But ask any of the 2,354 service people who participated in yesterday's "Run for the Mentally Retarded" if they'd do it again—and chances are equally good that they'd all say yes. And gladly.

For with the aches came a deep satisfaction of having done something good for 4,500 mentally handicapped children in the Islands.

The marathon—a fund-raiser sponsored by the Noncommissioned Officers Association—netted more than $30,000 to enable thousands of mentally retarded youngsters from Oahu and the Neighbor Islands to participate in the annual Hawaii Special Olympics in May.

Fifty of those youngsters will continue on to national competition at Mount Pleasant, Mich.

The scene at the finish line was bedlam yesterday, as hundreds of runners, panting and singing, poured into the parking lot outside the association's headquarters at 3131 N. Nimitz Hwy.

Hundreds of wives and children and friends were there cheering and dispensing soft drinks and ice-cold beer.

Dozens of youngsters who will benefit from the event were on hand, too. Many of them had run a distance themselves.

"It just makes you realize they give a damn about other people," said a much-moved Maj. Gen. Harry Brooks Jr. as he watched the teams sprint in.

Brooks, 25th Division commanding general, is honorary chairman of this year's Special Olympics.

Brooks—dressed in a jogging suit that was navy blue, if you'll pardon the expression—took special delight in waving to busloads of baffled tourists passing along Nimitz Highway.

Early yesterday morning Brooks ran the first mile of the marathon and contributed $600 in sponsoring pledges.

Commanding officers of Navy, Marine and Air Force bases also participated in the fund-raising event.

"Marines like to think of themselves as tough guys, but all you have to say is kids and hospitals and they come out of the woodwork," said Col. Dean C. Macho, commandant at Kaneohe Marine Corps Air Station.

Participants in the event, divided into teams, used three routes: One group took a 27-mile route through Kolekole Pass; another made a 35-mile trek from Kaena Point; and the third ran from the Kaneohe air station around Hawaii Kai, a distance of 38 miles.

A few of the runners went the entire distance by themselves, but most divided the jaunt into 3-, 5- and 8-mile stretches.

The 27th Infantry Division Wolfhounds were first over the finish line. And in "private competition," Army runners bested Marines through Kolekole Pass by 19 minutes.

The Special Olympics will be held in May on Cooke Field at the University of Hawaii.

Youngsters will compete in such events as track and field, swimming, baseball throws and wheelchair races.

Mrs. Phillis Rice, statewide director for the Hawaii Special Olympics, said this year's fund-raising effort set an Island record.

"The most we've ever collected in citizen contributions before was $14,000," she said.

The run—the first of its kind for the Special Olympics—is part of a national "Run for the Mentally Retarded" fund-raising effort sponsored by the Noncommissioned Officers Association and the Joseph P. Kennedy Foundation.

Funds were raised through pledges to participants, to be collected after the runners completed certain distances.

MUNICIPAL CLERK'S WEEK

Mr. INOUYE. Mr. President, the city council of the city of Carson, Calif., recently passed a resolution in support of Senate Joint Resolution 45, which I have introduced to declare the second week in May as "Municipal Clerk's Week."

I ask unanimous consent that the resolution be printed in the RECORD.

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

RESOLUTION No. 75-035

A resolution of the city council of the city of Carson supporting S.J. Resolution 45 and H.J. Resolution 227 relative to proclaiming the second week in May as "Municipal Clerk's Week"

Whereas, it is recognized that the City Clerk performs the highly valued functions of administering the procedures and keeping the records of the City; and

Whereas, it is further recognized that the City Clerk provides and maintains an organized source of knowledge about the community; and

Whereas, the City Clerk provides conscientious representation of the municipal government in the affairs of the community; and

Whereas, the City Clerk helps mold public opinion of local government through daily contact with the citizenry.

Now, therefore, be it resolved that the City Council of the City of Carson does hereby support the national movement to recognize the importance of the position of City Clerk with the passage of joint congressional resolutions proclaiming the second week in May as "Municipal Clerk's Week"; and

Be it further resolved that the City Council of the City of Carson does hereby encourage the Senate Committee on Judiciary and the House Post Office and Civil Service Committee to give Senate Joint Resolution 45 and House Joint Resolution 227 respectively, favorable hearings.

GEORGE WILL ON SOCIAL SECURITY

Mr. CHURCH. Mr. President, the false alarm that the social security might collapse has been terribly unsettling to many Americans, especially those who depend on the system for much or all of their income. Consequently, those of us we know that the alarmist view is ill-founded were pleased when Columnist George Will recently joined in debunking these irresponsible rumors. Mr. Will is a conservative. He is not quick to rush to the defense of a program born during a liberal Democratic administration.

Recently, Mr. Will wrote a column

which appeared in the Washington Post under the headline "A Cure for Social Security." In that column Mr. Will deals with the speculation that social security is "going broke." He points out that social security would be in serious financial trouble if present trends continue. But he also makes clear that the Congress and the Nation will not let that happen. There are ample opportunities to head off serious problems long before they develop.

I differ with some of Mr. Will's comments on social security, but I am grateful for his sober appraisal at a time when other observers are making a whipping boy of a fundamentally sound and really quite durable system.

Mr. Will's column is worth wide attention, and I ask unanimous consent to have it printed in the RECORD.

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

A CURE FOR SOCIAL SECURITY

(By George F. Will)

Anxiety about the solvency of the Social Security system is understandable but misplaced. The anxiety should be about the economic system that sustains the Social Security system and everything else.

The bad news about the Social Security system is bad but not dreadful: the system is headed for bankruptcy, but will not get there. The good news is gloomy: the system's solvency will be maintained, but at a substantial cost to the nation.

Social Security is a pay-as-you-go system: today's benefits are paid by today's workers' taxes. The system is headed in the direction of bankruptcy in the sense that benefits now exceed revenues, and the system's reserves can only make up the difference until the 1980s.

Substantial new revenue-raising measures will be necessary for the system. The system now has an actuarial deficit of at least $1.3 trillion over the next 75 years, adjusted to present value—and this deficit projection is based on some unreasonable optimistic assumptions, e.g., a long-term inflation rate of 3 per cent.

(An independent report for the Senate Finance Committee says that the actuarial deficit could be twice that size—that we would need reserves of $2.6 trillion, earning interest to finance the deficit until the year 2050).

The system's financial problem is a product of Congress, inflation, unemployment and demographic factors.

Congress has "indexed" benefits, linking them not only to the Consumer Price Index, but also to both wage and price increases.

Thus future benefits will increase even faster than inflation, and eventually—how soon depends largely on the long-term inflation rate—retired workers will receive benefits larger than the wages they earned.

Such high-power indexing makes double-digit inflation a disaster: wages, and hence revenues, increase slower than benefits. Of course, high unemployment widens the gap.

And demographic factors—declining birth rates, the growth of the retired population relative to the working population—compounds the disaster for a pay-as-you-go system. In 1955 seven workers paid Social Security taxes for every beneficiary. Today the ratio is three-to-one, and by early next century the ratio will be two-to-one.

Even if the problem is "only" $1.3 trillion—with market interest rates compounded over 75 years—it cannot be solved by traditional Social Security financing measures. These measures are increases in the flat tax rate or in the level of income to which the rate applies. The tax is regressive and inflationary, and political and economic considerations preclude relying on the tax to raise the required revenues.

Social Security taxes have increased at a compound annual rate of 17 per cent since 1949. Since 1971 the maximum annual Social Security tax bill has more than doubled for wage-earners from $405.60 to $824.85, with employers paying a like amount.

The impact of this flat, regressive tax on lower income individuals has virtually matched, and hence nullified, tax relief Congress has tried to grant on lower income individuals. And such a payroll tax is reflected in the price of goods and services.

On Jan. 1 Social Security taxes rose again. The 5.85 per cent rate remained the same, but the taxable portion of each individual's income rose from $13,200 to $14,000, a tax increase affecting 19 million Americans—one out of every five persons covered by the system.

It is written in letters of flame across the sky that the Social Security system cannot be run forever as it has been run—by politicians anxious to increase benefits, reluctant to increase taxes. Social Security, like the nation, is approaching a day of reckoning; bills are coming due.

Congress probably won't cut scheduled benefits. It probably will increase the tax rate; and increase the taxable portion of an individual's income; and then pour large sums of general revenues into the system.

This could mean increasing by tens of billions of dollars annually the taxes on labor and capital, leading to slower growth of capital, real income and the economy.

Slow economic growth will have a shattering effect on the Social Security system's sensitive actuarial assumptions, causing an implosion. For every percentage point difference between real wage growth and inflation, there is a staggering growth of the system's actuarial deficit which, in turn, requires additional tax revenues with additional adverse consequences for economic growth.

Congress, which made the Social Security system what it is today, must find a way to reform it without sending the economy into a permanent downward spiral.

SENIOR CITIZENS REACTION TO PROPOSED CUTBACKS

Mr. CHURCH. Mr. President, I have been among the Members of Congress who have taken sharp issue with President Ford's proposals to reduce budget expenditures by doing serious damage to programs serving older Americans. I will continue to do so.

Disapproval of the President's proposals is not limited to the Congress, by any means. My mail is crowded with letters of protest from older persons in all parts of the Nation. Many ask why so many of the so-called savings in the President's budget seem to be directed at the elderly.

One of the most vigorous and well-reasoned evaluations of the President's budgetary reasoning has been issued by a person I have known for many years in Idaho. He is Larry Evans, president of the Boise Club, National Council of Senior Citizens. His evaluation was published by the Idaho Statesman in what I regard as a genuine public service. I ask unanimous consent to have Mr. Evans' spirited—and informative—article printed in the RECORD.

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

FORD PLAN PENALIZES OLDER CITIZENS

(By Larry Evans)

The nation's president, economy doctor Ford, has handed the elderly a senior's depletion pill. It is a pill designed to be unpalatable to some 46 million, 55 years of age and older, people who are designated by the federal government as senior citizens.

Ingredients of the senior depletion pill consist of a combination of less services under our Health, Education and Welfare agency—there being some 15 varied programmed units.

The senior depletion pill ingredient which affects—and will become disastrous to—21 million people in the country now drawing Social Security checks, is the proposal to reduce the alloted 9 per cent increase due in July 1975 to a meager 5 per cent. Idaho's Congressman Steven Symms writes that he concurs with the President in this matter.

Informed sources predict that administration offices will continue sniping at this source of legally earned income, especially if there is congressional action towards another raise in the cost of living increase. This part of the pill may be abolished through the efforts of the United States Senate's lead with the introduction of Senate Concurrent Resolution 2, introduced by 52 Senators and sparked by Idaho's Sen. Frank Church.

Another ingredient of the pill—upping the cost of the food-stamp program—has been successfully aborted by both congressional and court action.

But millions still face the frightful thought of illness, privation and suffering because of the tremendous increase in the cost of hospitalization, doctors and medical services. A stay in the hospital during 1973 which cost a deductible of $80 could conceivably now cost $750. Many will now retire into an elderly shell and wither away.

While pill doctor Ford blitzes the country on his proposed energy program, planned to solve the country's ills, he is constantly demonstrating that a leopard does not change his spots by following the same pattern he pursued for 25 years as a bi-partisan big business oriented, conservative congressman. His actions have proven him no William Tell! At the same time Congress has yet to prove an ability to be an Annie Oakley. On his first national appeal at Atlanta the President directed his thoughts towards an ethnic problem.

At Houston he appealed to the big oil industry and in the Midwest agriculture got a sample of the cure-all—not fully assimilated. To date he has mentioned no aid for the little people. On the same day of his agricultural speech a Washington bureau predicted an increase of consumer costs at the markets.

While the purchasing power of those on fixed incomes lessens daily, and inflation leaves an empty purse before the end of the month, millions look in desperation towards an uncertain future.

These are the Americans who kept this nation together during a crippling national and world-wide depression, many of whom "saved" the world for democracy during World War I and World War II. The elderly deserve a better break.

Nationally organized senior groups are now fighting a rear guard action. The Ford Senior Pill cannot be accepted as a necessary palliative.

If concerted efforts among senior organizations are used to present their problems before Congress, there is evidence of successful aid measures. The National Council of Senior Citizens, through its Washington offices, has been pushing for a 15 per cent hike in Social Security payments in July 1975 instead of the lawful 9 per cent raise. The council says that the contribution rate into the Social Security trust funds is set by the Congress to match, as closely as possible, the benefits which have been set under the law. But the President, who proposes to reduce the cost of living benefits, is not suggesting that the workers' and employers' contributions be reduced to offset the benefit reduction. Is that reasonable?

These contributions go into a trust fund which cannot be spent for anything except benefits, according to the provision of the Social Security law. It seems that economic doctor Ford wishes to use this money to make this administrations' huge deficit seem smaller.

The last thing the Social Security recipients could ask is to keep the benefit increase at the same rate as the increase of living costs. Should Congress decide to do this in July 1975 it would be necessary to grant an approximate 13 per cent hike in the checks of the beneficiaries. Costs of living increases have not caught up with recipients of Social Security checks. It is not possible to stand still without going backward.

In addition to suggested cuts in these benefits, the President asks the same reductions in the checks received by these in civil service and railroad retirement. Proposed cuts in the Veterans Administration would reach many millions more.

Social Security is not set up as are these other units of governmental services to the country's people. The complicated Social Security system is beyond the understanding of most recipients and many congressmen. At the urging of the National Council of Senior Citizens and other groups Sen. Frank Church has introduced Senate Bill 338 (on January 27) which would establish the SS Administration as autonomous and outside of the HEW, placing it under a three-man board appointed by the President with the advice and consent of the Senate. It would also separate the Social Security trust funds from the unified budget.

The House of Representatives has named Rep. William J. Randall as chairman of the House Committee on aging. These are the two men who chair important committees for senior citizens as well as all retirees. They must rely on the wishes of the people for their actions.

The Ford senior depletion pill includes more bad news for the elderly, seniors and those on Medicare. It does not suggest that the worker contributions to the Medicare Trust Funds be reduced to match the proposed cut in benefits. The money collected from the workers and employers, instead of being used for the elderly sick, will become a trust fund surplus to offset other deficits incurred by this administration. This makes for an added tax for the elderly.

Similar problems are presented by presidential proposals on Medicaid. Action must be taken to prevent the inmates of nursing and rest homes from becoming welfare patients.

The bitter depletion pill cannot be swallowed by the elderly. Write to your congressional delegation and tell them how it is with you.

IMPACT STATEMENTS

Mr. CHILES. Mr. President, yesterday, in a hearing before the Senate Government Operations Committee, Commerce Secretary Frederick Dent and Assistant Labor Secretary Abraham Weiss testified that their departments have not prepared inflation impact statements with proposed legislation and regulations as required by President Ford last November.

It is inconceivable to me that the departments and agencies have not complied with an Executive order 4 months after it was issued by President Ford and proudly proclaimed before the American people.

The people have a right to know the true cost of the laws and regulations proposed by the administration, and they have a right to ask if their government is working when it takes this long to obey an Executive order.

I cannot believe that the President of the United States would issue an Executive order in November and the bureaucracy has not complied with that directive 4 months later. It proves that our Government is not working.

In addition to this development, I am also cosponsoring with Senator NUNN and Senator PERCY bills that would require productivity impact statements to accompany all proposed major Federal laws, rules, and regulations.

I have also joined with Senator Brock in sponsoring an amendment to the Consumer Protection Act to require all proposed laws, rules, and regulations to be accompanied by an assessment of their effect on consumers. The Senate Committee on Government Operations accepted this amendment. One of our biggest needs is to look at the total cost of Federal programs, both in terms of their actual cost in dollars and their impact on consumers.

INDUSTRY RESPONSE TO REPORTS ISSUED BY THE SUBCOMMITTEE ON LONG-TERM CARE

Mr. MOSS. Mr. President, my Subcommittee on Long-Term Care of the Senate Committee on Aging is in the process of releasing a 12-volume report on nursing home problems entitled, "Nursing Home Care in the United States: Failure in Public Policy." The report is based on some 25 hearings over the past year and more than 3,000 pages of testimony. Our subcommittee issued an introductory report in November followed by one additional volume each month.

This procedure is unusual, perhaps unprecedented; but it is directed toward sustained public and congressional interest leading once and for all to meaningful reform in this much maligned industry. But the report has other unusual features. The report to be released in May is devoted entirely to positive aspects in long-term care. It is an effort to capture the most innovative and progressive practices used in America's finest facilities and make these techniques available to all providers. The 11th volume of the series will be made up of the administration and industry response to our reports; such statements will be printed without comments by the subcommittee. The 12th volume will analyze the industry response, update earlier findings, and provide the Congress with our final recommendations.

Our reports have contained many hard knocks for the industry. For example, we charge that 50 percent of U.S. nursing homes are substandard; that is, they have one or more life threatening conditions or problems. We charge that 20 to 40 percent of the drugs in nursing homes are administered in error. But even in the face of such serious charges the predominant response from the industry to date has been positive. It has largely been accepted that our purpose is constructive and that our approach to these problems has been factual and intellectual rather than emotional.

I am pleased by this response and the industry's apparent commitment to cooperation and reform. I am pleased that the American Health Care Association—formerly the American Nursing Home Association—has called for a national conference on long-term care in conjunction with George Washington University. This conference in June could help influence legislation. But this association has also taken another highly positive step. The subcommittee can print a maximum of 5,000 copies of any report. In most cases we receive far less copies to distribute. The demand for our nursing home reports has been unprecedented. The committee quickly runs out of its supply of each paper without distributing it to any of its master mailing list.

The Government Printing Office has been besieged for requests and quickly exhausts its supply of each paper. AHCA's decision was to print copies of our reports at its own expense and to make them available to the public as well as its membership. Moreover, their price is cheaper than that of the Government Printing Office, the introductory report selling for $1.50 rather than $1.85 at the Government Printing Office.

As additional evidence of the positive response our reports have received within the industry itself, I ask unanimous consent to have printed in the RECORD a letter to me from George W. Akers, vice president of the health care division of the Hillhaven nursing home chain who lauds the subcommittee for its work.

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

HILLHAVEN,
Tacoma, Wash., December 19, 1974.

Re: "Nursing Home Care in the United States: Failure in Public Policy—Introductory Report" Prepared by the Subcommittee in Long-Term Care.

Hon. FRANK E. MOSS,
U.S. Senate,
Washington, D.C.

DEAR SIR: While reading, in the December 10 Congressional Record, your overview of the above publication, my original impressions regarding the Subcommittee's "Introductory Report" were reaffirmed and I am moved to share them with you.

The objectivity with which the Subcommittee has conducted its investigations and published its findings is most appreciated and indeed to be congratulated. The "Introductory Report" reflects this objectivity and contains background and statistical data which is obviously factually sound and which is also "eye-opening" to say the least.

Problems within the nursing home industry have long been guessed at by all sectors, public and private. The members and staff of the Subcommittee on Long-Term Care

are to be commended for going beyond the guessing stage and for developing a program for publishing factual analysis of problems and causes—analysis from which workable resolutions may be planned.

Our organization, nationally representing approximately 7,800 long-term care beds, desires and intends to actively contribute to such resolutions and we are looking forward to receiving and responding to the Subcommittee's projected Supporting Papers. The Subcommittee's "unusual plan of action" affords use and others this unusual opportunity. For this we wish to express our appreciation to you, Senator Moss, as Chairman and to the members and staff of the Subcommittee on Long-Term Care.

Sincerely,

GEORGE W. AKERS,
Vice President.

JAMES E. SCOTT COMMUNITY WEEK

Mr. STONE. Mr. President, Reubin O'D. Askew, the Governor of the State of Florida, has proclaimed the week of March 15 through March 22, 1975, as James E. Scott Community Association Week. The James E. Scott Community Association is celebrating its golden anniversary on March 22.

The main objective of the James E. Scott Community Association is to build a creative partnership among people of all races and economic levels for the purpose of creating a society of equal justice and opportunity for all.

After 50 years of service to the Miami community, the James E. Scott Community Association has expanded its boundaries from primarily a child care agency to an institution that is concerned with all aspects of human development.

The James E. Scott Community Association is very proud of its history. I, therefore, request unanimous consent that the following proclamation, by Governor Askew, be printed in the RECORD.

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

PROCLAMATION

Whereas, the James E. Scott Community Association has been a significant force in the service to the black and minority residents of Dade County, and

Whereas, the James E. Scott Community Association has provided an Early Childhood Development Program, a Comprehensive Community Coordinated Service Unit, a Youth Employment Service Project, the Scott Economic Development Corporation, the Youth Streetworkers Project, a multi-purpose Senior Center, a Social Services and Golden Agers Service to assist Senior Citizens, and

Whereas, all of the aforesaid programs have been unselfishly used to the benefit and advancement of the minorities of Miami, and

Whereas, this program deserves and enjoys the full support of the people of Miami, Dade County, Florida and their elected leaders and

Whereas, the year 1975 marks the fiftieth anniversary of the founding of the James E. Scott Community Association:

Now, Therefore, I, Reubin O'D Askew, by virtue of the authority vested in me as Governor of the State of Florida, do hereby proclaim the week of March 15 through March 22, 1975, as James E. Scott Community Association Week in Florida and urge all citizens to join in commending the efforts of the James E. Scott Community Association and to reaffirm our individual efforts at aiding our fellow man.

THE 57TH ANNIVERSARY OF THE BYELORUSSIAN DECLARATION OF INDEPENDENCE

Mr. PASTORE. Mr. President, it is now 57 years since the freedom-loving people of Byelorussia rose up against their independence by proclaiming the Byelorussian Democratic Republic. It was the latest revolt in Byelorussia's two-century long struggle to gain her freedom from the political control of Moscow. But, it was a short gulp of fresh air for the commissars, like their tyrannical predecessors the czars, moved quickly to destroy the ancient aspirations of the Byelorussian people to live freely and independently in their own democratic state. By January of 1919 the last insurgents were crushed and Byelorussia was incorporated into the Soviet Union.

The fact that Byelorussia's struggles for independence and liberty date back more than 600 years is eloquent testimony to the deep-seated and irradicable yearning of the proud Byelorussian people to be free. And for the better part of 600 years now the Byelorussians have been fighting for their freedom from Moscow.

The Communists, recognizing clearly the fierce Byelorussian love of freedom and independence, have embarked upon a massive and insidious campaign to obliterate everything Byelorussian in an attempt to obliterate the Byelorussian's uniqueness as a people, eradicate their national customs and their language, and assimilate them into the Soviet population.

It was on March 25, 1918, that Byelorussia proclaimed her national independence and become a free and independent state. But despite the Communist oppression of Byelorussia in the intervening 57 years, the ideals and spirit of independence have lived on, burning ever more brightly.

Mr. President, wherever there is a man who has the courage to stand against a tyrant's oppressions, I will stand with him. And as long as there is a Byelorussian who is articulating the legitimate aspirations of his people and who asks for my support, I will lend him a hand.

TRAGEDY IN INDOCHINA

Mr. KENNEDY. Mr. President, spokesmen for the administration, including the Secretary of Defense, are once again engaging in the drama of political rhetoric, of threats and scare tactics, about Indochina. Once again we are hearing the same old arguments and the same old controversies over the same old war.

Once again efforts are being made by the administration to intimidate Congress and the American people by ignoring the facts in the field, and by covering up the failure of our national policy in Indochina.

The clear implication of the administration's statements is that Congress holds the fate of Vietnam and Cambodia in its hands—that Congress and the American people are responsible for the failure of the Paris agreement for Vietnam—and for the failure of peaceful settlement in Cambodia.

The administration's arguments not only renew a needless controversy of recrimination over who is to blame for the failure of national policy in Indochina, but their arguments also mislead the American people.

Mr. President, let us end the needless recrimination. Let us not renew the old wounds that nearly tore our society apart. Let us be realistic about our options. Let us be realistic about what we can and should do—and not about what might have been.

Let us not pretend that the crisis in Vietnam can be solved by a few dollars more. After pouring in some $140 billion over the last decade—including some $4 billion in military and economic aid since the Paris Agreements—what will a few dollars more achieve? And the same holds true for Cambodia.

Peace cannot be brought in Indochina. The billions of dollars in military hardware and economic aid we have put in to Indochina, even since the ceasefire, has not served to reduce the level of violence. In fact, the statistics on the human costs of the on-going war—the number of refugees, civilian war casualties, orphans, and war victims of all kinds—have mounted steadily. And today we are confronted with the greatest nightmare of death, destruction, confusion and human flight the war has ever seen.

And regrettably, apart from the apparent lack of any meaningful diplomacy by the administration to lessen the violence and open a dialogue of accommodation among the parties involved, we are once again confronted with a national policy which all but ignores the new crisis of people building up in Cambodia and Vietnam. We are confronted wtih a national policy which all but ignores the kinds of efforts needed to bring about the better care and protection of the civilian populations on all sides of the battle lines.

As chairman of the Subcommittee on Refugees, I am distressed that weapons deliveries still have priority over medicine and relief supplies. I am distressed that the voluntary agencies and international humanitarian organizations are not being given the full support of our Government, nor the full resources to meet humanitarian needs.

I am distressed over the callous attitude of our Government toward the massive human suffering and starvation in Cambodia. I am distressed over the complacent attitude of officials in the administration who view the massive dislocation of people in Vietnam as a routine emergency that will surely be patched up with a few more dollars.

But there is nothing routine about the new crisis of people spreading over Cambodia and Vietnam. And as events in the field expose the failure of our national policy in Indochina, the time has finally come for new initiatives by the President and for new efforts by our national leadership to face squarely our true remaining obligations to the people who have suffered so much for so long.

And so I call upon the President to finally carry out the legislative mandate of Congress for internationalizing humanitarian assistance to Indochina. Given the massive human tragedy unraveling today in Cambodia and Vietnam,

I also call upon the President to seek the good offices of the United Nations for the protection and care of refugees and war victims on all sides.

I call upon the President to urge the United Nations Secretary General to exercise his good offices for humanitarian purposes in Cambodia and Vietnam—perhaps through the United Nations High Commissioner for Refugees or UNICEF, whose offices are already actively present in all parts of Indochina. The active presence and good offices of the U.N. will help to insure the free movement of relief personnel and supplies to all areas of need, and hopefully strengthen the efforts for peace.

DOES THE CATTLEMAN GET A FAIR SHARE?

Mr. CHURCH. Mr. President, for years the cattlemen have been told that the price they receive for their cattle reflects no more than the operation of the free market. And yet the widespread suspicion continued that not only did the massive purchasing power of the supermarket chains establish prices paid to the producer but that some form of agreement among the chains determined prices to consumers.

Evidence is now beginning to emerge that these suspicions have a basis in fact. How is it possible to explain the fact that prices to the producers have fallen while the retail price has increased or stayed the same? Can inflation alone account for the fact that, as the Department of Agriculture reports, middlemen added 52.7 cents to each pound of choice beef in 1974 compared to 36.5 cents in 1971—a two-thirds increase?

These questions and others are explored in a recent article for the Washington Post by James Risser and George Anthan of the Des Moines Register. While these reporters do not draw final conclusions, they discuss the evidence assembled on behalf of six cattlemen who recently won a $32.7 million verdict against A. & P.—what may be a landmark case now on appeal—and find it convincing.

So that others may have an opportunity to consider the matter for themselves, I ask unanimous consent that the article, "The Meat Price Explosion and Chain Stores," from the March 9 Washington Post be printed in the RECORD.

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

[From The Washington Post, Mar. 9, 1975]

THE MEAT PRICE EXPLOSION AND CHAIN STORES

(By James Risser and George Antham)

In the mid-1960's, officials of the nation's largest supermarkets gathered quietly at confidential "meat clinics" sponsored by their trade organization, the National Association of Food Chains (NAFC).

Each participant was guaranteed anonymity. Neither his name nor his company affiliation appeared on any list. Officially, he was known to his colleagues only by a color-coded badge on his lapel. If he spoke during clinic sessions, he could be identified only as a member of, for instance, "the red-striped badge group."

The system was developed, one NAFC official explained later, "for the purpose of encouraging people to speak out and not hold back" as the executives discussed complexities of buying and marketing meat at a profit. And, somewhat to their chagrin today, participants did speak freely.

One color-coded supermarket man declared that "it is about time we stopped passing along the savings in distribution costs to the customer. I think we ought to keep some of it for ourselves."

"The group seemed in general agreement with this thought," notes of the meeting said.

Last summer, those words and others uttered at the meat clinics came back to haunt the supermarket industry as a federal court jury in San Francisco handed six cattlemen a stunning $32.7-million verdict against the Great Atlantic & Pacific Tea Co. (A&P) in a lawsuit charging that major retail grocery chains had conspired to fix the price of beef.

During the trial, the chief meat buyer for A&P had denied he ever met with his competitors. But then the jury of four women and two men was shown a photograph of him meeting with other supermarket officials at an NAFC clinic. The impact on the jurors was powerful.

Their verdict was upheld 10 days ago by Chief U.S. District Judge Oliver Carter, who denied A&P's pleas for a new trial. Judge Carter ruled the jury had received "sufficient evidence" to support its finding that A&P had plotted with other supermarkets to set the prices they pay for beef at a low level and the prices they charge customers in their retail stores at a high level. The jurors were justified in believing that, at the "various secret meetings," supermarket executives and meet buyers "met, not only to discuss prices of meat, but to forge agreement concerning fixing of those prices," said the judge.

A&P has termed the verdict "monstrous" and plans an appeal to the U.S. Circuit Court of Appeals. The decision has sent tremors through the multi-billion-dollar supermarket industry as cattlemen in other states have moved quickly to file similar suits. While the San Francisco case covers a period which began almost a decade ago, some cattlemen contend the alleged practices have continued.

Backed by some farm-state congressmen, the cattle raisers say large supermarket chains wield undue influence on wholesale and retail prices of meat. Rep. Neal Smith (D-Iowa) charges the chain grocers have replaced meat packers as the largest single force in the nation's food industry, saying they exert "tremendous leverage" over meat prices and can, in effect, dictate prices meat packers pay the cattleman for his live animals.

Smith is pushing legislation to limit the chains' involvement in production of meat, and some veteran industry regulators at the U.S. Agriculture Department agree privately that tough new laws are needed.

The farmers complain that low prices they are paid for cattle are not adequately reflected at the stores' meat counters. This has become one of the most curious aspects of the high food-price situation of recent months. How can it be that U.S. cattlemen have lost $100 to $200 on each animal sent off to the slaughterhouse, and yet consumers have had to pay higher prices for their steaks and hamburger?

Agriculture Department economists and statistical experts agree that if there is an economic villain, it's *someone* called the "middleman"—the meat packer, the processor, the packager, the shipper, the retail grocer. All have been getting an increasingly large piece of the action as beef makes its way from an Iowa farm or a Texas feedlot to the American dinner plate.

Agriculture Department figures show that in 1971 middlemen, including the retail supermarkets, added an average of 36.5 cents to each pound of choice beef they handled. This increased to 52.7 cents a pound in 1974.

A special department task force reported last August that meat price margins—costs added by middlemen—"exploded" late in 1973 and early in 1974 "while market prices for cattle and hogs dropped sharply and losses mounted for livestock feeders." General inflation, restrictive labor union practices, government regulations and market distortions caused by earlier federal price controls were factors in this "explosion" but not enough to "explain the surge," the task force stated.

Meat marketers, the unit's report said, had significantly increased their profits, partly to recoup earlier losses. "It appears that the recent increase in meat price spreads was caused partially by food retailers changing their pricing policies to increase profits in their meat departments," it said.

A series of recent hearings by the Congressional Joint Economic Committee also dealt a blow to the supermarkets' public image. First, the committee staff accused the chain stores of issuing "intentionally misleading" financial figures in order to "cover up" high profits. Then, several supermarket chains refused to testify before the committee unless forced to do so by subpoena.

Cattlemen's suits patterned after the California case are on file in Nebraska and Texas, and the filing of others is under consideration. A $104-billion antitrust action filed in Cedar Rapids, Iowa, by cattlemen there was dismissed recently, but strong efforts are being made to revive it.

An examination of the voluminous record in the six-week A&P trial in San Francisco shows that cattlemen's attorney Joseph M. Alioto (an antitrust specialist and son of San Francisco Mayor Joseph L. Alioto) was able to produce little clear or startling proof of an overt conspiracy. There was no document actually showing high grocery chain officials agreeing on price-fixing schemes. But there was massive testimony and statistical evidence that, at a time when beef demands was high, cattlemen were being paid low prices while supermarkets profit margins were rising. And the jury apparently was convinced that the NAFC meat clinics were a cover for supermarket efforts to get together on pricing.

TWO CHAINS SETTLE

The case, filed in 1968, originally named as defendants A&P, Safeway Stores, Inc. and Kroger Co. The three firms had conspired to pay low prices for the beef they bought and to fix high prices for the beef they sold to customers, the petition asserted. The large supermarket chains, the cattlement alleged, had divided geographical territories among themselves to reduce competition. They also had eliminated competition among themselves in purchasing meat products, and even among different stores of the same chain. Also, it was charged, they had exchanged information on prices, sales, margins and profit through their trade associations.

Safeway and Kroger eventually elected to avoid a trial and settled out of court by paying the cattlemen $90,000 for attorney's fees, though the two chains strongly denied the charges against them. A&P, however, decided to fight the case to the end.

After a six-week trial, the jury returned its verdict, finding that a price-fixing conspiracy had cost the six cattlemen 20 cents a pound on all the beef they sold from 1964 through 1967. As a result, they had lost a total of more than $10 million and, under federal antitrust law, were entitled to triple damages.

The plaintiffs produced witnesses to buttress their claim that the big supermarket chains had agreed, perhaps only through an informal "understanding," to pay packers

uniform, arbitrary, non-competitive and artificially low prices for fresh meat and meat products.

Cattlemen told the jury they sold cattle for less than it cost to raise them, and that they were able to stay in business only with bank loans and by raising crops. Also, a former independent packer testified that he had been forced to pay cattlemen low prices because of "great pressure" from major food chains he dealt with.

Testimony showed that A&P followed a policy of buying 20 million pounds of meat a week—90 percent of its total requirements—out of a single office in Chicago. Company officials acknowledged that such large buying power could not help but have a significant market impact, but they insisted "we do not determine prices."

But, in his closing argument to the jury, Alioto claimed: "It's more likely than not that they (the competing supermarket executives) got together, either by an understanding or an agreement or an invitation to some and an acceptance by others, to control the market. They talked about prices. The evidence is they talked about methods and procedures. . ."

Referring particularly to the photograph of A&P meat buyer Robert Carpenter meeting with his competitors, Alioto commented: "First, several of them deny meeting each other, and then we have to show that and prove that in documents . . . Next, they say, 'Well, I didn't sit with him: I might have met him, but I didn't sit with him.' And then we have to get a picture . . . And then they say, "Well, we didn't talk about prices or supply or anything like that, and then it's all over these documents."

Arguing unsuccessfully that the jury verdict should be set aside, A&P contended that the NAFC sessions involved "wholly theoretical and legitimate discussions about retail marketing practices and consumer buying habits, but were not an attempt to fix prices or coordinate buying.

"Accusations of retail price-fixing before a jury of consumers in a period of high inflation were obviously highly prejudicial," A&P complained.

THE "YELLOW SHEET"

In addition to the NAFC meat clinics, evidence of some contact among competing food stores came in testimony of A. D. Davis, an official of Winn-Dixie Stores. He said he had given his private telephone number to officials of some other firms to save them from making more expensive person-to-person calls when they wanted to speak to him.

The calls often related to handling of "excess supply" of beef, said Davis, who acknowledged that he may have told a competitor that Winn-Dixie was planning to "feature" beef.

Supermarket officials said that the NAFC often issued notices to its members, telling them of the existence of excess meat supplies, and asking them to conduct beef sales. But A&P lawyers said such sales had the effect of removing excess supplies and actually benefitted cattlemen.

The cattlemen who testified in San Francisco made it clear they don't feel that way. Courtenay C. Davis, who operates a 75,000-acre ranch at Horse Creek, Wyo., told the court that many cattlemen have been losing money since 1952. At about that time, he said, "a powerful new force emerged in the form of the concentrated buying power of fewer and fewer big chain store buyers, operating without restraint in the carcass beef market."

Supermarket officials testified that the four largest chains together were accounting for less than 20 per cent of carcass meat sales in the nation, but they acknowledged that much of the other 80 per cent represented "fragmented" purchases by locally oriented grocery, hotel, restaurant and institutional operations.

While noting that most of its 3,500 stores get most of their meat through a centralized buying office in Chicago, A&P strongly denied it sets prices it will pay to packers relying on the so-called "Yellow Sheet." That publication, officially called The National Provisioner, is a daily compilation of wholesale prices in the meat industry. It bases its quotation on actual sales, but there have been allegations in the press and before Congress that the Yellow Sheet's figures sometimes are manipulated.

Also, during the California trial, the cattlemen contended that a Safeway decision to sell its New York City stores, A&P's decision to leave the Los Angeles market and a Kroger decision to abandon Washington were tied to efforts to lessen competition among the three in the purchase of meat.

C. W. McManamy, an official of the Omaha, Neb., Livestock Foundation and a longtime observer of midwestern markets, sees evidence large supermarket chains have been able to force some significant drops in prices farmers receive for their cattle.

One clue to this, he said, is a uniform price decline on the same day at widely scattered markets. "When I look at a radical departure from normal patterns," he said, "then I have to look at market muscle as a possibility. I see six to eight major retail outlets. Against this, I see 3,500 packing plants, and producers market through all these plants. When I look at this picture, I can't escape the conviction that concentration in retailing would provide substance for suspecting that prices can be dictated where the power lies. Packers to a large degree don't sell meat to retailers anymore; the retailers order meat from the packers."

Testifying before the Joint Economic Committee last December, Irvin Bray, one of the plaintiffs in the California suit, said he had been unsuccessful in trying to sell cattle to packers early in the week because the packers have to wait until Wednesday to find out what Safeway, the dominant chain in his area, is willing to pay.

Safeway's buyers wait until then so they can determine through the Yellow Sheet what A&P has paid the previous day, he claimed. Bray said that in recent years there has been very little relationship between the prices paid to cattlemen and the retail beef prices charged to consumers.

Testifying later, Safeway denied the charge. Company lawyer Richard W. Odgers said Safeway does not utilize centralized buying, but purchases its beef through competitive "offer and acceptance" in which packers" offers are received and accepted separately through more than 15 meat-buying offices.

W. S. Mitchell, Safeway's president was grilled before the committee by Sens. William Proxmire (D-Wis.) and Hubert Humphrey (D-Minn.) about the increasing concentration of economic power in a few of the big chains. Proxmire said he has "serious doubts about the competitiveness of the industry" and Humphrey asserted that the supermarket chains "went out for a killing" after food price controls were removed.

But Mitchell told the committee that "all those stories about price-gouging profiteering, ripoffs, price-fixing and monopoly are just not so." He strenuously resisted suggestions that Safeway, with its 2,200 stores and annual sales of some $6 billion, is able to drive out competition and keep its prices high. Net profits of most major chains have averaged around 1 per cent of total sales, Mitchell said.

"A DEVASTATING CASE"

Later, the committee staff issued a report calling such figures "irrelevant." Profit figures based on rate of return on sales have been "purposefully" used to "cloud the issues and obscure the industry's true performance," the report said. A more reliable measure of supermarket profits, it contended, is "return on equity" (earnings compared to the value of the stock owned by the companies' stockholders) because this shows how much money the supermarkets are making in comparison to their total worth. For the supermarket chains, return on equity is "strikingly higher" than return on sales, the report said.

Safeway's rate of return on equity, for example, was 11.2 per cent in September, 1973, and rose to 19.5 per cent in September, 1974, an increase of 74 per cent, the report said. Winn-Dixie's rate of return rose from 13.1 per cent to 21.4 per cent. Kroger Co. went from 6.1 per cent to 10.4, and A&P from a loss of 2.2 per cent to a profit of 3.2 per cent.

The figures, on the average, are "neither spectacular nor poor," but they refute the retail food stores' claims that they are doing poorly, the committee report said.

The NAFC continues to argue, nevertheless, that supermarkets make so little profit that, if their earnings were entirely wiped out, the average family's food bill would drop by only eight cents a week.

"Lowering food prices by reducing supermarket profits is like trying to pump water from a dry well," says NAFC president Clarence Adamy. As for meat specifically, the supermarkets generally have been unable or unwilling to provide figures, although A&P has acknowledged that its average mark-up on fresh meat nearly doubled between 1968 and 1973. Safeway says its gross profit on meat is lower than on other grocery products, and Jewell Companies, Inc., officials say the company lost $5 million on meat sales during the first half of 1974.

Proxmire said in December that his committee staff's field investigations showed that where a small number of supermarket firms dominate the grocery business in a particular city, as in Washington, food prices tend to be higher and often are identical in the various competing stores in that city. A sampling of 4,000 items in Safeway and A&P stores in Kansas City, Mo., turned up identical prices on 3,000 items, he said. The Wisconsin senator described the finding as "the kind of conduct you'd expect out of a price-fixing conspiracy."

Three weeks later, Proxmire announced that A&P, Kroger, Winn-Dixie and Grand Union Co. had refused to appear before the committee unless subpoenaed.

Proxmire said company records obtained from the 17 largest chains had been analyzed and "we believe that a devastating case has been made against the industry—especially that retail prices rose while farm prices fell and that actual price competition, as such, did not exist in about 60 per cent of the items sold in the food chains."

Proxmire has since yielded the chairmanship of the Joint Economic Committee to Humphrey and the future status of the investigation is in doubt, as is the question of public release of the reportedly revealing company financial records.

The Federal Trade Commission has announced a probe of the food industry, but a congressional source who has followed the FTC effort says it is "in bad shape, partly because of lack of staff." The Senate Select Committee on Nutrition and Human Needs also has plans to investigate the food industry, including price fixing and other anti-competitive activity, later this year.

AN INVENTORY: AMERICA IN 1975 COMPARED TO 1950

Mr. BROCK. Mr. President, I ask unanimous consent that an article by Mr. Tom Fesperman be printed in the RECORD.

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

AN INVENTORY: AMERICA IN 1975 COMPARED TO 1950

(By Tom Fesperman)

As we move into 1975, national morale is shaky.

Across the front pages march the grim phalanxes of inflation, recession, scarcity, crime and corruption with heavy tread. They have sent out stabs of fear that good times are forever gone and our system is crumbling under the forces of disintegration.

On newsstands, national magazines challenge passers-by with apocalyptic covers: one depicts a well-to-do family sitting down to a Christmas dinner of empty plates; another trumpets "The End of Affluence: The Last Christmas in America"; a third cover announces that we are "Coming Around to Socialism."

Erudite pundits blithely tell us that the edifice America has built is junk, now come tumbling down about us.

Great difficulties loom before us in 1975, no one can doubt that. But before writing off the future or jumping into a briar patch of quack nostrums, a little stock taking is in order. Remember the 1950s? That decade opened on a surge of Korean War inflation, followed with three back-to-back recessions.

Hanging over the chronically depressed economy were two spectres that promised untold trouble. Remember? One was automation, which threatened to bring mass unemployment by wiping out millions of traditional jobs; the other was the after-effect of the postwar baby boom.

What would happen, went the refrain, when 70 million kids poured into the school system and then the job market? The mathematical extrapolations were ghastly. At the levels of growth and capacity which were then current, the incoming hordes would be locked out, first without classrooms and teachers, then without jobs, houses, hospitals, highways.

To ward off a catastrophe that would bring on a breakdown of society, we would have to spend more, train more and construct more in two decades than in all the previous years of our national life combined. Stagnant America lacked the will and the vision, the critics said; it couldn't be done.

Well, we did it. What we accomplished just yesterday is worth reviewing. For if we grasp what we have done, then we shall gain a sense of what we can do.

Part of the story is chronicled in the book, "The Real America," by Ben Wattenberg, an author with a nose for doomsday cant and an uncanny gift for making the cold statistics come to life. Other facts have been gathered by my staff. Here's the story, all carefully documented:

Since 1950, we have made it possible for—hold your hats—74 million people to be enrolled in schools today. That's one-third of the nation! Nine million are in college, more than double the 1960 figure. From our poorest homes, earning from $3,000 to $5,000 a year, 21 per cent enter college.

Since 1950, employment has expanded fast enough to absorb almost all those postwar babies. Manual labor and menial jobs declined. But the ditch digger re-emerged as a bulldozer operator and the maid as a bank teller.

Since 1950, America has constructed from scratch a suburbia that houses 35 million people. In a twinkling, as it were, we erected the physical equivalent of a new nation.

Since 1950, the median income of the American family has doubled. With inflation taken into account, average family income, measured in constant 1972 dollars, has risen from $4,500 to more than $11,000. Distress over inflation and fear of recession cause us to forget this gain.

Since 1950, working conditions have improved dramatically. Shameful conditions still exist in some industries and they must be relentlessly exposed. But for most people, gains have been impressive. Work begins later and retirement comes earlier.

What of the poor? Since 1959, poverty has been cut in half; the percentage of families below the poverty line has dropped from 22 to 11 per cent.

We who have wrought these advances in our own time have not suddenly atrophied and fallen sterile, ready for the ideological embalmers. Whatever innovations the new era calls for, we'll be equal to them.

FUTURE OF THE SOCIAL SECURITY SYSTEM

Mr. PERCY. Mr. President, the Senate Select Committee on Aging, on which I serve, held 3 days of hearings on future directions in social security this week. The hearings served as a timely public review of the projections and recommendations of the Social Security Trustees' 1974 Report, the report of the Panel on Social Security Financing appointed by the Senate Finance Committee and the report of the Advisory Council on Social Security. Most important, they served to heighten public awareness of the exact nature of the financial problems facing the social security system and of the alternative means of dealing with them.

I have been aghast at the verbal battle waged during the last few months over the financial soundness of the social security system. Now that two panels of experts have confirmed the projection of financial problems made by the OASDI Board of Trustees in its 1974 report, hopefully we can rise above the din and work together to bring order to this system.

It is as fiscally irresponsible and cruel to the elderly to ignore reality and leave these problems to future generations as it is to declare that the system will soon collapse and do nothing to prevent it.

The social security system will not collapse. Future generations will not deny earned benefits to the retired. However, it is evident that the system cannot continue to be self-supporting under the present contribution and benefit formulas. The immediate gap between income and outgo is small compared with the deficit projected for the 21st century. We must avoid the temptation to deal with the short-term problem with stop gap measures and leave long-term solutions to those who will be responsible for the system at that time. To do so could not help but result in serious economic dislocations and hardship.

Two main factors must be taken into consideration in redesigning the social security system. Its economic impact must be fair and manageable for employers and workers on the one hand and fair and adequate for retirees on the other. It must also be financially sound over the long term, so that neither a massive infusion of funds nor a reduction in benefits is ever necessary. If we take corrective action now, I believe it is possible to meet both these goals.

The Social Security Advisory Council estimates that by 1978, the balance in the trust fund will be under 35 percent and that this is about the minimum necessary to fund current obligations. By 1980, tax receipts will once again approximate expenditures. After 1980, costs are projected to rise dramatically, and by the year 2030 woud necessitate a payroll tax of 17.6 percent to fund them. These are very close to the estimates provided in the 1974 Trustees' Report. The Panel on Social Security Financing appointed by the Senate Finance Committee projects a similar short-term deficit, but estimates that costs will reach 23.3 percent of taxable payroll by the year 2030.

The difference in estimates stems from the different economic and demographic assumptions used by each panel. The Advisory Council estimates an average increase of 5 percent in wages, and 3 percent in the Consumer Price Index, over the next 75 years, and an increase in the fertility rate—the average number of children born to a woman during her lifetime—from 1.9 to 2.1 beginning in 1985. These are essentially the estimates used by the trustees. The Finance Committee's panel assumed an average increase of 6 percent in wages and 4 percent in the Consumer Price Index and a dip in the fertility rate through 1990, with the 2.1-percent rate not being reached until the year 2025.

Obviously, relatively small differences in economic and demographic assumptions lead to significant variations in estimating the long-term financial soundness of the social security system. In adopting corrective measures, it is important to keep the lack of long-term predictability of these vital factors in mind. For example, it may be reasonable to presume an even greater degree of labor force participation in the next century than did either the Finance Committee panel or the Advisory Council. As there are fewer and fewer workers relative to consumers, unemployment will drop and a greater number of women and potential retirees will join or remain in the work force.

I believe the most sensible course at this time is for the Congress to enact those changes in the social security system which will assure its enduring effectiveness. Adoption of some of the Advisory Council's recommendations, as well as other proposals I intend to make, could stabilize the system's financial base through the remainder of this century. By 1990, we will know for certain the ratio between workers and retirees during the first half of the 21st century, the most important variable in today's cost projections, and will be able to plan ahead accordingly. This, of course, assumes that there will be no changes in the present system which significantly increase benefits relative to payroll taxes.

First, and I believe most important, is the recommendation made by both the Social Security Advisory Council and the Panel on Social Security Financing to "decouple" social security benefit levels. Under the present system, a worker who

retires 20 years from now will receive a social security benefit which will directly reflect not only the compounded 20-year increase in the CPI but all wage increases received during the period. For a worker retiring in the year 2050, this could result in a monthly social security benefit 60-percent higher than the worker's average preretirement wage. Coupled with a wife's or husband's benefit, the retired couple's benefit would be nearly 150 percent higher than the worker's average preretirement wage. While this problem is not critical to the financial integrity of the system today, it plays a major part in the estimated long-term deficit. "Decoupling" the system by basing retirement benefits on a worker's average monthly wage, increased, or "indexed," to reflect average wage increases for all workers during that period, and providing cost-of-living increases only after retirement, will correct this problem. The Advisory Council estimates that this change alone will reduce the estimated average long-term deficit by nearly one-third.

Second, in line with insuring that benefits bear a reasonable relationship to preretirement earnings, total benefits should not exceed the purchasing power of preretirement earnings. A maximum replacement ratio of 80 to 85 percent of average "indexed" preretirement earnings would be both fair and adequate.

Although these changes would result in a cost savings under the economic assumptions used by both the Advisory Council and the Finance Committee panel, it is important to note that they could increase costs if real wages increase at a higher rate than projected. The importance of these changes rests in the fact that they will bring the revenues and costs of the system closer in line, whatever the long-term relationship of wages to prices turns out to be.

Third, I believe the automatic eligibility of wives to a "dependent's" benefit equal to half their husband's benefit should be phased out and that this benefit be paid only where actual dependency exists. This automatic eligibility was enacted on the presumption that wives are almost invariably dependent on their husbands for more than half their income. More and more women are now collecting social security and other pension benefits based on their own earnings and this presumption is certainly no longer valid. It is unfair to those men and women who contribute to the social security system to have to pay the costs of "dependent's" benefits to individuals who are not in actuality dependents. The Advisory Council recommended doing away with the proof of dependency now required of husbands applying for such benefits and, in the alternative, decreasing both husband's and wife's benefits by the amount of any pension earned from earnings not covered by social security.

A far simpler and more equitable solution is to require actual dependency for both men and women.

Fourth, consideration should be given to the establishment of a special replacement ratio for retirees who have spent relatively little of their work careers under the social security system. The Advisory Council spent considerable time looking into the inequity of such workers benefiting from the higher earnings replacement ratio for those with a low average preretirement wage. The higher replacement ratio was enacted, of course, to provide an adequate retirement income for those who worked for many years under social security but at low wages. One solution recommended by the council was to reduce social security benefits by the amount of any pension or benefit earned from employment not covered by the social security system.

I do not believe it is fair to penalize such workers, Government employees being a major example, for working in noncovered employment. An alternative approach would be to establish a separate schedule of replacement ratios for workers who contributed to the social security system for less than 10 or 15 years. Such workers would then receive a fair return on their contributions to the system but would not benefit inequitably from an elevated ratio established for low-income individuals.

Of course, any changes adopted in the system should not adversely affect those already retired or the long-term retirement plans of workers. Thus, the first two proposals I have outlined should become effective immediately, but only as to future retirees, and the second two should be phased in over a period of years.

Finally, if these proposals are not adequate to eliminate the projected deficit over the next 25 years, consideration should be given to moving a portion of the tax rate increase scheduled for the year 2011 forward to the 1990's and/or accelerating the scheduled increases in the taxable wage base. I do not believe the tax rate should be increased beyond the rate of 11.9 percent now scheduled for 2011. Including the 1.8-percent medicare tax, this will amount to a payroll tax of 6.85 percent each on employers and employees. This in itself will be a fairly substantial burden, particularly for low-income workers and small businesses, and I do not believe additional increases should be counted on to finance whatever long-term deficit may develop. Certainly, a thorough study should be made of the effect of the payroll tax on the adequacy of capital investment and workers' purchasing power before any additional changes in the rates are made.

I must also disagree with the Advisory Council's recommendation of gradually transferring the financing of the medicare program to general revenues and using the revenues from the medicare payroll tax to help finance social security benefits. Although I appreciate the council's interest in postponing any increase in the payroll tax, I believe further consideration should be given to the effect of this proposal on the medicare program itself. It, like social security, is an earned benefit, and should continue to be so. In addition, we have yet to determine what place the medicare program will have in national health insurance and should make that determination before enacting major changes in its financing structure.

In conclusion, if we act now, the short-term financing problems of the social security system can be solved without economic dislocation or hardship and we can lay the basis for an equitable and potentially fiscally sound system in the future.

WHY HIGH COST

Mr. BROCK. Mr. President, I ask unanimous consent that a provocative article by Nicholas von Hoffman be printed in the RECORD.

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

WHY WE PAY SO MUCH TO SO MANY TO DO SO VERY LITTLE

(By Nicholas von Hoffman)

WASHINGTON.—As reprehensible as the people in the airplane-hijacking business may be, we can thank them for making a significant contribution to the fight against unemployment. Without them the thousands of women who earn their living searching other people's handbags and suitcases at the nation's airports would probably be unemployed.

Airplane hijacking is rapidly going the way of train robberies, not because of these women and their X-ray machines, but because the hijackers themselves are such criminal nuisances there are almost no nations left that will give them asylum. Nevertheless it's safe to assume that the great-granddaughters of the present pioneer generation of bag searchers will be pursuing the same line of work.

They are exemplars of what some social thinkers have called the changeover from a production to a service economy.

Wage rates have made it unprofitable to produce a wide variety of items from television sets to sewing machines in America because, it is said, too many workers have been sucked into the service industries.

At the same time the middle and upper classes, the people who presumably can afford to purchase services as well as products, are screaming there are none to be had, except at exorbitant prices, and even then they complain the work is shoddy. If that's so, it may explain the rise in the number of service occupations for which there is only a marginal demand.

Who really needs the services of tens of thousands of public relations representatives, guidance counselors, inspectors, receptionists and variously titled paper shufflers who drag down the productivity of every large enterprise, public or private?

None of us do individually, but all of us do collectively because we have a national commitment to full employment.

This commitment is so intense, and the personal consequences of getting fired or laid off are so terrible in a society where almost none of us have any savings or other income to fall back on, that we never ask ourselves whether there is a better way to create the jobs we need.

Save in recessionary times such as now, we don't even like to admit we're creating jobs for the sake of a job rather than the work product. Only the radicals routinely point out the numbers of people who are dependent for their livelihoods on the war and munitions industry. The rest of us know it but we don't like to talk about it, except when the government decides to close down a naval base. Then the television news airs a few interviews with the bewildered workers, and the politicians speak vague thoughts about "conversion to a peacetime economy," perhaps by commissioning the construction of a subway from Omaha to suburban Los Angeles.

Even the depletions of war and the direct siphoning off the labor market of several millions into the armed forces has been insufficient. We have had to resort to other expedients which are hidden under the mantle of justice.

Hasn't that been the real social economic function of the mandatory programs to hire women and minority groups? It would be hard to demonstrate that they've provided much "equal opportunity" but easy to show that they are an effective legal crowbar for job creation.

Unhappily this is a very expensive way to attempt to meet the minimal claims of distributive justice. Not only do we have millions of workers who know they're being paid to do nothing much, but because they're so unproductive they act as a constant pressure on the government to cover the bills by inflation. At the same time an immense misallocation of resources is required to create these non-jobs, while wage scales are so distorted by them that employers with real work to be done can't afford to hire the workmen to do it.

Attempting to meet national full employment goals by creating non-producing service jobs has been politically painless because it doesn't jangle the sensibilities of special interest groups and the costs are both hidden and postponable.

However, like living off one's capital, we're going to find there comes an end to that. If we go on letting Haitian women make our baseballs and Taiwanese peasants manufacture our television sets, one of these days the airport ladies are going to open our bags for inspection and find nothing in them.

PREDICTING THE CAMBODIAN TRAGEDY

Mr. BIDEN. Mr. President, it is my considered opinion that U.S. military aid to Cambodia has been largely responsible for the tremendous loss of life and human suffering that we are presently witnessing in that country. Our continued intervention in the internal affairs of Cambodia has served to further worsen conditions in Cambodia and to preclude any attempt at a negotiated peace settlement there. Five members of Secretary of State Kissinger's National Council foresaw the present state of affairs in 1970, according to a recent news account, when Mr. Kissinger was the Special Assistant for National Security Affairs under President Nixon, but neither he nor Mr. Nixon heeded their warnings.

James McCartney, in his column in the Boston Globe of March 13, 1975, relates the story of the five men—Anthony Lake, Roger Morris, William Watts, Laurence Lynn, and Winston Lord—whose views if listened to by the Nixon administration in 1970, could have prevented the present exercise in futility. To quote from Mr. McCartney's column;

The story has relevance now because many of the arguments President Ford and Kissinger are making for continued U.S. military aid to Cambodia are similar to those Mr. Nixon made in explaining his decision to invade on April 30, 1970. Then, as now, U.S. "Prestige" and "credibility" were said to be at stake in Indochina.

Mr. President, I ask unanimous consent that the full column by Mr. McCartney be printed in the RECORD.

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

CAMBODIA PREDICTIONS THAT TURNED OUT RIGHT

(By James McCartney)

WASHINGTON.—The tragedy of Cambodia that is now unfolding was foreseen in the highest councils of the US government in 1970 by five men whose warnings went unheeded.

They warned Henry Kissinger in advance—with uncanny perception—what would happen if President Nixon invaded neutral Cambodia with US troops.

They warned that the war in South Vietnam would be expanded; that Nixon would not be able to get out after he got in; that events would become uncontrollable for the US.

One told Kissinger the invasion would be "an exercise in futility" that would lead to mass deaths "to no real avail." Another warned that if it was done the US eventually would bomb Haiphong harbor in North Vietnam.

Three felt so strongly that they quietly resigned prestigious White House jobs when their warnings were ignored and Kissinger sided with Mr. Nixon, enthusiastically backing the invasion.

The five were members of Kissinger's handpicked National Security Council staff—Anthony Lake, Roger Morris, William Watts, Laurence Lynn and Winston Lord.

Their predictions to Kissinger have been a nightmare come true.

By the best available figures some 450,000 persons have been killed or wounded in Cambodia in the five years that have followed, and three million have been driven from their homes. Haiphong was bombed. US troops are gone from Vietnam, but there has been no victory in either country.

Today even the Pentagon is conceding that the exercise has been a monument to futility.

"We know it was wrong," says Lake today, "but I don't think any of us foresaw the dimensions of the tragedy."

Says Morris: "We made a mistake. We tried to conduct ourselves like gentlemen in the establishment club.

"Like gentlemen, we quietly resigned. We should have called a press conference and blown the lid off."

The story has relevance now because many of the arguments President Ford and Kissinger are making for continued US military aid to Cambodia are similar to those Mr. Nixon made in explaining his decision to invade on April 30, 1970. Then, as now, US "prestige" and "credibility" were said to be at stake in Indochina.

Many believe that Mr. Nixon appreciated Kissinger's leadership in seeking to rally support on the White House staff so much that the result was to cement the relationship between the two.

In his book "Before the Fall" Safire reports that Kissinger told White House staffers at private meetings: "Look, we're not interested in Cambodia, we're only interested in it not being used as a base" against US troops.

On the day before the invasion was announced Lake and Morris drafted a letter of resignation, delivering it to Kissinger's top assistant, Alexander Haig Jr. It began: "Dear Henry:"

"As you know," they said, "we have grave reservations about the value of using US troops in Cambodia. We believe the costs and consequences of such an action far exceeds any gains one can reasonably expect."

They told Haig to deliver it whenever he thought best—not necessarily that day, because Kissinger was "tense."

Watts came to his decision to resign after Kissinger asked him to take on the job of coordinating the entire invasion. He told Kissinger he would not—and knew that meant he would have to resign.

Today Lake is working for International Voluntary Services in Washington, a privately supported "peace corps" type of organization which sends social workers overseas.

Morris went to work for a liberal Democratic senator, Walter Mondale of Minnesota, and later joined the Carnegie Endowment for International Peace. Today he is trying to make it as a free-lance writer in foreign affairs.

Watts soon afterward joined Potomac Associates in Washington, as director of that "research and analysis" group.

Laurence Lynn stayed on the Kissinger staff for several months after the invasion, but quit in the fall of 1970 and is now teaching at the Kennedy School at Harvard.

Winston Lord is the only one of the five who is still with Kissinger. He heads the State Dept's Policy Planning staff.

THE EMERGENCY FARM BILL OF 1975

Mr. PERCY. Mr. President, I do not intend to support the farm bill that will be before us on Monday, March 24. I can find no reason to make such sweeping changes in the Agriculture and Consumer Protection Act of 1973. The act of 1973 is working well in moving agriculture away from heavy Government involvement toward a policy designed to give farmers more freedom to make their own decisions. As a result of the Farm Act of 1973, the United States has moved from heavy Government involvement to a minimum number of controls, and from heavy Government stocks to virtually no Government-owned agricultural commodities. Since 1973, Government storage costs have been reduced to almost zero from a previous $1 million a day, and direct payments to farmers have dropped from $3.9 billion a year to $524 million in calendar 1974, and $215 million of that was for disaster payments. Also, no acreage is now being held out of production.

Further, 1973 and 1974 have been the two most successful farm income years in history. Farmers earned a record $32.2 billion in 1973, and $27 billion in 1974—hurt somewhat by adverse weather conditions. These are the 2 best years in U.S. history for farm income.

Farm exports have increased since passage of this act from $8 billion in 1972 to $21.3 billion in 1974.

I support continuation of this trend for agriculture in its reliance on the market which has proven so beneficial in the past 2 years, and I oppose a return to patterns of the past.

I oppose the amendments to the law made in this bill. I think the higher target prices could artificially stimulate production, particularly in cotton. Cotton planters have indicated that they had planned to plant less cotton this year and shift part of their production into soybeans. Raising target prices for cotton could increase production of cotton, which is now in surplus, instead of contributing needed soybean protein to the Nation's supply.

The high loan rates could hold United States prices above world levels and make the United States uncompetitive in world markets, unless we would once again resort to export subsidies, a situation I do not want to see.

I am also concerned about the cost of

this bill. The Department of Agriculture estimates the cost of the bill at $470 million this year and estimates that for one commodity—milk—the provision of this bill would increase the price of milk by 8 cents a gallon, the price of cheese by 10 cents a pound, and the price of butter by 20 cents a pound.

Mr. President, for all of the above reasons, I cannot and will not support this bill, and I hope the Senate will defeat it.

CONGRESS AND FOREIGN AFFAIRS

Mr. BIDEN. Mr. President, time and time again, we Members of Congress are repeatedly told by the press and Presidents that we are incapable of making foreign policy decisions. We are told that the Congress, with its 535 Members, is institutionally incapable of making policy decisions.

It is my opinion that this is highly inaccurate. After all, it was Congress that insisted on our country's extrication from the Vietnam war.

Joseph Kraft, in his column in the Baltimore Sun this morning, states the case for congressional participation in foreign policy affairs. To quote his opening paragraph:

Events are now making a liar of the claim that congressional meddling in foreign affairs inevitably yields disaster. Thanks to just such meddling, the Turks and Greeks are once more on the road to a Cyprus settlement.

I ask unanimous consent, Mr. President, that Mr. Kraft's complete column of March 13, 1975 be printed in the RECORD.

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

CONGRESS MEDDLING GETS UNITED STATES OUT OF JAM

(By Joseph Kraft)

Events are now making a liar of the claim that congressional "meddling" in foreign affairs inevitably yields disaster. Thanks to just such meddling, the Turks and Greeks are once more on the road to a Cyprus settlement.

Similar meddling holds out prospects for settlement in Cambodia—and eventually Vietnam. For only Congress—it now becomes clear—can break the perverse logic whereby officials of the executive branch regularly cause the United States to become the prisoner of its allies.

Take first the case of Cyprus. Congress cut off military aid to Turkey to force Ankara to compromise with Athens on a Cyprus solution.

The President and all his men harrumphed about congressional interference. Henry A. Kissinger, the Secretary of State, spoke of an "unmitigated disaster," and claimed the move to cut off aid would only stiffen Turkish resistance, thereby harming the Greeks. James R. Schlesinger, the Secretary of Defense, also spoke of disaster, and warned the Turks might begin cutting back their military co-operation in ways harmful to the security of Europe.

In fact—after some huffing and puffing—Turkish authorities saw that Washington meant business and that their forces would soon be running out of spare parts. Ankara, in these conditions, turned reasonable. Mr. Kissinger was received there Tuesday. Now negotiations for a Cyprus settlement have been renewed and the outlook is not bad.

In the case of Cambodia, the issue is whether to grant $222 million in special aid for food and ammunition to the beleaguered government of President Lon Nol.

President Ford contends there is a "moral" obligation to help. The secretary of defense implies that to abandon Cambodia would advertise American weakness to the world. The State Department indicates that it favors negotiations and could get something going, if the situation on the ground were improved and it could find somebody to speak for the Communist insurgents, or Khmer Rouge. Ronald H. Nessen, the presidential press secretary, intimates that congressional action would make possible negotiations, and at the same time asserts that the government of Lon Nol is "legitimate."

These arguments are mostly nonsense. There is no reason to believe the Lon Nol government can ever right the military balance to the point of making a negotiated settlement possible. The Khmer Rouge rebels have at least as good a claim to legitimacy as Lon Nol, and they are far from being unknown figures.

Congress, fortunately, has read the situation well. Instead of trying to prop up the satellite regime for one more go at a position of strength, senators and representatives understand that the right way to a settlement is through a change in the regime in Phnom Penh. With Lon Nol gone and the struggle to achieve political advantage abandoned, arrangements can be made for an orderly transfer of power. The result, far from being a disaster for the United States, will be a left-wing government likely to aggravate even further the already abundant strains working among Hanoi, Peking and Moscow.

Two leading senators—Charles McC. Mathias, Jr. (R., Md.) and Adlai E. Stevenson 3d (D., Ill.)—have seen that the same logic applies to Vietnam. They are readying legislation that would cut off aid to Saigon unless the regime of President Nguyen Van Thieu moved toward free elections and a more broadly based government. Only in that way can pressure be applied to Mr. Thieu to set up the kind of regime that could achieve a settlement.

This is not to say that Congress ought to meddle indiscriminately and try to fine-tune all foreign policy issues. On the contrary, recent experience teaches that there is a definable condition where congressional meddling works.

That is the situation where the United States has become the prisoner of a client state, where American officials have become personally over-committed to allied regimes, where the executive branch is burdened by past commitments to the point of being unwilling to re-examine them in the light of changed circumstances.

In those situations, Congress, with its ego uninvolved and its face in no need of saving, has a wisdom that the executive branch does not. It can get the president off the hook, and its meddling works.

FOREIGN INVESTMENT REVIEW ACT OF 1975

Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor the Foreign Investment Review Act of 1975 which, on the strength of recommendations made in hearings last year and additional research, refines a similar bill which I cosponsored in the last Congress.

This bill will close an information gap which has existed too long in the area of foreign investment in the United States. While data relating to foreign investment is collected by countless agencies and departments throughout the Government, their efforts are not coordinated and there are no data collection activities oriented specifically toward foreign investment for its own sake. I think the inadequacies of this system are well exemplified by the experience of the Federal Energy Administration in compiling its "Report to Congress on Foreign Ownership, Control and Influence on Domestic Energy Sources and Supply" recently published pursuant to an amendment which I offered to the Federal Energy Administration Act. In their research, FEA had to rely primarily on private publications as their principal source of information, and the report includes the caveat that "there is no assurance that this report, or any other report for that matter, can present a comprehensive list of foreign ownership activities in the United States unless substantial efforts are made to improve data collection."

This bill is just such an effort. It establishes a Foreign Investment Administration within the Department of Commerce, and requires the Secretary to assemble, analyze and make public information on the source of, nature, extent, and trends in foreign investment in the United States.

At this point, I want to emphasize that this bill is in no way intended to restrict or discourage foreign investment in the United States. Our Government traditionally has observed, and continues to observe, an open-door, nondiscriminatory policy. In general, foreign investors receive "national" treatment—we do not offer foreign investors any special incentives nor, with a few internationally recognized exceptions, do we place any limitations on their investment opportunities. Without a doubt, that policy offers many advantages. Foreign investment creates new jobs, provides innovations and advances in technology, stimulates productivity, and increases our tax base.

But, the effects can be adverse also. And, stories of dramatic increases in the level of foreign investment in the United States over the past 2 years and reports of the huge capital excesses being amassed by the OPEC nations have spawned a fear in many Americans of foreign domination of strategic sectors of our economy.

We need solid, coordinated data, like this bill would provide, to put these reports in their proper perspective. Information has always been the lifeblood of any economy. We cannot hope to make calm, rational, and intelligent decisions without it.

NATIONAL HOUSING CONFERENCE RESOLUTIONS

Mr. KENNEDY. Mr. President, the National Housing Conference had its annual meeting in Washington, D.C., on March 9, 1975. I was pleased to have the opportunity to deliver the keynote address at that meeting and to pay tribute to the long and distinguished record of the National Housing Conference.

Founded in 1931, it is the oldest national citizen's organization devoted to housing and community development. It has worked for 44 years to promote better communities and decent homes for all Americans.

At the annual meeting, resolutions were adopted in response to the current crisis in national housing and urban development policy. The recommendations for legislative and administrative actions combine to represent a thoughtful and essential program for the revitalization of our housing industry and for the renewal of urban and rural communities across the land.

When one examines the depth of unemployment and unused capacity in the housing industry, it is clear that immediate and emergency action to rescue that industry is necessary solely on economic grounds. And when one looks at the gap between our housing needs and the continued decline in housing starts—in February, only 673,000 building permits were issued, which is the lowest rate since we began keeping records—it is evident that emergency action is required if we are to keep faith with our pledge to provide a decent home in a decent environment for all Americans.

The NHC program once more is a complete agenda for meeting our housing and community development needs in our cities and in rural America. I support virtually every recommendation made in these resolutions. These resolutions should be read by everyone interested in housing and community development legislation and the revival of our economy.

I ask unanimous consent that the completed resolutions be printed in the RECORD.

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

NATIONAL HOUSING CONFERENCE RESOLUTIONS ADOPTED BY THE MEMBERSHIP AT ITS ANNUAL MEETING IN WASHINGTON, D.C., MARCH 9, 1975, LEON N. WEINER, PRESIDENT

STATE OF HOUSING AND ECONOMY [1]

I. Emergency measures needed to overcome housing depression and stimulate economy

Our economy is in the deepest and worst recession since the Great Depression. In January and February of this year, 7,500,000 people were out of work and our unemployment rate was 8.2 percent. The unemployment rate did not increase in February, but only because 580,000 discouraged workers gave up looking for jobs and dropped out of the labor force. If we count the discouraged people who have dropped out of the labor force and are not counted as unemployed, that adds more than a full point to the published unemployment rates.

For the six-month period ending in January, 1975, the Commerce Department reported that its index of leading economic indicators had the steepest decline since the Government began collecting the statistics after World War II.[2] This index is supposed to foreshadow future development in the economy. It plunged 12.6 percent so we can anticipate that economic conditions will get worse before they get better, even if new legislative programs are adopted to stimulate the economy, because of the long lead time it takes for them to become effective.

Housing starts were at an annual rate of only 987,000 in January which is less than 40 percent of the annualized average of 2,600,000 units (excluding mobile homes) required to meet the national goal adopted in the Housing and Urban Development Act of 1968 ("1968 Housing Act"). Building permits were issued that month at the annual rate of 661,000 units which is the lowest rate since the Government started keeping housing statistics in 1946. This permit-rate forecasts continuing low housing starts unless stimulative actions are taken as recommended in these Resolutions.

The drop in multifamily starts was more than twice the drop in single-family starts. With the Administration's phase out of the traditional public housing and Section 236 programs, only 26,000 units of such assisted housing were started in the first 8 months of 1974. This low level of multifamily housing production will deepen the recession. The tightening of rental housing markets will cause further rent increases and hardships, thereby increasing inflationary pressures in the economy.

Since 1973 there have been suspensions and strangulations of housing assistance programs which have caused incalculable harm among families of low and moderate incomes. Their urgent needs for housing have been neglected. Elderly persons have been on public-housing waiting lists for three to five years with no prospect of meeting their needs until additional housing is produced for them. A recent Harvard-MIT study concludes that over 13,000,000 families are still living in a state of housing deprivation as measured by a lack of plumbing, dilapidation, lack of heating, overcrowding or excessive rent burdens. High interest rates and high housing costs have priced most middle-income people out of the market and denied them an opportunity for home ownership or adequate rental housing.

The current low level of housing production is creating a further dangerous distortion in the economy and causing mounting unemployment. There is a threat of disaster for those engaged in this vital industry and others dependent upon it.

In the first 8 months of 1974, 1,160 construction firms with total liabilities of $270 million failed. Hundreds of thousands of workers in the affected trades became unemployed. In January of this year, about 900,000 construction workers were unemployed and there was widespread additional unemployment in related industries. The rate of unemployment among construction workers was 22.6 percent as then reported by the Department of Labor, which was almost triple the rate of unemployment generally. When we add the multiplier effect of unemployment in related and other industries caused by the depression in construction, the total unemployment was 2,700,000 people. In housing construction, the rate of unemployment was about 40 percent.

There are many disastrous results of the continuing depression in housing construction. Unemployment is increasing in housing and related industries, thereby further depressing the economy generally. The backlog of housing need is growing, with adverse social consequences. Our capability to provide decent housing is rapidly diminishing.

In our Resolutions in the past two years, we forecast the current depression in housing and the recession in the economy as a result of the Administration's actions in suspending housing programs for low and moderate income families and pursuing policies which resulted in a calamitous drop in housing production. If actions are taken which are recommended in this year's Resolutions, housing can again be the bellwether to lead the economy out of the recession and meet the urgent housing needs so long neglected.

With the increases in prices and interest rates and the cutback in Federally assisted production, only 4 percent of all new housing is available for low income families. Relatively few homes are available for middle income families. About two-thirds of American families are precluded from buying new homes as long as mortgage interest rates and housing costs are at their current levels so that monthly charges are beyond what they can afford unless they receive assistance.

Today as we enter the last third of the housing decade so hopefully inaugurated by the 1968 Housing Act, social and economic conditions require a re-evaluation of the housing goals it established. These goals called for the production of 26,000,000 new and rehabilitated housing units—excluding mobile homes—within the 1968–78 decade. This includes 6,000,000 Federally assisted housing units for low and moderate income families. These goals recognized the average annual housing need of 2,600,000 units to meet the growth of households and to replace substandard housing and losses in the housing supply.

To monitor the achievement of this goal along with other related issues, Congress mandated HUD to furnish it with an annual housing goals report. The most recent of these reports, delivered to Congress some eleven months late, indicates HUD's conclusion that housing production is on schedule and will meet the goal set for the decade by the 1968 Housing Act. This is not correct. The assertion is predicted on the inclusion of mobile homes production. Clearly, this was not the original intent of the housing goals. If HUD insists on including such mobile homes production, then the 26,000,000 unit decade goal must be increased to at least 31,000,000.

The Nation has fallen far short of its housing goals, particularly during the last year. Housing production is generally depressed now and there is an inequitable burden on those who need housing and on the housing industry. Housing continues to bear a disproportionate share of the reduction in economic activity through credit restraints, tight money and high interest rates. The goals of the 1968 Housing Act were designed to achieve a reasonably stable level of housing construction each year. We have failed to achieve those goals or to avoid the unsteady cycles of housing construction. This current emergency emphasizes the need to achieve a better coordination between housing and national economic policy.

Today's emergency conditions call for actions which are recommended below to provide necessary Federal assistance to achieve an adequate volume of housing at monthly charges within the financial reach of those who need it. During this critical period, it is important that we continue our target to reach the revised annualized starts goal for assisted housing which we recommend.

According to the 1968 Housing Act, at least 6,000,000 of these units were to be for persons of low and moderate incomes. However, that goal is no longer realistic. Even HUD recognized that the annualized average of 600,000 units has not been achieved. Moreover, additional studies—such as that of Harvard-MIT—combined with the obvious results of inflation in housing costs indicate that this goal must be revised sharply upward to meet needs of the low and moderate income groups. In addition, a large amount of the remaining units should be for middle-income families who have been priced out of the market due to the current high interest rates and high housing costs. It is clear that the original goal of 6,000,000 assisted units is now obsolete. *A new goal of at least 12,000,000 assisted units for the decade—and 1,200,000 annually—would be far more accurate and appropriate at this time.*

There are many completed houses and condominiums which are overhanging the market and discouraging new housing starts. This is confirmed by Mr. Michael Sumichrast, Chief Economist for the National Association of Home Builders, who stated:

"One reason builders are reluctant to start new houses is that they are sitting on an

Footnotes at end of article.

unsold inventory of 400,000 single-family homes and 250,000 condominiums."

While we know there has been a soft sales market, this is not proof that there is only a limited need and market for housing. The reason that many of these houses are unsold is because of their high costs and high interest rates. We must offer people housing at monthly charges that most of them can afford and we must offer them incentives to buy or rent now. This can be accomplished through the programs we recommend.

No housing goal is realistic unless we can bring housing to the market at monthly charges which people at different income levels can afford, including those with low, moderate and middle incomes. The following programs recommended in these Resolutions will produce that kind of lower monthly charges to serve a broad spectrum of the market commensurate with the need:

The multifamily assistance programs under Section 236 and public housing which reduce monthly charges to the extent necessary to serve low and moderate income families in projects occupied by a cross-section of these income groups.

The home ownership assistance program under Section 235 which reduces interest rates to the extent necessary to serve families of moderate and lower income with a minimum interest payment of 1 percent.

A new emergency housing program with an initial 6 percent interest rate for middle-income families who cannot afford home ownership at current high interest rates and an alternate program for the par purchase of mortgages with a permanent 7 percent rate.[3]

A reduction in interest rates to 7⅝ percent for unassisted housing through mortgage purchases under the Emergency Home Purchase Assistance Act of 1974 ("Emergency Housing Act") and the Tandem Program, with a lowering of that below-market rate as market interest rates come down.[3]

By serving this board market and reaching people who have been priced out of the market, it should be possible to achieve sales and rentals of housing at the rate of our housing goal. This will not only help overcome the recession throughout the economy, but it will also relieve the unemployment of 2,700,000 people who have lost their jobs as a result of the drop in construction and its ripple and multiplier effect throughout the economy. The proposed assisted housing construction will provide an average of 2,400,000 full-time jobs a year during a two-year period. This includes not only construction, supplier industries and transportation, but also the ripple and multiplier effect in the economy. It will also increase national production by $70 billion a year during a two-year period.

We must take actions which will inspire confidence. Lack of confidence is due to the fact that people are afraid of their economic future. Confidence can be restored by putting people back to work and stimulating production in the economy. The programs we are advocating will accomplish this. With additional housing construction to help restore the health of our economy and increase employment, the confidence of people will be restored so that they will buy and rent housing produced at charges they can afford. They will also resume normal purchases of other products of American industry.

Since World War II housing has been the crucial industry which has led an economic recovery from every recession. Through the programs we are recommending, housing can again lead to an economic recovery. In contrast, the inadequate housing programs proposed by the President will lead to a recession for years as protected in the President's economic report to Congress.

Footnotes at end of article.

The housing industry has demonstrated its capacity to meet our housing goals when the Federal Government was committed to that objective and when it provided necessary housing assistance. For the two years before 1973, more than 2,000,000 units were produced annually and the scale of production was increasing so that our annualized housing goal would have been met. However, in 1973 the Administration changed its policies and abandoned its commitment to housing, which was no longer regarded as one of the Nation's priorities. In our current emergency, the time has come when the Federal Government must again recognize that housing is a top priority, and provide the assistance necessary to meet our housing goals. We recommend that the Congress enact legislation with a mandate to the Executive Branch to afford housing the top priority it needs and to provide all of the assistance necessary to meet our housing goals.

It is necessary to have adequate authorizations which will not only achieve a volume of housing construction this year, but also in future years. The pipelines on multifamily housing should soon be exhausted by use of Operation Push-Out which we recommend. Those pipelines need to be refilled with multifamily housing projects, as it takes many months to achieve construction starts on newly initiated multifamily housing.

The restoration of economic activity through increased housing production will increase Federal tax revenues and reduce unemployment expenditures. Accordingly, it is sound public policy to spend money for housing assistance and other measures which will increase housing production and create jobs. The money spent to stimulate housing construction should not be viewed as an added burden to the Federal budget when it has the effect of reducing the burden for high unemployment insurance benefits in the budget. Moreover, the stimulation of the economy through increased housing construction will further offset spending for housing assistance through increases in Federal tax revenues.[4]

ASSISTED HOUSING TO MEET URGENT NEEDS, STIMULATE CONSTRUCTION AND CREATE JOBS[5]

II. Operation push-out to achieve prompt starts on 300,000 units of assisted housing in HUD pipeline with available funds

HUD can get a quick start on construction this year of almost 300,000 units of assisted housing by reviving the Operation Push-Out program which was used successfully in 1971. These housing projects are already in the HUD pipeline and have funds available under assisted programs. There is a long neglected need for this housing among families of low and moderate incomes who will be able to afford the monthly charges achieved through Federal assistance. These 300,000 units will provide 600,000 full-time jobs for a year. They will also increase national production by $16 billion and Federal tax revenues by $3.6 billion.

Many of these projects have been in process for over a year and have completed environmental and other clearances, so they can be started quickly under a revived Operation Push-Out. In contrast, the new and untried housing assistance program under Section 8 will take a long time before any substantial volume of projects can reach the construction stage—if ever, under the program as it has been structured by HUD. There is a cumbersome procedure involving advertisements for proposals, clearances with local governments, preparation of applications and processing them, together with many unworkable requirements.[6]

The attached table, Exhibit "A", shows the number of units in the HUD pipeline under each of the assisted programs. If HUD continues its present slow processing which often takes two years for the issuance of a commitment, construction on most of these units will be delayed until next year or even later, as shown by this table. HUD doesn't even project the start of 120,000 of the units until after Fiscal Year 1976! Under Operation Push-Out, virtually all of these units could be started this year—many of them in Spring and early Summer.

Operation Push-Out should be used again to provide expenditious processsing and cut red tape on these projects in the HUD pipeline. HUD should give top priority to getting these units under construction at the earliest possible date, with a target that all of them should start this year. While admittedly insurance companies and other private lenders do not have some of the processing requirements of a government agency, it is significant that they are able to issue commitments and get housing started within a couple of months. In 1971 when HUD utilized Operation Push-Out, they were able to get commitments issued quickly and achieve a high volume of housing starts on multifamily projects. This will be more readily achieveable on the projects which have been in the HUD pipeline for a long time and need an extra push to get construction started.

Housing start targets should be established for every project in the pipeline, with weekly progress reports required on them. Special task forces should be sent from Washington to HUD offices to assure that these targets are met. There should be reassignments and additions to the production staff to get the job done. Some of the experienced personnel who have retired should be called back to service during this critical period. Congress should promptly appropriate additional funds to expand HUD's production staff to push housing starts.

Operation Push-Out is the fastest way to get a quick start of construction on the following units in the HUD pipeline with available funds under assisted programs:

	Units
Section 236	124,1666
Low rent public housing	121,147
Rent Supplements	27,603
Section 235	18,300
Total	291,216

III. Additional authorization and releases of impoundments to produce 540,000 additional assisted units under section 235, 236, public and turnkey housing

The Administration is relying *only* upon a new and untried subsidized housing program to serve those of lower incomes. This is the new Section 8 program authorized by the Housing and Community Development Act of 1974 ("1974 Housing Act"). There are grave questions whether this program will be workable or effective in the form in which it is being offered by the Administration. We note that the estimated annual subsidy cost per unit pursuant to the new Section 8 program is much greater than the annual subsidy cost per unit under the Section 236 and 235 programs. This is difficult to reconcile with one of HUD's justifications for the suspension of the Section 236 and 235 programs, i.e., alleged excessive cost.

Experience shows that new housing programs take a long time to get started and accepted, even when the programs are well conceived, with built-in incentives to attract developers, sponsors and lenders. Since many of these characteristics are lacking in the Section 8 program as offered in HUD's regulations, it may take more than a year before we will know whether the program will achieve any significant volume of production. During this time, it will be necessary to make modifications in the program to try and make it more attractive and acceptable to developers, sponsors and lenders.

Under these circumstances, complete re-

liance on the Section 8 program as the only subsidized program will not serve the public interest, nor will it assure meeting the urgent needs for housing and for a stimulation of the economy and homebuilding.

It is necessary that the Federal Government take emergency action to meet the current emergency in housing and the economy. Production in Federally assisted and other housing programs must be increased to relieve unemployment and meet urgent housing needs. Legislation should be passed to rescind the impoundments made by former President Nixon in January of 1973 when all assisted housing programs were suspended. It is two years since the impoundments were announced and HUD has not yet put any alternative program into successful operation.

It is imperative that all impounded funds be released now and that all existing programs be reinstituted immediately to provide Federal assistance for those of low and moderate incomes. Congress should mandate the use of all of these programs. Since these programs have been tried and tested, they can work quickly. The problems that arose in Section 236 and other assisted projects were not due to program weaknesses but to maladministration, as documented elsewhere in these Resolutions.[7] These include HUD's failure to take necessary and timely actions on rent increases, operating subsidies, mortgage increases and other matters to assure the continued viability of multifamily projects. Financial difficulties were also due to energy cost increases and inflation, rather than mismanagement or miscalculations on some 236 projects. It is imperative that action be taken to achieve effective and expeditious HUD administration of housing laws and a sense of urgency to get prompt housing starts.[8]

All existing authorizations under these programs should be utilized immediately and additional authorizations should be provided. We need these programs to get housing started during the transitional period until it is determined whether the new Section 8 program has been effective in achieving the necessary volume of subsidized housing for persons of low and moderate incomes and in reaching those persons at charges they can afford. We call upon the President and the Congress to take all actions necessary to put into full-scale operation immediately all available programs to assist in the construction of housing for low, moderate and middle-income families.

We urge the following actions to get housing started under existing programs during the transitional period before it can be determined whether the new Section 8 program can achieve the necessary volume of housing starts:

A. Additional authorizations and other funds for the public housing and turnkey programs

We recommend that $450 million in annual contribution authority be made available for the development of traditional public housing, including turnkey projects. This should provide at least 200,000 additional units of such housing for persons of low income. There is a particularly urgent need for a large number of these public housing units for the elderly under the popular turnkey program.

We recommend that this annual contribution authority be reallocated from Section 8 to the traditional public housing and turnkey program. Since the President's budget indicates that HUD will not meet its original projected housing goals under Section 8, the reallocation of $450 million in annual contribution authority will get a quicker start on 200,000 additional public housing units for the elderly and others. In view of the fact that no one knows whether and to what extent the Section 8 program will work, it is necessary to utilize the public housing and turnkey programs which have been tried and tested. We recommend an additional legislative authorization of $450 million in annual contribution authority to restore to the Section 8 program the amount reallocated.

The 1974 Housing Act earmarked part of the additional authorization for public housing to be used for additional traditional public housing and turnkey projects, but HUD does not intend to use the funds for this purpose. The President's budget makes it clear that 6,000 units for the Indians will be the only additional public housing in the coming fiscal year. This confirms the need for the $450 million allocation of annual contribution authority for traditional public housing and turnkey projects.

The provisions in the 1974 Housing Act instituted safeguards and improvements in the public housing program which would avoid past difficulties. These provisions will help to assure the financial stability of public housing projects. In the future, there will be a broader distribution of the income groups who are served, which will create better communities. Low-income tenants will be required to pay a minimum rent. Also, when tenants receive welfare assistance designated for housing, they will be required to pay a rental equal to the full amount of the housing assistance received.

Besides the measures taken in the 1974 Housing Act to increase income from public housing, it must be recognized that an adequate continuing amount of operating subsidies is necessary for the proper operation and maintenance of public housing. The President's budget recommends $525 million for operating subsidies in public housing for FY 1976 which is the minimum amount to meet the need.

We reject the HUD interpretation of Section 9, Title II, of the 1974 Act, which advances a prototype program, with a performance-funding formula, for the allocation of operating subsidies for public housing. It should be replaced by the Secretary's allocation of operating subsidies in conformance with the law, "taking into account the character and location of the project and characteristics of the families served". Further, HUD should consistently comply with its funding and operating budget obligations as defined in existing annual contributions contracts. Congress should direct the Secretary to make periodic reports to the Congress on HUD's compliance with these obligations. Lawsuits against HUD may be necessary to compel it to fulfill its statutory and contractual obligations on this and other matters covered in these Resolutions. If necessary, the National Housing Conference should initiate or support appropriate action in the courts to assure that all available programs are carried out to assist in the construction and operation of housing for low, moderate and middle-income families.

B. Additional Legislative Authority for Assisted Private Housing Under Section 236

We recommend an additional legislative authorization of $150 million as contract authority for interest reductions under Section 236. There is an unused existing $75 million legislative authorization which has not yet been approved in an appropriation act for use. We urge approval in an appropriation act of the use of these authorizations totalling $225 million.

This should provide 100,000 additional units of multifamily housing under Section 236 for low and moderate income persons in rental or cooperative housing, with 20 percent of the units for families of very low incomes below 50 percent of the median. Congress must mandate the use of these funds by HUD to assure their use. It should also mandate the expeditious processing of the 236 projects in the pipeline which now have funds allocated to them.[9]

The 1974 Housing Act contains a specific authorization for the use of authorizations under the Section 236 program along with a time extension to permit such use. We recommend a recision of the limitation in Congressional committee reports that allocations for new projects under Section 236 be delayed until it is proven that the Section 8 program will not meet the housing need in the area. It may take more than a year to determine this. In the current emergency, we cannot afford to delay further allocations for new projects under Section 236 while the new Section 8 program is being tried.

The 1974 Housing Act instituted safeguards and improvements in the Section 236 program which would avoid program difficulties. We believe that the financial difficulty experienced by some existing 236 developments is a result of inflation and energy cost increases and not mismanagement or miscalculation. Most financial difficulties are due to HUD's failure to take necessary and timely actions on rent increases, operating subsidies and other matters to assure the continued viability of multifamily projects.[10] These problems can be solved by HUD's adoption of the following recommendations:

(a) Rental increases should be approved to the extent necessary to make the projects viable.[11]

(b) The 1974 Housing Act provides for necessary adjustments in the subsidies to meet increases in real estate taxes and utility costs to the extent that the residents cannot afford to pay them. Congress must mandate the use of this authority to help assure the financial stability of Section 236 projects.[12]

(c) The Section 236 admission limits should be raised so that needy families—who do not qualify under current income limits which are too restrictive—can occupy units and still get a partial subsidy. The 1974 Housing Act requires the projects to serve a reasonable range of income groups, including both low and moderate income families. This would serve to decrease the total subsidy per unit in the existing 236 projects and also would promote economic integration.[13] Families now are having an increasingly hard time finding housing if they are a little bit above the current income limits. This recommendation would help to meet the needs of such families.

(d) Section 8 subsidy assistance should be made available to meet the difference between 25 percent of family income and the new rent. For these projects the Section 8 income limits should be raised so that they are at least four times the fair market rent.

C. Release of Impounded Contract Authority for Home Ownership Assistance Under Section 235

There is still an impoundment under Section 235 of almost $280 million in annual contract authority for home ownership assistance under Section 235. Congress should mandate the use of these funds which would produce 240,000 additional units for home ownership by lower income families.

The 1974 Housing Act contains a specific authorization for the use of these funds for home ownership assistance for lower income families. The President subsequently asked Congress to defer the use of any of this money. We recommend that the President's request be denied and that HUD be required to allocate the available funds and get the houses built. We urge the enactment of S. Res. 61 disapproving the proposed deferral of budget authority to carry out the home ownership assistance program under Section 235. This Resolution was introduced by Chairman John Sparkman of the Subcommittee on Housing and Urban Affairs for himself and Senators Brooke, Hathaway, Humphrey,

Footnotes at end of article.

Javits, Mathias, Percy, Proxmire, Stevenson and Williams.

D. CONCLUSION

The 1974 Housing Act continued existing programs under public housing and under Sections 235 and 236 and rent supplements. It is imperative that these be utilized during the current emergency in housing and the deep recession in our economy. All impounded funds should be released and the recommended additional authorizations should be enacted promptly. Congress should extend for two more years the time during which contract authority may be used to assist Section 235 home ownership and Section 236 multifamily housing. The law should mandate the use of these funds by HUD and the prompt start of construction of projects which already have funds allocated to them. A total of 540,000 units of housing could be started under these 3 existing programs, besides the 300,000 units already in the pipeline. This housing is urgently needed by those of lower incomes who are suffering serious hardships. It would also relieve unemployment and stimulate the economy.

In HUD's budget last year, it estimated 206,700 units of reservations for subsidized housing for Fiscal Year 1974. In this year's budget, the actual number of reservations shown is only 38,147 units for Fiscal Year 1974. That is some shortfall! It is against this background and the continued ineffective operations of HUD that we have grave skepticism concerning HUD's projections of allocations of 200,000 units and 55,000 starts by June 30 of this year under the new and untried Section 8 program. We have similar doubts concerning HUD's ability to achieve reservations of 400,000 units and starts of 140,000 units under Section 8 during Fiscal Year 1976.

In the following sections of this Report, we are recommending necessary actions under other existing programs to provide housing for the elderly and the handicapped and housing in rural areas, particularly for persons of lower incomes. In later sections of this Report, we are recommending additional emergency housing programs which—together with those described above—will enable the achievement of our revised annual goal of 1,200,000 units a year for persons of low and moderate incomes and for middle-income families who have been priced out of the market due to current high interest and housing costs.[14]

IV. Section 202 should be fully implemented to provide 40,000 additional dwellings for the elderly and handicapped

Direct loans should be made under Section 202, together with assistance under section 8, which should provide over 40,000 units of housing for the elderly and handicapped. The 1974 Housing Act amended the Section 202 program to provide housing for the elderly and handicapped through an authorization of $800 million of Treasury advances for loan purposes. These loans are to be made at an interest rate equal to the Treasury's borrowing cost, plus a surcharge to cover administrative expenses and anticipated losses. Such financing will make it possible to serve the elderly who are unable to pay the current higher interest costs. The 1974 Housing Act provides that borrowings and loans under Section 202 shall not be included in the Federal Budget.

The Section 202 program should be used in tandem with Section 8 to serve those of low and moderate incomes. We agree with HUD that Section 8 housing assistance should be provided for some or all of the units in any project approved under Section 202. Through such housing assistance, the monthly housing costs will be reduced to an amount which will be within the financial reach of the elderly and the handicapped in the lower-income group. Each project is to serve both low and moderate income families in an economic mix which is appropriate for the area and for the viable operation of the project.

The Administration has taken the first step toward the use of Section 202 loans in conjunction wtih Section 8 housing assistance. The Section 8 program will provide assistance to lower the monthly charges when needed to serve the elderly and handicapped who are among those most deserving and in need of Federal housing assistance.

However, HUD plans to provide only construction financing under Section 202. We recommend that the funds be used not only for construction financing, but also for the permanent financing authorized by the 1974 Housing Act. This is necessary to provide permanent financing at the lower interest rates intended under Section 202. It is also necessary to assure that sponsors of such projects will be able to get permanent financing in the amounts required to develop those projects.

We recommend that the competitive bidding requirements in the earlier Section 202 program be eliminated or substantially modified. This requirement serves to discourage potential developers[15] because of the high front-end costs and risks which must be undertaken in initiating projects and obtaining final determinations by HUD. The turnkey or negotiated bid approaches should be authorized, as they have been most successful in public housing and cooperatives.

Instead of HUD's program to use only $215 million for the Section 202 program, we urge the use of the full $800 million authorized in the 1974 Housing Act, together with the $155 million of uncommitted funds previously available under Section 202. To enable the full use of these authorized funds, it will be necessary to obtain approval in an appropriation act of an increase in the limits of HUD's lending authority equal to the full amount of the legislative authorization under Section 202. We recommend such action.

To better enable nonprofit and cooperative corporations to participate in the Section 202 programs, it is necessary to revive the programs for technical assistance and seed capital loans under Sections 106(a) and 106(b). These programs were suspended as part of former President Nixon's moratorium. They should now be revived.

V. Rural housing authorizations in the 1974 Housing Act should be fully used and implemented

Assistance under the rural housing programs should provide—primarily in new construction—at least 50,000 assisted units for those of lower incomes and 50,000 unsubsidized units with FmHA's insured mortgage financing. This is in addition to whatever housing can be produced with assistance under Section 8. Rural housing has become increasingly important to meet urgent needs and stimulate the national economy. There has been a change in the migration of families so that now more families are moving from the cities to the non-metropolitan areas than those moving from rural areas to the cities. There is also an increased economic development of rural areas as more workers are moving to job opportunities in small towns and rural communities.

To meet these increasing needs, the 1974 Housing Act made a number of important and progressive changes in the housing programs of the Farmers' Home Administration ("FmHA"). These included raising the service area to communities with a population of up to 20,000 which are outside of SMSA's, a technical assistance grant program, expanded research authority, and an improved housing rehabilitation loan program. Most importantly, it includes a rent supplement program for use with the rural rental and farmworkers housing programs of the FmHA.

These legislative changes have brought programs to rural areas which were long available to urban America. Unfortunately, the Administration has decided not to implement and carry out these laws. The President's budget drops the farmworkers housing program of grants and loans. It also drops the technical assistance grants for self-help housing. FmHA is refusing to implement the rent supplement program for rural areas. HUD is strangling the traditional public housing program. All of this means that there will be no program to serve rural low-income people despite the provisions in the 1974 Housing Act. Congress must mandate the use of the rural housing programs in the 1974 Housing Act to assure that housing is provided for low-income people in rural areas.

Legislative goals for 1975, consequently, must be both long and short term. The changes wrought in the 1974 Housing Act have to be seen in the context of both goals. The benefits gained for rural areas are a major step toward the broader changes needed to eradicate substandard housing in rural America.

In the short term, we must see that the rural housing programs made available in the 1974 Housing Act are implemented immediately and that this is done as intended by the Congress. We recommend the funding of the previously legislated grant programs for housing rehabilitation and the fulfillment of the Rural Development Act. We also recommend legislation which will prevent massive foreclosures on homes resulting from the ravages of the present economic recession.

The proper administration of the FmHA housing programs has become an increasing concern. Recent oversight hearings have exposed situations of FmHA staff shortages, program overloading and unqualified personnel. In order to overcome these deficiencies, we recommend proper funding levels for salary and expenses, including restoration of the travel funds. The recent cut in FmHA travel is causing havoc with its housing program which depends upon direct services in widely dispersed areas and will prove counterproductive by deepening the economic crisis in rural areas.

Rural areas still face high levels of poverty, institutional-housing-delivery weaknesses, and market aggregation problems. In the long run, new ways of dealing with these different problems must be examined by Congress. During the last session, the Emergency Rural Housing Act was introduced and assigned to the housing subcommittees as S. 2582 and H.R. 10920. However, major features of the Bills did not receive the full hearing and examination that they deserved. We recommend legislation providing for a comprehensive rural delivery system and more realistic subsidies.

A new look at the operation of the FmHA is in order. Because of the importance of housing and community development in rural America, consideration should be given to making the FmHA a major division of the Department of Agriculture and separating its farm-related activity from its housing and community development functions.

Under the 1974 Housing Act, the major subsidy intended to serve the lowest income population is Section 8 leasing, of which 25 percent has been allocated to non-metropolitan areas. The effectiveness of this program in serving poor rural Americans should receive early oversight review by the housing subcommittees of the Congress.

In the face of mounting inflation, need and unemployment, we recommend that the authorization level for the Rural Housing Insurance Fund—which covers the home ownership and rental programs of FmHA—should be increased from its present $2.2 billion level to $2.9 billion. Appropriations for farmworker housing should be raised from the present $5 million to $18 million to approximate the current authorization

Footnotes at end of article.

level. We recommend necessary increases in appropriations for the additional staff required for FmHA to do the job that must be done by it; also, necessary action to improve and expedite its administration.

VI. Section 8 Program should be administered and modified to try to make it workable and acceptable

We do not approve or support the action of the Administration in placing complete reliance on the Housing Assistance Program under Section 8 of the United States Housing Act as contained in the 1974 Housing Act. All of the major interest groups have expressed grave concern about the basic workability of the Section 8 program. This includes home builders, private developers, housing authorities, state agencies, sponsors and lenders. Nevertheless, we urge that this program be fully implemented and tried, to determine whether it can become workable and effective. As stated above, during a transitional period—which will extend at least through FY 1976—until we can determine whether the Section 8 program will be effective in achieving the necessary volume of subsidized housing, we recommend that other existing programs be available. The Section 8 program should be only one of the alternate available programs. Past experience shows that it takes at least a year to get a new multifamily program started, even when it is structured to make it workable and acceptable.

As to the President's budget, it estimates that not more than 200,000 units will be allocated in FY 1975 of the available authority for 400,000 units. The unused authorization for the other 200,000 units would be carried forward to FY 1976 when there is an estimated allocation of 400,000 units. An additional annual contribution authorization will be requested by HUD in 1975 to cover 200,000 additional units rather than 400,000 units for the previous year, as provided in the 1974 Housing Act. Since the budget indicates that HUD will not meet its original projected housing goals under Section 8, we have recommended above that HUD be required to divert half of the Section 8 money—$900 million of which has been distributed for allocation—to traditional public housing and turnkey programs. However, we recommend an additional authorization of $450 million in annual contribution authority to restore to the Section 8 program the proposed amount to be reallocated to traditional public housing and turnkey programs. This amount should be added to the amount requested for Section 8 in the President's budget for FY 1976.

The Secretary of HUD should follow the concept embodied in Title XVI of the 1968 Housing Act and establish a production goal for all Section 8 housing by the categories of new, rehabilitated, state housing and existing housing. These goals should be defined in terms of units to be started nationally and by each insuring office and should also prescribe target dates for achieving the identified goals. HUD should make a quarterly report to Congress concerning the rate of starts achieved as compared with the prescribed target dates; also, the annual cost per unit of the subsidy assistance.

In publishing regulations to implement the Section 8 program, HUD has failed to fully utilize the authority granted to it. It has imposed many restrictions and limitations which tend to make the program even less attractive than those under the law itself. If a larger volume of housing is to be constructed with assistance under Section 8, we recommend that these additional administrative restrictions be removed and that the regulations carry out the intent of the 1974 Housing Act. Illustrative of necessary changes in regulations and administrative policies are the following:

(a) The 1974 Housing Act provides that families should pay between 15 and 25 percent of their gross income for their housing costs. The HUD Regulations only apply the 15 percent requirement to "very large or very poor families" or families with exceptional medical or other expenses. All other families must pay 25 percent of their gross income for their portion of rent. The HUD Regulations should utilize more than the lowest extreme of the Congressional income range.

We recommend that elderly families whose incomes are 50 percent below the median should also pay only 15 percent of their gross income for housing costs. We further recommend that all other families pay 20 percent since this relates to gross income. This will be more fair to families and better assure their ability to pay, particularly during this period of deep recession.

(b) The 1974 Housing Act provides that the amount of the subsidy should be adjusted annually with interim revisions as market conditions vary. The Congressional intent was to make frequent adjustments in the subsidy to reflect variances in the actual and necessary expenses of owning and maintaining units which have resulted from substantial general increases in real estate taxes, utility rates or similar costs. The Regulations restrictively define "similar costs" to mean only costs regulated by an administrative body. The law makes no such restriction and neither should the Regulations.

(c) The 1974 Housing Act provides that subsidy payments can be made for a 60-day period when there are vacancies either during rent-up or during the term of the subsidy contract. The Regulations, however, arbitrarily limit their payments to 80 percent. The figure should be raised to 100 percent to owners who are acting in good faith to fill the vacancies.

(d) The 1974 Housing Act requires that 30 percent of the families must be in the very low income category on a national basis. The Regulations require that this be done on a project-by-project basis at initial occupancy. While we approve economic integration in all assisted housing projects, this regulation is unduly restrictive in requiring 30 percent of very low income families in every project, because this does not allow enough flexibility in administering the program.

(e) Fair market rents and rent increases should reflect realistic local market conditions by taking into account new construction costs, the prevailing tax structure, Davis-Bacon prevailing-wage requirements, as well as probable increased costs due to compliance with Federal regulations and requirements. All too often in the past HUD has relied on faulty data. As a result, programs have been ineffective and have not been administered in a way that Congress intended. There is a need for a better mechanism in establishing fair market rents for new and existing housing. In each housing market area, there should be a joint committee of housing industry groups, including participants from the public, quasi-public and private sector as well as the HUD Area Office representatives.[10]

(f) Since income limits are based on a percentage of the median income in an area, it is important to assure that HUD's median-income determinations accurately reflect the facts and are workable. Frequent re-determinations should be made to enable upward adjustments and keep the limits current at all times, particularly during these periods of rising wages and costs of living.

(g) The Regulations provide that the initial contract rents may exceed the fair market rents by up to 10 percent if the HUD field office director determines such higher rents are reasonable and are necessary to implement the local housing assistance plan. Traditional practice under the Section 23 leasing program, as well as the language of the 1974 Housing Act, imply that the 10 percent excess should be available without requiring approval or specific conditions. The 10 percent should be available upon the certification of the owner, particularly in view of the fact that special costs of administration and management will result in costs for Section 8 developments that exceed those of the comparable units used in determining the fair market rents.

(h) The Regulations' requirement that there be compliance with HUD minimum property standards should be changed to require such compliance—on non-FHA insured financing—only in localities where a modern, recognized building code is not enforced.

(i) HUD Regulations should permit "one-step HUD processing" in order to make the use of HUD-insured financing more practicable in tandem with the Section 8 subsidy.

(j) Our primary concern relates to the availability of financing for the development of projects to be assisted under Section 8. We recommend that the following actions be taken by HUD to assure the availability of financing:

(1) In the case of loans by state and local agencies where a 40-year term of assistance payments is permitted, HUD should make it clear that the loans will be for the 40-year period contemplated in the 1974 Housing Act. Under proposed regulations, HUD has reserved the right to allow shorter periods of assistance payments. This jeopardizes the ability of state agencies to obtain the funds and make the loans. The involved state or local agency should have the option of renewing the assistance contract up to the full term maximum of forty years, which is the required period for financing to achieve fair market rentals approved by HUD.

(2) In the case of mortgages to be insured by FHA, it is necessary that HUD insure loans for a 40-year period even though the assistance contract is limited to 20 years. It would not be feasible to amortize FHA insured loans in a shorter period because the debt service would be too high to achieve the fair market rentals approved by HUD. Moreover, in order to make the Section 8 program attractive and acceptable to developers, par financing should be available through Ginnie Mae (Government National Mortgage Association) in the same manner as it is now available for 236 projects. We reaffirm our recommendation that Section 8 should be amended to provide the same 40-year term for assistance payment on projects not financed by state or local agencies as is provided where the financing is obtained from such agencies. There is the same need for such 40-year assistance to support 40-year financing in all projects regardless of the source of the financing.

(3) To help assure the availability of financing, the contracted amount of assistance should be equal to the amount of debt service on the development loan and be pledged as security. To the extent that excess income is collected from the projects, the excess income should be paid to HUD and credited against the amount of assistance paid and pledged as security for the loan. This will involve no greater cost to the Federal Government, but will effectively utilize the assistance contract to achieve financing at lower interest rates, just as has been done with annual contributions in financing public housing.

(4) HUD should issue clarifying instructions for processing mortgage-insurance applications by HUD field offices which permit recognition of Section 8 subsidy payments to be received on account of assisted occupants. A project clearly intended for full

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or partial occupancy by assisted families should be processed on that basis and not on the hypothetical assumption of non-subsidized occupancy.

(5) Other actions should be taken which will assure that housing assistance payments by HUD are required rather than discretionary when increases are needed in assistance payments to meet increases in utility costs, real property taxes and other expenses. This will conform to the clear intent of the 1974 Housing Act.

(k) We urge HUD to assure sufficient funding for the new construction portion of the program by administratively allocating 75 percent of the available funding for newly constructed and substantially rehabilitated projects, and the remaining 25 percent for existing housing.

(l) We support HUD's exclusion of Section 8 housing assistance for mobile homes. They fail to provide adequate safety and to meet proper standards for family life and a good environment.

(m) In projects which have FHA-insured financing, elderly residents are being forced to leave because their fixed incomes are inadequate to pay increases in monthly charges. They should be eligible to receive assistance under Section 8 and such assistance to the elderly should not be limited to 20 percent of the units in a project.

(n) Many projects have been built which have renewable contracts for assistance under Section 23 to enable them to serve lower income families. These contracts should be automatically renewed under Section 23 and necessary funds should be available for that purpose. HUD should keep faith in fulfilling the purposes of projects which were initiated in reliance upon such renewals at the end of each periodic term. HUD should not require the conversion of those contracts to Section 8, which may jeopardize their renewal if new conditions are attached or uncommited Section 8 funds are not available. Likewise, HUD should not require conversions on existing housing from Section 23 to Section 8, but should continue operations under Section 23 on such projects. Thus, on a project assisted under Section 23, the local housing authority should not be required to cancel the lease if a unit becomes unoccupied, but a new tenant should be permitted to occupy with continued assistance under Section 23. Moreover, if an owner cancels the lease with the local housing authority, the housing authority should be permitted to enter into a new lease with someone else and continue Section 23 assistance.

In addition to our recommendations of the foregoing administrative actions, we recommend that the 1974 Housing Act be amended to correct the flaws and defects which become evident in the administration of the Section 8 program. Such amendments should also cover the recommendations which we have made above which are necessary to make Section 8 a workable program. To the extent that HUD takes such action administratively, such amendments will not be necessary.

VII. Rehabilitation to improve existing housing, including section 312 and public housing

A. Section 312 Program For Rehabilitation Should be Extended With Additional Authorizations

The Section 312 rehabilitation program was extended for one year in the 1974 Housing Act. Since this program will expire on August 22, 1975, we recommend that it be extended for two years with an additional authorization of $150 million a year. *Section 312 should be continued as a separate HUD program with a revolving fund.*[17] The mixture of loan funds with grant funds represents an obvious distortion in actual assistance a community is getting. In addition, a number of cities in about 20 states are restricted from the use of community development funding for rehabilitation loans or grants by state law. In these cities, the critical need for rehabilitation will be blocked or delayed indefinitely unless the Section 312 rehabilitation program is continued independent of the Community Development Program funding.

By providing assistance for rehabilitation to people who can't afford to make necessary improvements, we can preserve and improve the housing stock. This should make it possible for some of the elderly and others to stay in their present housing if it can be properly rehabilitated with monthly charges that they can afford.

B. Public Housing Should Be Modernized To Preserve It

The President's budget for FY 1976 also reflects authority for capital costs for modernization in public housing of $215 million. This involves annual contribution contract authority of $20 million. This rehabilitation program is long overdue to correct obsolescence and provide necessary repairs and replacements of items that have worn out. *We recommend that the amount for such modernization be increased to $350 million in each fiscal year until the job is done.* This will involve annual contribution contract authority of $32 million—an increase of $12 million above the President's budget. Without such adequate funding, public housing is seriously threatened by deterioration beyond a point where it can be saved.

C. Rehabilitation Under Other HUD Programs

Assistance and financing should be provided under other HUD programs for rehabilitation to preserve and improve existing housing. This includes assistance and financing under Sections 236, 221(d)(3), 213, 202 and Section 8. It also includes financing of unassisted housing with FHA insurance under all applicable programs.

VIII. Assisted housing projects should encourage economic integration to produce better communities

The 1974 Housing Act contains varying provisions on the different programs to achieve an economic mix in assisted housing developments. This is recognized as a major means of achieving sound and wholesome communities—not just housing. Unhealthy communities are often created when developments are occupied solely by a stratified low-income group with many deprived families who have serious social problems. A broad range of incomes will include people with upward mobility who can provide leadership in developing good and stable communities. We have long advocated this policy of economic integration in assisted housing. We recommend necessary action to help effectuate this objective.

As to the public housing program, the 1974 Housing Act provides that assisted housing projects should include families with a broad range of incomes to avoid concentrations of low income and deprived families with serious social problems. However, at least 20 percent of the units in any project are to be for very low income families whose incomes do not exceed 50 percent of the median income for the area. The Section 8 program also contains provisions to promote economically mixed housing, with 30 percent of the families to be in the very low income category on a national basis.

Housing for the elderly under Section 202 and housing under Section 236 are also to serve both low and moderate income families in a mix which will have a reasonable range in the income levels of residents. Under the Section 236 program, 20 percent of the units are to be used for very low income families.

The establishment of realistic and workable income limits will help to achieve economic integration. Since income limits are based on a percentage of the median income in an area, it is important to assure that HUD's median-income determinations accurately reflect the facts. Moreover, frequent re-determinations should be made to enable upward adjustments and keep the limits current at all times, particularly during these periods of rising wages and costs of living.

In order to achieve the objective of these provisions in the 1974 Housing Act to assure a reasonable range in income levels within projects, we recommend that 20 percent of the tenants in each project have incomes which can go up to the median income in the area. The 1974 Housing Act authorizes the Secretary of HUD to establish income limits which are higher than 80 percent of the median[18] when he finds that such variations are necessary because of prevailing levels of construction costs, incomes or other factors. Since an economic mix in housing developments is a key factor in achieving better communities, we recommend that HUD adopt this policy. If HUD does not do so, we recommend that the 1974 Housing Act be amended to require that a median-income limit apply to 20 percent of assisted housing units in the project.

When the Housing Act was first introduced in previous years, HUD recommended the median income as the appropriate income limit due in part to its desire to encourage economic integration. By allowing this limit for only 20 percent of the assisted units, we can better achieve an economic mix while retaining the other 80 percent of assisted units for those of lower incomes.

The proposed amendment will avoid discriminating against families who are largely self-supporting but need some help in obtaining decent housing, particularly with current high interest rates and high costs. As a matter of equity, housing assistance should meet the needs of these families as well as those of lower incomes.

Under the applicable legislative formula, assisted families with incomes above 80 percent of the median would pay higher rents based upon the prescribed percentage of their higher incomes. This will reduce the total expenditures for housing assistance on the project. It will also help assure the financial stability of projects and the adequacy of project income to meet obligations during the terms of the financing Finally, it will avoid a gap of unfilled housing needs, particularly in these critical times when we need to broaden the market for housing to reach those who need some help and to stimulate production and employment.

IX. A combination of H.R. 29 (as modified by the committee) and S. 773 should be enacted to enable 2,000,000 middle-income families to achieve home ownership

Increases in interest rates and tight money have priced most middle-income families out of the market. These prospective home buyers have been eliminated from the market because they can no longer afford the higher monthly charges on the financing available.

To serve these middle-income families whose incomes do not exceed 120 percent of the median income for an area, the Emergency Middle-Income Housing Act of 1975, H.R. 29, was introduced by Representative Henry S. Reuss, Chairman of the Committee on Banking, Currency and Housing.[19] This Bill would authorize HUD to subsidize the interest rate on mortgages of such middle-income families to reduce that rate to 6 percent. Full assistance payments would be made to the family for the first three years. Half of that amount would be paid for the fourth year, with no assistance payments thereafter. The Bill provides such assistance for single-family units and units in coopera-

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tive or condominium projects. With a reduction in interest rates to 6 percent during the first few years, this program should finance 1,000,000 new housing units a year for middle-income families during a two-year period. The eligible income group would be just above the moderate-income group served by other assisted programs.

The House Subcommittee on Housing and Community Development approved a modified version of the Reuss Bill. The Subcommittee Bill, H.R. 4485, was introduced by Subcommittee Chairman Barrett for himself, Chairman Reuss, and 17 other members of the Committee. The full House Committee then approved the Subcommittee Bill, with some amendments.

Instead of a two-year program of 1,000,000 units a year, the Bill reported by the Committee authorizes commitments until June 30, 1976 involving a program of 400,000 units. The aggregate amount of contracts for interest reduction payments is not to exceed $300 million per year and the aggregate amounts of such contracts are required to be approved in appropriation acts. We still recommend that the authorization be the original figure in the Reuss Bill of 1,000,000 units a year and that it cover a two-year period. Otherwise, we support the Committee Bill and urge its prompt enactment.

The interest reduction payment is to cover the difference between (a) the payment for principal, interest and any mortgage insurance on the mortgage at a market rate and (b) the amount of principal and interest on the mortage if it were at a 6 percent interest rate. We are gratified that our recommendation was accepted for a gradual phase-out of the subsidy. For the fourth year, 75 percent of the interest reduction would be payable, 50 percent for the fifth year, 25 percent for the sixth year, and no assistance thereafter.

As an alternative to the interest reduction program, the Committee bill makes the Tandem Plan available through Ginnie Mae for the purchase at par of mortgages bearing an interest rate of 7 percent. In such cases, the homeowner will be assured of the 7 percent interest rate for the term of mortgage. Ginnie Mae is authorized to purchase such 7 percent mortgages in an amount not to exceed $12 billion. Ginnie Mae is further authorized to guarantee securities based on pools of mortgages purchased or assisted by Ginnie Mae. There is another alternative available which would permit a private lender—instead of Ginnie Mae—to buy a mortgage at a 7 percent interest rate and receive a subsidy payment representing the difference between the principal amount of the 7 percent mortgage and the amount which would be paid for that mortgage if it were priced to provide a market yield.

Under the Bill reported by the Committee, there will be a choice available to the home purchaser of (a) a 7 percent mortgage for the whole term or (b) interest reduction payments from HUD to achieve a 6 percent interest rate for three years, a gradually increasing rate for the next three years and the market rate in the mortgage thereafter. The reported Bill provides that the appraised value of a unit eligible for assistance may not exceed $38,000, or $42,000 in high cost areas, and $48,000 in Alaska, Hawaii and Guam. Not more than 10 percent of the aggregate mortgage amounts approved in appropriation acts may be allocated with respect to dwelling units with appraised values in excess of $38,000. Not more than 25 percent of the aggregate mortgage amounts approved in appropriation acts may be allocated for use with respect to new, unsold dwelling units, the construction of which was commenced prior to the enactment of the Committee bill.

We approve the emphasis in the Bill on dwelling units which will contribute to the conservation of land and resources because of their location in clusters. However, this should not be administered in a way that will delay the use of the program.

Senator William Proxmire, Chairman of the Committee on Banking, Housing and Urban Affairs—for himself and Senators Humphrey and Randolph—introduced S. 773 to establish an emergency credit program to reduce unemployment and aid middle-income home buyers. This legislation has the same objectives as H.R. 29 since it likewise provides for mortgages at an effective interest rate of 6 percent for an initial three-year period with declining assistance for a couple of additional years. However, this Bill is not limited to a two-year period, but is continuing legislation for a permanent program. It would come into operation whenever the annual housing starts drop below 1,750,000 and the unemployment rate exceeds 6 percent for three consecutive months. Whenever these rates were restored for a three-month consecutive period, the program would stop.

Under S. 773 the mortgage loans would be made by normal lending institutions, except that the interest rate would be limited to 6 percent and the loan could not carry extra discount points or origination charges. When the loan was closed, the lender would sell the mortgage to HUD but retain the servicing. The homeowner would pay the 6 percent interest for the first three years. Then there would be a gradual adjustment in the interest rate by increases of not more than half of 1 percent at six-month intervals, subject to a ceiling rate of 9 percent. The houses are not to cost more than $40,000 or, in the case of high cost areas, $50,000.

HUD would re-sell the mortgages to the Federal Financing Bank. The Government would pay the difference between the cost of money to the Treasury and the 6 percent rate on the mortgages held by the Federal Financing Bank. Since the Treasury's average borrowing rate is about 7 percent, the initial subsidy would be 1 percent. Chairman Proxmire estimates that the annual cost would be $300 million for 1,000,000 units or $300 annually per house based on an average house cost of $30,000.

We also support S. 773, but urge that it be amended to make its provisions on cooperative units workable by providing for the purchase of the blanket mortgage on a cooperative project since a cooperative member does not have an individual mortgage on his unit. This is necessary because the Senate Bill relates to the purchase of a mortgage with an adjustable 6 percent interest rate, rather than an assistance payment to lower the interest rate as in H.R. 29. The amendment should provide that the cooperative project could not exceed an average price attributable to the units in excess of the limits established for single-family units. We support the provision in S. 773 for the establishment of a ceiling on interest rates to help assure that home purchasers can afford the mortgage payments when interest reduction assistance ends; however, we recommend that the 9 percent ceiling be lowered to the maximum current interest rate permitted for FHA and VA mortgages which is now 8 percent.

If the Middle-Income Housing Bill passes the House and Senate in different forms, the differences would be reconciled and determined in a Conference representing the two Houses. There are very good features in both Bills which we will recommend for adoption in such a Conference.

Illustrative of a feature we support in S. 773 is the provision for a continuing program and its activation and de-activation based upon the national rate of unemployment and the annual rate of housing starts. However, we recommend that the yardstick for the annual rate of housing starts should be the 2,600,000 unit goal established in the 1968 Housing Act.

The foregoing Bills would make it possible for middle-income families to achieve home ownership at a time when they are otherwise priced out of the market due to the current high interest rates and housing costs. Since this is an emergency Bill to cover a temporary critical situation, it is both equitable and necessary to help families who would normally be home owners.

Because middle-income families can generally anticipate their incomes to increase, we expect that they will be able to carry the mortgage without a subsidy after an initial six-year period with gradually declining assistance in the last three years. The income group to be served will have an upward mobility since most of that group could normally afford to become homeowners if the interest rates and monthly charges were not so high in today's market. We strongly support these Bills with some amendments as described above. They will provide young families particularly with the opportunity to buy a home which they sorely need, and enable them to start building equities as homeowners.

X. Cost of additional assistance programs will be offset by budget-deficit reductions resulting from additional housing construction

The amounts of additional annual assistance which we are recommending through FY 1976 will total $1.617 billion to supplement the Section 8 authorization in the 1974 Housing Act. They consist of the following:[20]

(a) Increase in the annual contribution authority to restore to Section 8 the proposed $450 million reallocation from Section 8 to traditional public housing and turnkey projects $450 million.

(b) Increase in annual assistance under Section 236, which includes an additional authorization of $150 million and an existing authorization of $75 million, both of which should be approved in an appropriation act $225 million.

(c) Release of impounded contract authority for assistance under Section 235 $280 million.

(d) Increase in annual contribution authority above the $20 million recommended by the President in order to support a $350 million capital cost of modernization in public housing $12 million.

(e) Annual cost of H.R. 29 to enable 1,000,000 middle-income families to achieve home ownership through a 6 percent interest rate for a three-year period and half that amount in the fourth year $650 million.[21]

Total amount $1.617 billion.

The foregoing does not include the following:[22] (i) the authorization of $800 million in the 1974 Housing Act under Section 202 for loans at market interest rates; (ii) the annual authorization of $150 million for rehabilitation of housing under Section 312, since these are loans; (iii) the subsidy cost under the authorizations for the Section 8 program recommended by the President, since the purpose of this table is to show the cost of additional programs which we are recommending; and (iv) the second-year authorization for FY 1977 in H.R. 29 for $650 million of additional assistance for the middle-income homeownership program. Assistance for housing should be viewed as an annual cost in return for the annual benefits received in each year by serving those of low, moderate and middle incomes.

The additional assisted housing programs which we are recommending will involve 2,600,000 units during a two-year period.[23] This will include single-family houses under the revived Section 235 and under the new home ownership program for middle-income fam-

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ilies. It will also include multifamily units under existing programs to be initiated during the transitional period through FY 1976 until we can determine whether the new and untried Section 8 program will be effective in achieving any substantial volume of construction.

With our proposed increased authorizations and with expeditious administration by HUD, it should be possible to achieve housing starts on 2,400,000 assisted units during FY 1976 and 1977. This will include units now in the pipeline, as well as the additional units which are authorized. At the end of FY 1977, there will be some units with pending applications in the pipeline for future housing starts.

Since past experience shows that it takes at least a year to get a new multifamily program started, we do not anticipate any substantial volume of new construction under Section 8 until FY 1977 even if changes are made in that program to make it workable and acceptable. To the extent Section 8 projects are initiated, they will help to assure our projected volume of housing starts and to build up the pipeline which is necessary to achieve our annual goal for housing production.

Our program of 2,400,000 housing starts [23] in housing construction will provide 4,800,000 man years of work in construction, supplier industries and transportation. This would be spread over a two-year period. There will be an average of 2,400,000 full-time jobs a year. This includes not only construction, supplier industries and transportation, but also the ripple and multiplier effect in the economy.

With this level of re-employment through additional housing construction, it will be possible to reduce unemployment to a more tolerable level in a revised economy. During the week ending February 8, 1975, the budget carried the burden of unemployment insurance benefits for 5,960,000 workers. Through the proposed additional assisted housing construction, there would be a reduction of more than 2,400,000 in the number of workers receiving unemployment insurance benefits because they will obtain full-time jobs.

The increase in national production during the two-year period will be $140 billion as a result of the additional assisted housing construction we recommend. This includes the multiplier effect throughout the economy. On an annual basis, this would represent a 5 percent increase in our Gross National Product. This improvement in the economy will increase the tax revenues by more than $16 billion a year for a two-year period.

In contrast to the program which we are recommending, the Administration's program is to reduce expenditures for housing which will result in huge budget deficits because it continues the depression in housing construction and the deep recession in the economy. The main elements in causing the current budgetary deficits under the Administration's program are the added cost of unemployment relief and the tremendous loss in tax revenues. By reducing the cost of unemployment relief and increasing tax revenues, there will be an improvement in the budget which will more than offset the additional assistance payments for housing. Our proposed assisted housing program will reduce budget deficits rather than add to them.[24]

COMMUNITY DEVELOPMENT, URBAN RENEWAL AND NEW COMMUNITIES [25]

XI. Community development and its linkage to local housing assistance plans

For community development block grants, we recommend an increase of $505 million above the appropriation requested by the President for the coming fiscal year. This will bring the appropriation to the full amount of $2.95 billion which was authorized in the 1974 Housing Act, plus the amount of last year's cut of $55 million below the authorization.

The President, in his proposed budget, has requested $2.5 billion for fiscal year 1976 community development funds. This is $450 million less than was authorized by the Congress in the 1974 Housing and Community Development Act. We strenuously oppose this reduction. The full amount of the authorization should be appropriated. Even this amount is hardly adequate when measured against the needs. For almost three years until the current year, there was no funding for community development programs. The cities are playing "catch-up ball" with funds that are now, at most, approximately equal to what they were getting five years ago.

There is a linkage between housing and community development under the 1974 Housing Act, which was passed after four years of debate on this and other issues. The 1974 Housing Act provides that no grant may be made for community development unless the application of the local government includes the local government's housing assistance plan. This plan is to specify a realistic annual goal for the number of dwelling units to be assisted and the types of assistance best suited to the needs of lower income persons in the community. When HUD later receives any application for housing assistance under any Federal program, HUD is required to take actions to assure that the application is consistent with the local housing assistance plan.

These requirements provide a new framework to allocate Federal housing assistance funds as part of the local community's comprehensive planning and community development programs. Housing allocations are to assist in meeting lower income housing needs as described in approved housing assistance plans submitted by units of local government. A stated objective is to foster the undertaking of housing and community development activities in a coordinated and mutually supportive manner.

We do not perceive the Community Development Program authorized in the 1974 Housing Act as an attempt by the Congress to replace certain categorical grant programs with an entirely new approach toward dealing with urban blight and neighborhood preservation. Instead, we see present community development legislation as a substitute procedural mechanism for the older categorical programs, which should eliminate bureaucratic red tape and haphazard funding.

The intent of the 1974 Act is that the funds made available should be used to eliminate slums and blight, prevent deterioration in areas where a threat of decline is imminent, and to emphasize particularly assistance to neighborhoods where low and moderate income persons reside. While these goals are set forth quite clearly in the reports on the 1974 Housing Act and in the record of the debates on the floor of Congress, the regulations which HUD has promulgated bring about a result which Congress did not intend.

The impact of the community development legislation on local programs will produce a shift away from projects to a use of funds on a city-wide emphasis. This geographical dispersion of resources strongly militates against a comprehensive and concentrated neighborhood effort and well may contribute to diluting the primary purposes of the Act.

There is a possibility that, if not properly interpreted, the Community Development Act could create some devastating internal community problems which the Congress did not intend in its development of the Act. It would be unfortunate if it became the subject of a battle between those who are in need of social program assistance and those who are in need of assistance which can only come about as a result of physical and housing improvement programs. It would be unfortunate if the occupants of deteriorated areas had to contend for program funds with those who advocate their use for much needed community-wide public works or recreation facilities.

We, therefore, recommend that, through a combination of necessary legislation, technical amendments and clarification of HUD regulations, the Community Development Program be structured so as to assure that it will address itself to the priority objectives of the 1974 Housing Act. Our specific recommendations are:

1. A clear mandate to focus on areas where there is a need to eliminate or prevent slums and blight.

The regulations should require that all eligible activities must relate to solving problems of people who are in areas in which it can be demonstrated that there are a combination of physical, social and economic problems which require attention.

For such areas, HUD should require the community to prepare a comprehensive improvement plan and to demonstrate that the activities proposed in the plan can be carried out within a stated period of time. Further, the community should be required to analyze estimated improvement costs and to establish that it is reasonable to expect that the level of funding required will be available during the time frame proposed for carrying out the plan.

For activities that might take place outside of specified areas, there should be a clear demonstration that they are for the most part designed and intended to meet the needs of the occupants of the areas where major community development activities are taking place.

2. A need to define ". . . other community development needs have a particular urgency. . . ."

Under the statute, the Secretary of HUD may approve activities which fall within this category. The regulations which HUD has promulgated give no guidance as to what criteria are to be used in making this judgment. In the Congressional debate on the Bill, it was clear that the managers of the Bill did not intend that this provision be used as a catch-all clause to permit any and every activity. Yet, as presently written, and as interpreted by some HUD staff, it is possible that a community could use a major portion of its funds, for example, for the construction of a swimming pool in an affluent section of town while doing nothing about slums in another part of town. Given local political problems, a community may find it hard to resist such temptations. Clearly, Congress did not intend this and we recommend regulation changes which would preclude this possibility.

3. A requirement for emphasis on the improvement of housing conditions.

We recognize that communities have multifaceted problems and that improvements are often needed in the central business district or in industrial areas in order to provide jobs and stabilize the local tax base. Nevertheless, there ought to be a requirement for a balanced program. While HUD should not get into the business of setting down detailed regulations, some overall guidelines would be useful in carrying out the purposes of the Act. To this end, we recommend that, where the need exists, HUD should take steps necessary to assure that there are adequate funds for a balanced development program in each community over a three-year period, including improvement of residential areas and providing sites and infrastructures for low, moderate and middle income housing.

4. A reinforcement of the expressed statutory recognition of the need to provide social

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services as an integral part of a responsible community development program.

We believe that "human renewal" is as important as physical improvements. The social services must go hand in hand with housing for persons of low and moderate incomes, the elderly and the handicapped. Funds should be made available for such social services in the housing provided for them. Both should be tied together as an integral part of a responsible community development program. The legislative history indicates that Congress felt that a maximum of about 20 percent of the Community Development funds might be used for software purposes, except in the case of Model Cities applicants.

HUD made no mention of this in the regulations and there is no indication as yet as to what posture, if any, they will take in the review of first year applications.

Locally, the uncertainty of the future of O.E.O. programs adds to the pressure for use of Community Development funds for these purposes. There are a whole series of H.E.W. programs that are administered in a variety of ways. Some work through the State, others through counties, others directly through communities or through local nonprofit agencies. It is almost impossible to ascertain the full range of social services programs available in a given area or the funding available for them. It is obvious that, at most, Community Development funds can only be used to meet a small portion of social services needs. We recommend that the funds should be for the purpose of providing social services in connection with the improvement and utilization of housing for persons of low and moderate incomes, the elderly and the handicapped.

In the long run, we recommend that Congress should enact a software "allied services-community assistance program", which would provide block grants for social and health services, adjunct educational activities, crime prevention and cultural and economic assistance programs. In so doing, Congress could distinguish this from the Housing Act-Community Development program which would then focus solely on the physical improvements necessary to eliminate existing or incipient blight and on the construction of facilities which would house social service activities.

Until such time as Congress enacts such measures, we recommend that the following steps be taken administratively towards meeting the same goal:

(a) HUD should establish a 20% maximum on software programs and indicate that these are to be used only in areas where other major Community Development activities are being focused. Basically, we believe the Community Development funds at this time should be used to coordinate and facilitate the provisions of services under the other available programs.

(b) We recommend an inter-departmental task force comprised of HUD, H.E.W., O.E.O., Labor and Commerce, and the L.E.A.A. It should develop policies that will assure that priority for funding and maximum program flexibility to meet locally identified needs under existing programs will be given to those which will relate to comprehensive local community development programs. An alternative might be to carry out this activity through the federal egional Councils that have been previously established for similar purposes. A precedent for this approach is the "annual arrangements" system which was tried on an experimental basis in a number of governmental jurisdictions.

5. An assurance by HUD of proper guidelines for the planning and administration of these programs.

We believe that, in order to develop sound comprehensive programs and to administer them in a sensitive and effective way, HUD should assure that there are proper guidelines for planning and administration. The program should not be permitted to become a vehicle for distributing political jobs to people who have no experience or background in the types of antecedent programs which are amalgamated hereunder.

In this context, we strongly recommend that the HUD regulations give due recognition to the possibility that existing local public agencies (LPA) might, in many communities, be the best vehicle for effective administration. If the local Chief Executive Officer elects to so designate them, they should be able to enter into direct contractual relations with HUD—much as they have in the past. In so recommending, we recognize that approval of a Community Development plan and application is a legislative function which has to be left to the local governing body. However, once approved, in many communities the carrying out of the program ought to be a function of an experienced LPA or department which should not have to go to the local governing body for approval of every step in the effectuation process.

6. A separate program for financing housing rehabilitation. We have always considered the rehabilitation of the existing housing stock as a necessary and major tool in any comprehensive national housing policy. In order to accomplish this in the deteriorating sections of many urban areas, massive governmental assistance is required for housing rehabilitation, if we are to prevent the need for major bulldozer approaches in the future.

We believe that no meaningful program can come about through each community using a portion of its Community Development funds for housing rehabilitation. There are not adequate Community Development funds available; and the actuarial risks of a small financing pool are obviously far greater than they would be in a national F.H.A. type loan insurance program.

In some States there appear to be constitutional or legislative prohibitions against the use of community development grants for loans purposes to individual owners. This problem does not exist in the case of direct federal loans.

Further, the mixing of loan funds with grant funds represents an obvious distortion in the amount of actual assistance a community is getting. We believe that the Community Development program should coordinate and administer a rehabilitation loan program. However, the financing for this should come from an extended and expanded Section 312 program and other sources as recommended in Part VII of these Resolutions. This should be separately identified in the HUD budget as a revolving fund rather than a grant program.

7. Need for oversight. At this point in time, and with very little program experience under the new Act to draw upon, we are hopeful that tangible productive benefits will be achieved under the new community development legislation. However, with so much at stake, we believe it is imperative for the Congress to create its own device to monitor the progress of the program in order to form its own independent judgment on how well this effort is succeeding. This oversight function by the Congress is essential since the success of the program will be dependent upon a successful resolving of the following pitfalls which the program now faces:

(a) The first local governments' housing assistance plans are now being filed accompanying their application for community development grants. It is important to assure that local communities will carry out the intent to clear slums and blight and meet the needs of low and moderate income families. A close monitoring is required to determine what is happening and to take necessary corrective action.

(b) The Community Development Program suffers from serious underfunding in terms of the number of communities intended to be served under the program. In addition, valid objections can be raised on the inequities inherent in the formula which determines the allocation of funds to local recipients.

(c) The community development program is likely to produce a shift away from neighborhood projects. Because of local pressures, there may be a geographic dispersion of community development to spread the funds on a city-wide basis which may adversely affect the primary purposes of the community development program.

(d) The administrative responsibilities which must now be assumed by local governments have increased significantly under the 1974 Housing Act. It is unclear, for instance, how localities will cope with the certification required under the Act in the areas of environmental impact, citizen participation, labor standards, relocation and equal opportunity. Furthermore, it is not clear how HUD will evaluate the certifications from localities to assure that these local levels of government have fulfilled the statutory requirements of the Act. Needless to say, the requirement for certification has built into it the potential for inducing protracted court cases simply because the process and structure to fulfill these requirements are not clear and decisions are left to the judgment of the grant recipients.

(e) The capability of available assistance programs to produce the required new and rehabilitated housing units which are an integral part of the municipalities development program must be carefully observed. It is necessary to assure that viable Federal assistance programs are available in order to preserve the mandatory linkage between community development and housing programs. This is another reason why we cannot place sole reliance on the Section 8 program which is untried and untested and why we need to continue other existing housing assistance programs during the transitional period until we know whether Section 8 will provide an adequate volume of assisted housing.

8. Implementing Recommendation. We recognize that HUD has had very little time to prepare regulations. Communities, in turn, have been operating under an almost impossible timetable. Given these constraints, it is understandable that mistakes will have been made in the first year of community development. We do not propose that the changes and refinements be applied to first year applications. This would be unfair to cities and to HUD.

Rather, we recommend that these be implemented as early as possible by HUD and by the Congress, so the second year applications will more accurately reflect a clear national purpose and the intent of the Act. We are frankly concerned that the 1974 Housing Act can, if not properly administered and monitored, result in a public-works pork barrel. It may be amalgamated with a series of unrelated and ineffective software programs, with little progress made in the admittedly difficult task of removing slums and blight and providing a decent home and decent community for every American.

XII. Housing assistance plans of local governments

The inclusion of this requirement in the Housing and Community Development Act of 1974 is a pioneering step towards providing a linkage between housing and community development activities. We believe that it can prove to be a useful tool for assuring that there is a coordinated process between overall revitalization efforts and housing production and rehabilitation. In

this first year, however, communities have been hampered in their ability to produce meaningful plans because of a lack of knowledge as to how much federal housing assistance resources will be available to them; also, because of the lack of good basic housing data available in many communities. The housing assistance plans of local governments cannot be accomplished unless there are adequate Federal assistance programs of the character and amounts recommended in these Resolutions.

We urge that local governments properly formulate and implement their housing assistance plans to accomplish the following objectives:

The plan should give top priority for the production of housing to meet the needs of those of low and moderate incomes who have suffered most from high interest rates and high costs due to inflation. These local housing assistance plans should encourage the achievement of sufficient production to meet our housing goals.

The plans should contribute to the health and stability of our economy. Housing and community development activities should generate hundreds of thousands of jobs to alleviate unemployment.

As a condition to community development grants, HUD should carry out the Congressional intent that local housing assistance plans meet the needs of lower income persons.

In a nation in which there is a continuing increase in households and where there is widespread housing deprivation, it is necessary that we have growth policies that will enable us to meet our housing goals. We must resist efforts of local governments to establish no-growth limitations such as discriminatory and exclusionary zoning; needless delays in providing essential community services and facilities; exclusion of certain economic, racial or ethnic groups; and other limitations on the attainment of our housing goals.

We also believe that there is a need to consider more carefully the provision that general location of housing sites for new construction is to be specified in the Housing Assistance Plan. While the objective for doing so is laudable, it has unfortunate by-products. In many census tracts there may be only one potential site and, unless this is owned by a public agency, the land price of the site may be driven up to a point that its use for assisted housing is no longer feasible. There are also other considerations which relate to socio-political dynamics of site selection which we believe call for consideration of housing locations on a careful site-by-site basis in the context of a planning process which considers site design, access, housing mix, structure type and combination with other types of land uses, in order to gain local acceptance. In this context, it is difficult for communities to establish realistic general locations. Their tendency may be to avoid the issue by opting only for rehabilitation programs and subsidies to families living in existing units. Accordingly, we recommend the following:

(a) In this first year, HUD should give general approval to most Housing Assistance Plans with the requirement that they be refined and updated by the middle of the program year. Since many of the housing assistance plans have serious weaknesses which need to be corrected, HUD's Regulations should establish a clear procedure to enable local governments to revise their plans so they are not required to adhere to features of a plan that were not properly conceived.

(b) The HUD Area Office should indicate to each locality, as expeditiously as possible, the minimum number of units available to it under the Section 8 program and the other housing assistance programs which we urge. This allocation should be broken down by number of new units, number of rehabilitation units, and number of existing units to receive Section 8, subsidies or other housing assistance tools.

(c) The provision for general location of housing sites should be amended to provide instead that the community indicate how its total zoning, land use and housing policy meets anti-discrimination guidelines. We suggest that the latter provide that there must exist either in the community, the county, or the state, an active program for assuring that potential home buyers or renters will not be subject to discrimination practices. The amount of land zoned and utilized for mutiple dwellings should result in a proportion which is consistent with the averages for the SMSA of which they are a part. Any sites selected for new housing should meet sound environmental and planning standards.

(d) The communities should be encouraged to use a portion of their community development funds or 701 funds for updating and refining the data regarding housing conditions and needs. We support H. Res. 130 introduced by Representative Spark M. Matsunaga which would disapprove the President's proposed deferral of grants for comprehensive planning under Section 701. These funds are urgently needed.

(e) Elsewhere, we stress the need for a new housing census which, when completed, would also provide a data base for establishing local as well as national needs.

XIII. Completion of existing urban renewal projects

NHC recommends that Congress provide adequate funding for the completion of existing conventional urban renewal projects as well as neighborhood development programs.

In the 1974 Housing Act, a provision was made to allow the Secretary of HUD to set aside a maximum of 20 percent of the community development entitlement funds for the purpose of completing existing projects. At the same time, communities were told by HUD at conferences, through the various media, and by national leaders that the community development funds were to be available for a whole series of new programs.

Another factor to be considered is that many of the existing projects were funded as a result of informal agreements between HUD and the communities in which they were told that, through an annual amendment process, they would eventually get enough funds with which to complete the project in accordance with the original plan. This process of annual amendment did take place for a number of years. For the last three years, it has been at a reduced level and, in some instances, there was no additional funding even though it had been informally promised to communities. The inflationary trends in construction costs as well as the rising interest rates and the need to carry unsold land for longer periods of time because of the national economic conditions, all have wreaked havoc with project budgets.

If steps are not taken to complete the conventional projects in an expeditious manner, the communities, the local public agencies, and HUD are all subject to the possibility of lawsuits for damages. These could come about because a developer had bought land and made investments under a plan which he had every reason to believe would be carried out. That plan might have provided for removing slums across the street from him, or installing a parking lot to the rear of his development, or putting in a new street and utility access. Similarly, people who have bought or rented homes in renewal areas might have grounds for damage suits if the environment in which they are living has not been improved in accordance with a previously approved plan. In neighborhood development program areas as well as in conventional projects, people who have waited for years for their properties to be acquired in accordance with an approved plan might urge that the non-acquisition of the property constitutes condemnation justifying grounds for damage suits.

For all of these reasons, we believe that Congress and HUD have to develop a realistic program for assuring that urban renewal projects are brought to a successful completion. The neighborhood development programs should be permitted to terminate their activities within the context of a plan that eliminates hardships to those most immediatedly affected by the renewal process. Accordingly, we suggest:

(a) Congress should appropriate $200 million a year for the next three years for the purpose of completing existing urban renewal projects and NDP's. It should provide an additional $100 million in loan funds for cities that need assistance in taking over unsold land at project close-outs, which loans would be repaid at such time as they are able to sell the land.

(b) HUD should adopt a policy of accelerating progress payments so that communities receive up to 95 percent of their grant funds within the next fiscal year. By reducing the need for large outstanding temporary loans, the interest costs in the project budgets would be reduced and this would reduce the pressure for budget amendments needed to close projects.

XIV. HUD should provide additional assistance to save new communities program

We deplore the failure of HUD to utilize fully its authority to grant assistance and relief to new communities which are suffering from adverse economic conditions and a depression in home building. The programs of new communities involve social objectives and requirements that are not normally a part of an economic enterprise with profit motivations. In fact, these social objectives and requirements often preclude the realization of economic objectives including sufficient income to meet obligations. Nevertheless, the achievement of these social objectives and requirements is vitally important in the public interest. They justify HUD's underwriting and assistance of new community programs to the full extent necessary to assure their success. This is particularly true since the completion of the existing new communities is a demonstration program. It involves practical research and development to determine how future new communities can best be undertaken to achieve sound urban growth.

Title VII of the Housing and Urban Development Act of 1970 ("Title VII") authorized HUD to make loans to new community developers for the purpose of assisting them to make interest payments on indebtedness incurred to finance new community development programs approved by HUD. These loans would cover interest payments for a period up to 15 years until land marketing activity is of sufficient volume to permit the continued development of the new community without the benefit of such interest loans. These loans are to be repaid commencing not later than 15 years after the loan date when development progress and marketing permits such repayment. An interest loan up to $20 million is permitted for any single new community development.

HUD has refused to make such loans despite the clear purpose and intent of Title VII. Consequently, the programs of many new communities are seriously jeopardized and threatened with bankruptcy which will cause diastrous suffering for their residents. We recommend and urge that HUD make these interest loans to each of the new community developers who require them due to the adverse conditions that now prevail and were contemplated by Title VII. In addition, HUD should provide additional loan guarantees to enable new community developers

to obtain additional financing which they need for other purposes besides interest payments, including further land acquisition and land development to complete their programs. If HUD continues its refusal to make such loans, we recommend that Congress mandate the use of the authority in Title VII to save the new communities and preserve their vital role as part of a sound urban growth policy to provide housing and community facilities in well planned environments with nearby jobs.

New communities relied upon the availability of (i) promised Federal grants for essential public services and facilities, special planning grants and supplementary grants and (ii) promised set-asides of housing assistance. In fact, these grant and assistance programs have been suspended since January of 1973. The new communities have suffered greatly by being deprived of these intended grants and aids. Now that we have block grants for community development and assistance for housing, we urge that these provisions of the 1974 Housing Act be fully utilized to make the maximum possible grant funds and assistance available to new communities so they can move forward with their programs. We recommend that Congress mandate HUD to utilize its full authority under Title VII and the 1974 Housing Act to make necessary grant funds and assistance available to new communities to keep faith with them and help restore their financial stability. Such action is urgently needed to carry out the intent of Title VII relating to Urban Growth and New Community Development.

During this deep recession, there is a lack of income among the unemployed and under-employed which removes them from the housing market. There is also a lack of confidence among other people who are afraid of their economic future. As pointed out elsewhere in these Resolutions, there is a soft sales market with 650,000 completed houses and condominiums which are unsold and overhanging the market. This includes many houses and condominiums in new communities where developers are discouraged from undertaking new housing starts. Consequently, the volume of land marketing has dropped precipitously in new communities and they have inadequate incomes to continue their operations and meet their obligations. To restore confidence by increasing employment and production, it is necessary to take the actions recommended in these Resolutions, including the rescue of new communities to assure the fulfillment of their programs.

New communities are faced with bankruptcies and foreclosures which will have serious social and economic consequences. This will be most distressing for homeowners who purchased their homes in new communities in reliance on HUD's support to assure the continued operation and completion of those new communities. In many of the new communities, such continued HUD assistance is necessary to assure the continuance of water, sewer and other services for the continued occupancy of homes. New community developers often subsidize these services until there is sufficient growth in the new communities to support the services from utility income or local taxes.

In Part XX we have discussed the relief which is necessary to prevent massive foreclosures on housing mortgages during this economic recession. Similar measures are necessary to prevent foreclosures and bankruptcies of the new community developers and to develop solutions which will assure the continued viability and operation of new communities.

In paragraph (g) of Part XX, we refer to a pending HUD-proposal to reduce the principal of project mortgages to an amount which can be carried by the current cash flow on the project as a means of avoiding foreclosures and continuing the viability of housing projects. We recommend that similar action be taken with new communities. This can be done through an agreement between the new community developer and HUD under which HUD would meet its guarantee obligations with respect to paying the full principal amount on guaranteed debentures, but would reduce the reimbursement from the developer to an amount which can be carried by the cash flow under the new community program.

It will be some years before principal payments will be due on these HUD-guaranteed obligations, but agreements must be made in advance to assure the continued viability of the new communities based upon the projected cash flow. A new community cannot effectively continue its operations unless there is a long-term program which assures the continued solvency of its operations and its ability to meet its obligations. To the extent that amendments are necessary in existing laws to effectuate these recommendations to save new communities, we recommend such legislation, including a mandate to HUD to utilize and implement the amended laws.

There is the same need to improve and expedite HUD administration in the new communities program as is described in Part XXII relating to housing programs. This includes the elimination of present detailed controls by HUD over every phase of new Community development and operation. These are overly burdensome and time consuming and they preclude efficient operations. Effective and cooperative working relationships must be established not only between HUD and the new community developers, but also with the other Federal agencies and local governments who are active participants in developing the new communities. Above all, there is a need to assure that there is a dedication and commitment among the HUD staff to achieve the goals and purposes of urban growth and new community development under Title VII.

Finally, we reaffirm our support for additional new communities and urge that HUD lift its suspension of processing loan-guarantee applications to develop such additional new communities.

If steps are not taken to complete the programs of existing new communities, HUD will be subjected to many lawsuits. In reliance upon a new community plan which they had every right to expect would be carried out with necessary assistance from HUD, people bought land, businesses built commercial and industrial facilities and public agencies made investments. All of these groups will suffer great damages and hardships unless HUD provides assistance to complete these new communities in accordance with the plans upon which these groups relied.[26]

ADEQUATE CREDIT FOR HOUSING AT LOWER INTEREST RATES [27]

XV. Financing to stimulate housing construction and improve housing markets

Increases in interest rates and tight money have been major causes of the decline in home building. These are usually accompanied by increases in the down payment requirement and shortening the mortgage term. All of this results in higher monthly payments and a smaller market for housing.

During tight money periods, major suppliers of home financing—savings and loan associations and mutual savings banks—become so short of funds that they cannot make mortgage loans. This occurs when interest rates on other investments rise to higher competitive levels. The problem is aggravated by restrictive general monetary policies adopted by the Federal Reserve Board to dampen demands for credit, goods and services. Unfortunately, housing bears a disproportionate share of the burden of reduction in economic activities through credit restraints and higher interest rates.

Housing should be sheltered from the disproportionate and adverse effect of tight money and higher interest rates. We need to lower the excessive interest rates that have increased both inflation and unemployment and reduced home construction. We need to channel adequate credit into housing production. We recommend the following actions—described under Part IX and under this topic—to help achieve the foregoing objectives including the necessary stimulation of housing construction to relieve the depression in housing and the deep recession in the economy.

Senator Proxmire's Bill, S. 773,[28] establishes a permanent program to channel credit into housing at lower interest rates. That program would be activated whenever annual housing starts drop below 1,750,000 and the unemployment rate exceeds 6 percent for three consecutive months. Whenever these rates are restored for a three-month consecutive period, the program would be deactivated. This is a credit program for emergencies which will provide financing for 1,000,000 new homes a year for middle-income families. Chairman Proxmire estimates its annual cost for that number of homes would be $300 million, or $300 annually per house, with the 6 percent interest rate limited to an initial three-year period and a gradual increase in that rate until it reaches the ceiling rate in the mortgage.

Billions of dollars of commitments have been issued to purchase mortgages under the Emergency Housing Act and the Tandem Plan which have not yet been used to get housing starts. With respect to the purchase of mortgages under the Emergency Housing Act, the Tandem Plan and the Freddie Mae program, we urge that standard and uniform interest rates be established on all commitments which are issued. There is great confusion in these programs with 11 different interest rates applicable to commitments issued at different times ranging from 7¾ to 9¼ percent. There should be a standard and uniform interest rate that is available in accordance with the formula in the Emergency Housing Act. Under that formula, the interest rate would now be 7⅝ percent. As to any outstanding commitments at a higher rate the holder of the commitment should have the right to exchange it for a new commitment at the standard rate which is applicable at any given time. To obtain a new commitment at a lower rate, an appropriate charge can be made which should not exceed the half of 1 percent which has been applicable when commitments are returned for the purpose of enabling the holder to purchase a new commitment at a lower rate. We recommend that the same interest rate should be available under the Tandem Plan as under the Emergency Housing Act, with the same right to exchange outstanding commitments for new commitments when a lower rate become applicable, subject to the payment of the same additional fee.

Through the use of these commitments and the additional commitments which will be issued under the additional authorizations we recommend, it should be possible to stimulate the construction of unassisted housing. By creating jobs and improving the economy through an increase in assisted housing construction under the programs recommended elsewhere in these Resolutions, there should be a restoration of confidence among home purchasers. This should improve the market for unassisted housing to be financed under these mortgage purchase programs.

We support the Administration's action in reducing the FHA–VA rate from 8½ percent to 8 percent as this will help reach part of the higher-income segment of families who have been priced out of the market.

Footnotes at end of article.

XVI. Additional mortgage purchases under the Emergency Housing Act

We recommend the full use of the mortgage-purchase authorization under the Emergency Housing Act together with an increase in that authorization. This includes the release of the $1.75 billion unused balance authorized by that Act for mortgage purchases. It also includes the full use of the $6 billion made available for purchases and commitments. More than $300 million of the earlier commitments issued under the Emergency Housing Act were turned back and cancelled because the earlier commitments were at a higher interest rate, and there was a partial refund of the commitment fee. Since the $7.75 billion authorization applies to the amount of purchases and commitments outstanding at any one time, we urge that new commitments be issued in an amount equal to those which are cancelled from time to time.

The President's budget does not provide for additional mortgage purchases under the Emergency Housing Act. There is an urgent need to continue these programs. We recommend an amendment to the Emergency Housing Act to increase the authorization for mortgage purchases by $10 billion to assure the continuance of sufficient additional mortgage purchases to achieve necessary additional housing production. These purchases would continue to be made by Fannie Mae (Federal National Mortgage Association), Freddie Mac (Federal Home Loan Mortgage Corporation) and Ginnie Mae. The last interest rate on such mortgages was 7¾ percent.

This below-market interest rate should be reduced pursuant to the statutory formula for periodic adjustments based upon the average rate on 6 to 12 year government obligations plus ½ of 1 percent, rounded up to the nearest ⅛ of 1 percent. Based on that formula, the last interest rate should be reduced to 7⅝ percent. From time to time this rate should be further reduced as market interest rates come down. These lower rates should be available to holders of present commitments as recommended above so that more people will be able to afford housing as interest rates come down. The mortgages are to be in a principal amount which does not generally exceed $42,000 per dwelling unit. The Emergency Housing Act should be amended to include the purchase of *multi*-family mortgages as previously requested by President Ford; also, the purchase of condominium mortgages.

The amount of mortgage commitments and purchases under the Emergency Housing Act will be largely recovered on the resale of the mortgages or mortgage-backed securities. The actual cost to the Federal Government will represent only the difference between the amount paid for the mortgages and the amount realized on their sale. When there was a similar program during the recession in the Eisenhower Administration, the operation resulted in a net profit to the Government because interest rates had gone down and the mortgages were sold at a premium. Although billions of dollars are authorized to buy mortgages under the Emergency Housing Act or the Tandem Plan involving purchases at a discount price—which is discussed below—there is likely to be very little cost to the Government (except where par purchases are required) when the mortgages or mortgage-backed securities are sold. There is even a possibility of a profit if market interest rates should go below the effective rate in a commitment by the time the mortgages or mortgage-backed securities are sold.

XVII. Additional mortgage purchases under the tandem plan

(a) There is an urgent need to continue the Tandem Plan both for assisted and unassisted housing through mortgage purchases by Ginnie Mae and Fannie May. The President's budget estimates that about $12.5 billion of Tandem commitments will be issued during FY 1975 ending June 30 of this year. However, the budget does not reflect the continuance of this program in FY 1976, since less than $0.25 billion in commitments are projected for that year. In FY 1976 the need for the Tandem program is even more urgent than last year, with a continuing drop in housing production and a tremendous increase in unemployment, along with the accumulated unmet needs for housing.

We recommend that the Tandem Program be continued in FY 1976 at least at the same rate of $12.5 billion of commitments as last year. The most urgent need for Tandem commitments is in the assisted program where HUD purchases Section 236 mortgages at par. It is imperative that this program be continued to enable the completion of the projects in the pipeline, as well as additional projects under an additional authorization. To help make the Section 8 program workable, we recommend that the Tandem purchase of mortgages at par be extended to projects which will be assisted under Section 8.

Under the Tandem Plan, the interest rate on the purchase of multifamily mortgages should be reduced to correspond to the interest rate on mortgages purchased under the Emergency Housing Act, and to eliminate the ½ of 1 percent or higher rate.

Most of the mortgage purchases under the Tandem Plan relate to unassisted housing and involve a discount purchase price. They may involve little or no cost to the Federal Government when the mortgages are sold directly or through the sale of mortgage-backed securities, depending upon the market interest rates at the time of such sales. As to certain par purchases under the Tandem Plan—such as Section 236 mortgages—the cost represents only the difference between the par purchase and the market price at which Ginnie Mae later sells the mortgage. These costs on additional commitments will not be reflected until after FY 1976 since Ginnie Mae does not purchase mortgages until the completion of the project.

(b) We recommend the release of the impounded $100 million which is the uncommitted balance in the revolving fund administered by Ginnie Mae for the purchase of cooperative mortgages insured by FHA under Section 213. The 213 program fills an unmet need among middle income persons who can only afford the lower monthly charges achievable through cooperative economies and financing. To lessen the budget impact, we recommend that these funds—which have been impounded since 1968—be used under the Tandem Program so that the budget will reflect only the difference between the Ginnie Mae par purchase of the mortgage and the market price at which Ginnie Mae later sells the mortgage.

XVIII. Other measures to channel adequate credit for housing at lower interest rates

All necessary actions should be taken to provide more credit to housing as a priority need. The highest priority should be given to assuring credit and assistance for housing to meet the urgent needs of those of low, moderate and middle incomes.

An adequate volume of credit for housing production will have an anti-inflationary effect and reduce pressures for interest rate increases. Such selective credit allocations and actions are necessary to avoid extreme instability in housing production and meet national housing needs.

The use of tight money policies and the resulting high interest rates have imposed a disproportionate and unfair burden on housing. This has adversely affected housing production and housing markets. In these Resolutions, we are recommending programs to remove this disproportionate burden on housing and assure that adequate credit and assistance is provided for housing. In addition to the measures recommended elsewhere, we recommend the following actions to help assure the availability of adequate credit for housing:

(a) We recommend a continuance of the program of forward commitments to savings and loan associations to enable them to make investments in residential mortgages. These funds are particularly needed during any periods when savings and loan associations lose large amounts of savings. This will help to provide greater stability in credit for housing. Under this program, the commitments are issued by the Federal Home Loan Bank Board.

(b) We recommend an amendment to the income tax laws which will provide tax exemption or credit on $500 of interest earned on savings deposits which are invested in housing mortgages. This will enable savings and loan associations and mutual savings banks to attract and hold savings during periods when others are offering higher interest rates which have previously diverted savings from use in residential mortgage financing.

(c) We recommend a further amendment to the income tax laws to provide a variable tax credit on the net interest income from investments in residential mortgages made after enactment of the new law, without eliminating the present bad-debt reserves in thrift institutions.

(d) The Housing Cooperative Financing Association should be established within HUD through legislation in the form that passed the Senate last year. This is an unsubsidized program which would get necessary housing built for people of modest incomes to achieve cooperative homeownership at reasonable interest rates. The Association would be similar to the successful cooperative associations for agricultural purposes which have been established in the Department of Agriculture where the need for specialized financing institutions for cooperatives has long been recognized. Cooperative housing has the greatest difficulty in securing financing because only a group of consumers is involved.

The Federal Government would initially subscribe to $5 million of preferred stock in the Association which would also be authorized to borrow $50 million from the Treasury. Thereafter, the Association would obtain its financing through normal private channels by issuing its bonds against the FHA-insured mortgages in its portfolio securing its loans. Within a few years, the Association would become wholly privately owned by the borrowing cooperatives and would fully retire the initial Treasury subscriptions and advances. Over 40,000 dwellings would be developed by cooperatives at reasonable interest rates under this program.

(e) Developers are experiencing great difficulty in obtaining financing for the construction and development of housing projects. When they can get such financing, the interest rates are prohibitive. To meet this problem, we recommend that construction and development loans be made through Fannie Mae, Ginnie Mae and Freddie Mac and under the Tandem Plan.

(f) To help protect our capability to provide decent housing, we recommend assistance to builders and other businessmen in related industries who are temporarily having financing difficulties. This can be done through a new institution such as the Reconstruction Finance Corporation and through the Small Business Administration.

(g) We support pending legislation to assure the exemption from income taxation of nonprofit cooperative housing corporations, condominium housing associations and homeowners' associations.

(h) We recommend that HUD make a study and report on the advisability of including

provisions in residential mortgages which would better attract money for investments in them. The study should explore provisions for annual adjustments in principal or interest based upon changes in consumer price indexes or prevailing interest rates. Any such adjustments should be subject to consumer protections which take into account the ability to pay of the borrower through deferring—until after the stated mortgage maturity—any increased payments which exceed a prescribed percentage of his income. The study should also include adjustments in savings deposited in savings and loan institutions according to the same index that is used to adjust mortgages. The report should cover the results of use of such adjustments on mortgages and savings in Chile during the past 17 years.

(i) The mortgage limits for multifamily programs with FHA insurance require adjustments for high cost areas resulting from inflation. This should be done through administrative or legislative action. Realistic limits should be established for such areas, through the use of prototype cost limits—which are determined for such areas based on current costs—or otherwise.

(j) The Emergency Housing Act of 1975 should cover all of the legislative proposals listed in these Resolutions.

XIX. Section 223(f) program to provide permanent financing when needed for multifamily housing projects

HUD has announced a new program under Section 223(f) to make FHA insured permanent financing available to sound developers carrying good quality apartment projects who cannot secure permanent financing in today's market. We support this program as a necessary temporary measure to assist developers who are in distress due to the heavy drain of carrying a project on a construction loan at very high interest rates. This program will help to protect the capability and availability of such developers to undertake production of additional housing which is vitally needed.

However, the new program will discriminate against cooperative mortgagors, as the administrative instructions tentatively promulgated by HUD limit this program to rental housing. There is no such limitation in the statute. Cooperatives should have the same opportunity to refinance sound multifamily projects which need assistance in obtaining permanent financing.

The new program will apply to projects started before June 30, 1974, and completed by the end of 1975. The loans are limited to 80 percent of HUD's estimate of value, so the developers will be required to meet substantial equity requirements. The loans are to be insured under Section 207 which means they will be predicated on value rather than replacement cost. Since HUD acts only as an insurer of the mortgage, it is necessary to assure the availability of purchasers of the mortgages. We are concerned about this particularly since if Section 207 is utilized lenders would receive debentures rather than cash in the event of a default. These debentures are currently worth much less than the face amount of the obligation.

Limiting financing to Section 207 is an unnecessary restriction not required by the enabling legislation. It will lead to disputes between sponsors and HUD field offices concerning applicable capitalization rates, valuation formulae and other appraisal matters subjective in nature. It will also be difficult to sell 207 mortgages. We recommend that other multifamily mortgage insurance programs should be available for mortgage insurance, such as Section 221(d)(4) or 221(d)(3). As insurance benefits are payable in cash rather than in debentures under these alternative programs, permanent lenders will be more likely to be attracted.

To accomplish the purposes of this program, we recommend that these HUD insured mortgages be made eligible for purchase by Ginnie Mae at a price which will enable the program to work, and that these loans be eligible for GNMA-backed securities. To meet its intended goal, expeditious processing by HUD of applications is absolutely essential.

PREVENTING MASSIVE FORECASTS AND SELLING HUD-OWNED PROPERTY TO RESIDENTS [29]

XX. Relief to prevent massive foreclosures on housing mortgages during this economic recession

During this deep recession, besides the 7,500,000 unemployed, there are some millions more who are suffering from a loss of income, including discouraged people who have dropped out of the labor force and workers who are under-employed. Many of the unemployed will stop receiving Supplementary Unemployment Benefits under union contracts because the funds will have been exhausted within a month or two. Soon afterwards, much larger numbers will have exhausted their unemployment insurance benefits. Mortgage loan defaults will then become so great that massive foreclosures will occur unless pending bills are enacted which will provide necessary relief. In paragraphs (h) through (k) below, we describe the bills which are needed to save people's homes through temporary repayable mortgage payments on behalf of unemployed or under-employed homeowners.

Even now, there are widespread delinquencies on residential mortgages which require preventive actions by HUD to save people's homes and avoid project foreclosures. Besides losses of employment and reductions in incomes among homeowners and tenants, there have been substantial increases in their monthly charges due to increased costs of oil, utilities, local property taxes and other expenses. Unless action is taken to save people's homes and avoid foreclosure on project mortgages, there will be serious social and economic consequences. Besides the distress for the owners and tenants involved, such foreclosures will adversely affect lender confidence and the availability of mortgage credit.

The Secretary of HUD announced a moratorium on foreclosures of project mortgages until March 1 to allow time to develop solutions to save such projects. We recommend that the period of this moratorium be extended and that action be taken when practicable to grant a similar moratorium on the foreclosure of mortgages on individual homes or condominium units which involve mortgages insured by HUD.

We recommended the following administrative actions and legislation to meet the critical problems on both project mortgages and single-family mortgages on residential properties:

(a) A major cause of defaults and foreclosures in multifamily housing is the inability to collect sufficient rental income to meet debt service and operating costs. To meet this problem, it is necessary that project income from rents be increased in time to cover higher operating costs. Present procedures for rent increases are too cumbersome and time consuming, with unnecessary administrative layers of responsibility in decision-making. Moreover, HUD requires an owner to experience operating-cost increases before allowing rent increases, so he must operate at a deficit which causes him to default on his mortgage. Under HUD's procedures, the owner is always behind in adjusting his rents and can never catch up in meeting his mortgage obligations.

New realistic procedures must be established which will allow rent increases based upon reasonable budget projections as to the amounts of income required to meet projected requirements for operating expenses and mortgage payments. HUD should act promptly on requests for rent increases to cover such projected increases in operating costs of projects, including heating, utilities and local property taxes.

(b) HUD should fully utilize the authority granted in the 1974 Housing Act to make additional assistance payments under Section 236 to project owners in an amount sufficient to cover increases in the cost of utilities and local property taxes above their levels in initial operating budgets. These additional subsidy payments are not to exceed the amount required to maintain the basic rentals at levels not in excess of 30 percent of occupant's income or 25 percent where the occupant pays his own utility costs. HUD has not taken action to implement this provision of the new law, and we urge that it do so immediately. This is one way to help assure that a number of projects assisted under Section 236 can avoid foreclosure and meet their mortgage obligations and other expenses. As to the President's budget, we oppose its failure to provide for use of the authority to make these additional assistance payments on Section 236 projects. We recommend an amendment to the housing law to make this additional assistance available under the below-market interest rate program to cover increases in the cost of utilities and local property taxes.

Besides using additional appropriations and contract authority for subsidy authorizations, there is a second source of funds for the payment of these operating subsidies on Section 236 projects to cover increases in the cost of utilities and local taxes. The 1974 Housing Act provides for a reserve fund to be used for such payments. This reserve fund would include all rentals collected on Section 236 projects in excess of the basic rental charges. We urge that HUD implement this provision in the 1974 Housing Act and utilize these excess charges for this purpose, instead of crediting them to appropriations as permitted prior to the passage of the 1974 Housing Act.

The operating subsidies for Section 236 projects should cover the cost of heating by oil just as it covers the cost of heating by gas purchased from a utility company. In fact, the increased costs for oil are greater so that it is urgent to provide operating subsidies to cover such increases to the extent they are not obtainable through rent increases.

When operating subsidies are paid on Section 236 projects to cover increases in the cost of utilities and local property taxes, the occupants should not be required to pay 30 percent of their income—or 25 percent if the occupant pays his own utility cost. The law should be amended to provide for a lower and more equitable payment which should not exceed 25 percent of adjusted income or, if the occupant pays his own utility cost, 20 percent of such income.

(c) We support the recommendation of Assistant Secretary Crawford that assistance contracts under Section 236 be amended to increase assistance payments so that occupants who qualify can get the benefit of a one percent simple interest rate instead of a higher interest rate which has been required under current HUD requirements. This will provide additional relief and help owners to meet their obligations.

(d) We recommend that HUD take all possible actions to avoid foreclosures or acquisitions of projects due to defaults. HUD should defer payments of principal, interest and replacement deposits to the extent they cannot be paid from project income and housing assistance. It will be less costly to take affirmative actions through such work-out agreements to avoid defaults than to acquire billions of dollars of projects or to write down mortgages in those amounts. We recommend that work-out agreements be made for a period of five years on mortgages which HUD holds. With a longer work-out period, it will be possible to get realistic esti-

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mates concerning future increases in income to meet mortgage payments and expenses. At the end of a work-out period, the mortgage should be recast with deferred payments spread out to be amortized over the mortgage term. If owners are allowed longer work-out and deferment periods, many of them will be able to resume regular payments on their mortgages. Over a period of time, inflation will enable them to compete in the market with housing which is being produced at higher costs.

(e) Many developers have been unable to complete multifamily projects because of the inflationary increases in construction costs which have occurred and which were beyond their reasonable control. Due to such unanticipated inflation, the estimated construction costs reflected in HUD commitments were unrealistic and the developers were unable to complete the projects within original budgets. We believe that this situation should be corrected by allowing a necessary increase in the HUD mortgage insurance commitment in those cases where the project will be able to realize enough income—together with assistance payments—to carry the mortgage, with some deferments of payment in the early years, if necessary. In the long run, this program would involve less cost to the government and it would avoid foreclosures and financial hardships and losses to all the parties concerned in such cases. To prevent this situation from recurring in the future, we recommend that HUD revise its contract forms to provide relief from cost escalations which are beyond the control of the contractor, as is done by other government agencies.

(f) A revision in the GNMA mortgage-backed securities program is necessary to avoid unnecessary declaration of mortgage defaults. In the current GNMA mortgage-backed securities program, it is not possible for mortgage relief to be granted through traditional procedures, e.g., temporary deferment of principal and other scheduled payments. As the issuer of the security must make periodic interest and principal payments to holders and depends upon payments from the mortgagor to generate such funds, it is unable to grant any form of mortgage relief to the mortgagor. Consequently, a project experiencing minor and temporary difficulties may be placed into a default status and a resulting claim submitted to HUD for insurance benefits. GNMA or HUD should be vested with authority to make advances or provide other assistance which will enable the issuer to meet his obligations to the security holders, without declaration of default on individual mortgages backing the security.

(g) Other measures will be necessary in the case of assisted projects where the foregoing relief will be inadequate to meet the problem. For such projects, we support a program which HUD has announced as being under study. HUD should accept the assignment of a project mortgage and then take action to reduce the principal of the mortgage to an amount which can be carried by the current cash flow on the project. This would assure the continued operation and viability of such housing projects. This may be done through the filing of a foreclosure in which a consent decree would be entered to dismiss the foreclosure under a settlement with a reduced mortgage. By reducing the principal of the mortgage it will be possible to utilize income for deferred maintenance and other needed improvements and to avoid rent increases beyond amounts which the residents can afford. Any such program should be available for all types of mortgagors who need such relief.

(h) To save people's homes by providing necessary relief to homeowners who are suffering from unemployment or reduced income, we support the Emergency Homeowners Relief Act introduced by Congressman Ashley as H.R. 34. A number of similar Bills have been introduced by Congressman Ashley for himself and 91 other members of the House. This Bill authorizes HUD to make repayable mortgage relief payments on behalf of distressed homeowners for a 2-year period when HUD determines that such action is necessary to avoid foreclosure and that the assistance will enable a full resumption of mortgage payments.

The relief payments could cover principal, interest, taxes, hazard insurance and mortgage insurance premiums but not to exceed $375 a month. The dwelling must be owned and occupied by the homeowner. A distressed homeowner is one whose income has declined by more than 20 percent. We recommend an amendment to H.R. 34 that, besides a decline in income by more than 20 percent, relief should be limited to those persons whose monthly housing payment would be in excess of 25 percent of their total income unless the additional assistance was provided. The additional assistance should be in an amount sufficient to reduce their monthly payments to 25 percent of their income.

The mortgage relief payments may be made for a period of two years. During this period, the payments may be increased or decreased as necessary. The relief payments will be repayable. We recommend that the interest to be charged on the relief payments be fixed at the same 6 percent as is provided for middle income purchasers under H.R. 29. HUD may require security for such repayments. HUD would obtain the funds for this program through advances from the Treasury against repayable obligations of the Secretary.

(i) We also support the Moakley Bill, H.R. 2700, directing that HUD refrain from foreclosures on housing projects until 60 days after HUD submits a report to Congress with recommendations for curing or avoiding defaults and protecting moderate income residents.

(j) *We support the Home Retention Act, S. 655, introduced by Senator Sparkman for himself and Senator Tower which would authorize Ginnie Mae to acquire mortgages of homeowners facing imminent foreclosure.* Ginnie Mae would either refinance the mortgage to reduce monthly payments or suspend all mortgage payments for a period up to two years. After full payments are resumed on the mortgage, Ginnie Mae could sell the mortgage. With the widespread danger that the unemployed will lose their homes, Senator Sparkman urges passage of the legislation to "lock the barn door before the mule gets out".

(k) *We also support the alternative program proposed by Senator Mondale in a Homeowners' Loan Act, S. 660. This would reactivate the Homeowners' Loan Corporation that operated during the depression and World War II years.* It would be authorized to make payments up to 18 months to lenders on behalf of home owners facing foreclosure as a result of unemployment. It could also refinance mortgages at a 6 percent rate for 30 years or pay the mortgages in order to cure the defaults. Eligibility under the program would be limited to owners of dwellings valued at $50,000 or less.

(l) We recommend that the Congress fund and that HUD implement the provision of homeownership counseling services to delinquent mortgagors through "private or public organizations with special competence and knowledge in counseling" as specified in Section 106a as amended by the 1974 Housing Act. Efforts to prevent mortgage foreclosures should be expedited in light of current economic conditions and the impact of unemployment on millions of Americans.

XXI. Disposition of HUD-Owned Properties to Residents

As stated above, HUD is faced with defaults and foreclosures on many properties. This is due in part to dramatic escalating operating costs, poor management and tenant-landlord relationships, and HUD's past failure to provide imaginative supervision and constructive solutions. The end result is that HUD has already taken title to many properties and is expected to become the owner of hundreds more.[30]

Congress was aware of this problem and provided in Section 246 of the 1974 Housing Act that HUD should make a substantial number of acquired properties available for sale to cooperatives which will achieve resident ownership. Congress recognized that in projects where landlord-tenant relationships had deteriorated to a point of no return, such acquisition of the property by the residents could completely change their attitude to property maintenance, payment of monthly charges and community responsibility. When HUD makes sales of its projects for cooperative ownership by the residents, there is already experience that these properties are permanently removed from the list of HUD defaults.

The 1974 Housing Act provides for sales of HUD-acquired projects to cooperatives which are organized by qualified nonprofit, consumer-sponsored organizations to provide home ownership for the residents. In connection with such dispositions, HUD provides financing and necessary rehabilitation. The HUD-acquired properties that are sold should be suitable for cooperative ownership.

The 1974 Housing Act intended that HUD-acquired projects be made available for the residents through a negotiated sale. It was recognized that it is not necessary or feasible to have competitive bidding on a project to be acquired by a cooperative which will consist of the residents.

With the problem of distressed properties reaching crisis dimensions, HUD should utilize every tool given it by Congress to cope with this problem. We urge HUD to proceed expeditiously in issuing regulations and directives to its field offices to implement the Section 246 program and proceed with dispositions of HUD-acquired properties.

IMPROVEMENT OF HUD ADMINISTRATION[31]

XXII. Need to improve and expedite HUD administration

Laws are not self-executing. The enactment of the 1974 Act and other necessary housing legislation will not achieve the purposes of those laws, nor will it relieve the present depressed state of housing construction and the deep recession in the economy. To achieve the objectives of housing laws, it is necessary to have effective and expeditious HUD administration of those laws.

In all new appointments to the top positions at HUD, we urge the selection of persons with long experience in housing, recognized administrative abilities and a dedication and commitment to achieving our housing goals. This is particularly important at this critical time when housing starts have dropped so precipitously. Such an experienced and dedicated top staff is necessary to stimulate housing construction, create jobs and meet urgent and neglected housing needs.

HUD should be an advocate and focal point within the Federal Government to discharge its housing responsibilities. It should provide leadership and a sense of urgency in moving forward to increase production in housing, particularly to meet the urgent needs of those of low and moderate incomes and to stimulate the economy and relieve unemployment.

We are particularly concerned about the virtual destruction of the Federal Housing Administration (FHA) as an effective agency and force in homebuilding. In recent years, there has been a loss of morale and efficiency in FHA. As a result, FHA no longer performs

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its intended major role in housing. Last year it was involved in only 5 percent of housing starts. It now often takes FHA two years to process an application for mortgage insurance on multifamily housing.[32]

FHA has become so ineffectual and dilatory that there are demands from many quarters to separate it from HUD as the only hope to achieve proper administration of functions which are so vital to the Nation. As one of the first advocates of HUD as a Department to consolidate the housing functions of the Federal Government, we do not support the separation of FHA from HUD. Instead, we urge necessary action to rejuvenate FHA and restore its vigor and effectiveness which helped so greatly to improve housing in America. For many years FHA was cited as a model within the Federal Government. In today's housing emergency, we need that kind of a vigorous and effective FHA, but we believe it should function within HUD as part of a coordinated housing and community development program. We concur in the recommendation of former FHA Commissioner Sheldon Lubar that FHA should function as a separate part of HUD in the same way that IRS is a separate part of the Treasury Department.

All former FHA functions should be reunited within FHA including management matters. FHA functions should also be reunited in the field offices. The FHA Commissioner should have clear line authority to the field offices. The FHA Commissioner should have a mandate to provide the large volume of housing required. Production goals should be established for each field office and its performance should be monitored weekly by the FHA Commissioner who shall take necessary action to assure that those goals are achieved. To help achieve production goals, autonomy should be returned to the field offices for decision-making on projects involving FHA-insured mortgages.

There is a similar need for strengthening the organization structure and administration of all HUD programs. We should avoid duplications in processing and decision-making which cause excessive delays in processing and production. Present HUD policies encourage slow action and over-caution by employees to avoid criticism for their mistakes, which has resulted in the greatest mistake of all—a precipitous decline in the use of HUD programs and in meeting the needs of housing and the economy. HUD should provide incentives for employees to achieve targets for housing starts. It should have criteria for evaluating performance based on rapid processing and starts of construction, particularly in this period of the housing depression and deep recession in our economy.

We recommend necessary increases in appropriations for the editorial staff required to do the job that must be done by HUD generally and FHA in particular. There should be an extensive recruitment program to hire experienced and qualified people. There are many qualified people available who were in the mortgage or building business and are out of work due to the depression in home building. Now is the time to recruit them. This will assure a staff with expertise and efficiency. As one reason for the discontinuance and slow down of assisted housing programs other than Section 8, former Secretary Lynn had stated that he could only handle one assisted housing program with his staff. In these critical times, HUD must be equipped to handle *all* of the assisted housing programs that are necessary to increase housing production to the levels so urgently needed.

It is imperative that HUD reform all of its operations to accelerate processing, production and decision-making. HUD should simplify its requirements and eliminate its detailed controls over every phase of project development and operations. These are overly burdensome, costly and time consuming. Time limits should be established within HUD for the processing of applications. After commitments or contracts are issued, HUD should be required to act within a designated time on requests for approvals required by the commitment. If HUD fails to take action within the allowed time, the submission should be considered approved by HUD.

HUD should consult regularly with representative groups of local public agencies and private participants in each of its programs to identify problems which impede progress and to develop workable and realistic solutions, including innovative programs.

XXIII. Need for Federal-local housing advisory groups

A review of the proposed Section 8 fair market rents for new and existing housing as well as a recollection of the many previous problems in establishing housing costs in different areas has indicated that there is a need for a better mechanism for establishing these indices in local areas. All too often in the past, HUD has relied on faulty data. As a result, programs have been ineffective and have not been administered in the way that Congress intended.

We recommend that in each housing market area, there should be a joint committee of housing industry groups, including participants from the public, quasi-public, and private sector, as well as HUD Area Office representatives. This joint committee would be charged with the responsibility of reviewing and making recommendations with respect to the various cost indices on these HUD programs which are tied to such a formula. These committees should have available to them adeuate staffing resources so that competent technical studies can be performed and used as a basis for the recommendations.

XXIV. Required actions to implement laws on housing and community development

HUD should implement and effectuate the 1974 Housing Act and earlier laws to carry out all the authorized programs on housing and community development in the manner intended. The following are illustrative of laws awaiting implementation or administrative policies requiring revision to carry out the Congressional intent:

(a) Utilizing existing assisted programs under Sections 235, 236, public and turnkey housing as intended.

(b) Revising unworkable or unattractive aspects of the Section 8 program which will preclude the achievement of the necessary volume of housing construction and rehabilitation under that program; also, adequately implementing the statutory authorization for participation by cooperatives in the Section 8 program.

(c) Carrying out the intent of the 1974 Housing Act to emphasize community development assistance to neighborhoods where low and moderate income persons reside; also, to assure that the local government's housing assistance plans will meet lower income housing needs as intended.

(d) Implementing the authorization in the 1974 Housing Act for additional assistance to meet increased utility costs and real estate taxes on existing 236 projects for persons of low and moderate incomes.

(e) Providing necessary assistance to save new communities through the use of the law authorizing HUD to make loans to pay the interest on HUD-guaranteed debentures during the current recession when new communities have inadequate income.

(f) Implementing authorization in Section 246 to dispose of HUD-acquired rental projects to achieve resident home ownership through cooperatives.

(g) Implementing authorization for HUD insurance of loans to finance the sale of cooperative memberships under Section 203(b) as amended by the 1974 Housing Act.

(h) Revising HUD's unworkable and unacceptable prototype program, with the performance-funding formula, for the allocation of operating subsidies for public housing as more fully described in Part III(A).

(i) Revising procedures for environmental review on HUD-assisted projects so as to expedite and streamline the processing and avoid the present onerous delays and red tape.

(j) Implementing the provisions in the 1974 Housing Act to increase income from public housing through a minimum rent and the collection from welfare tenants of the welfare allowance they receive for rent.

(k) Undertaking adequate housing programs and affirmative actions to provide equal opportunity for all Americans to secure good housing in good neighborhoods.

We recommend early oversight hearings by Congressional committees concerning the implementation of the 1974 Housing Act as intended, including the illustrative subjects listed above.

EQUAL HOUSING OPPORTUNITY AND OTHER PROGRAMS [33]

XXV. Equal housing opportunity and freedom of choice

(a) NHC reaffirms its commitment to equal opportunity for all American families to secure good housing in good neighborhoods. Equal opportunity in housing is now the law of the land—both by statute and by court decree. Yet this opportunity is still denied to millions of American families throughout every section of the land because of their race, color, creed or national origin, or because of the myth which exists as to their desire or ability to pay for and maintain good homes. To overcome this denial of opportunity and to dissipate these myths, an urgent task is facing the nation.

(b) NHC has long supported the principle of a competitive housing market open to free bargaining by all American families without regard to racial or ethnic background. Many localities have been limited in achieving this objective, however, because of inadequate supplies of low and moderate cost living accommodations and the congestion of many minority group families in limited sections of the community.

(c) We urge the President and the Congress to take all steps necessary to provide an equal opportunity for housing. This includes full and adequate appropriations to achieve equal opportunity for all American families to secure good housing in good neighborhoods. Affirmative actions are necessary to achieve this objective.

(d) We should provide an opportunity for freedom of choice in our housing programs. The choice of individual, cooperative or condominium home ownership or rental housing and the choice of city, suburban, new town or country living must not be limited by race, color, religion or national origin. With housing in each development available for a cross-section of income groups and a broader market, we can also provide freedom of choice to people of all incomes to select where they want to live.

(e) HUD should provide special affirmative marketing assistance to strengthen integrated areas in their ability to reach the whole market.

(f) Community discrimination against subsidized housing should be removed as it is a most serious constraint on the availability of building sites for low and moderate income housing. We recommend legislation which would prohibit States and local public bodies from discriminating against housing subsidized by the federal government, whether through legislative or ad-

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ministrative action. The legislation should authorize suits by interested parties, as well as the Attorney General, to enjoin such discriminatory action. The legislation should be strengthened by providing for federal preemption of local zoning upon an appropriate finding by the Secretary of HUD, so as to require opponents rather than proponents to initiate litigation.

(g) The effect of the 1973 impoundments and suspensions of housing programs has been disastrous upon minority enterprises which were nurtured by subsidized housing programs. The stoppage of planned subsidized projects has hit hardest those minority-owned businesses involved in the housing industry. These firms lacked the financial resources to withstand even minimal production cutbacks and many went out of business.

(h) The incidence of housing segregation in the cities and suburbs continues to increase. In 1972, federally assisted programs began to require a number of affirmative actions to help expand housing opportunities beyond racial ghettos. Subsidized housing has done more than any other housing program to provide new opportunities for minorities to escape the confines of ghettos, to move nearer to new job opportunities and to improve the quality of life and environments necessary for minorities to become a part of our overall society.

(i) Since January of 1973, HUD has strangled the existing assistance programs which would have increased housing opportunities and housing choices, at prices most minorities could afford to pay. This has caused incalculable harm, further disillusionment with the Federal Government and increased racial unrest. It has prolonged the fulfillment of the government's policy to assure every American a decent home in a suitable environment.

XXVI. Encourage energy conservation in housing

The Home Heating Efficiency Bill of 1975, H.R. 3573, was introduced by Subcommittee Chairman Barrett for himself and Chairman Reuss. This Bill would authorize HUD to make payments to assist low- and middle-income owners of existing residential structures to purchase and install energy conservation improvements. These include insulation, storm windows and doors, and caulking and weatherstripping. The amount of the payment on any structure would be, in the case of a middle-income household, the lower of $300 or 25 percent of the cost of the improvement. In the case of a lower-income household, the amount of the payment would be the lower of $300 or 90 percent of the cost of improvements. A middle-income household is one with an adjusted gross income for the previous year of less than $20,000. The total amount authorized to be appropriated for this purpose is $800 million.

While the Administration had previously announced its intention to adopt a program of direct subsidies for persons of low income and elderly homeowners, it has not done so. We recommend and urge the enactment of the Barrett-Reuss Bill, H.R. 3573, which would provide necessary assistance for those of low and middle incomes to install energy conservation improvements.

The President's budget provides for an income tax credit of 15 percent of expenditures for energy-saving home improvements, such as storm windows and insulation. This credit would be limited to $150 over a period of three years. This would be based upon expenditures of $1,000 for such energy-conservation improvements. We support this program to further assist residential energy conservation by those who do not receive assistance under the proposed Home Heating Efficiency Act of 1975.

We recommend that the Secretary undertake, and make contracts, grants or provide other types of assistance for special demonstrations to determine the economic and technical feasibility of utilizing solar energy for heating or cooling residential housing. The demonstrations should involve both single and multifamily housing located in both urban and rural areas having distinguishable climatic characteristics, and could include demonstrations of new housing design or structure.

XXVII. Public service employment should be channeled into housing and community development work

We fully support programs for public service employment during the current period of excessive unemployment. City government, housing authorities and community development agencies should make every effort to see that this is a meaningful program. They should not only stress putting people to work, but also recognize that this is an opportunity to use heretofore unavailable resources to accomplish essential activities and projects.

The Public Service Employment Program can be channeled, or utilized more effectively than is now being done, in areas of needed improvements and supplementary activities in housing and community development sectors. This will also serve to stimulate housing and development in the private sector.

There are a number of areas and types of activities in which Housing Authorities and Community Development Agencies can supplement their work force through the Public Service Program, obtain additional resources and accomplish needed results. All local agencies in the housing and community development field should mount an extensive campaign with local government to assure proper utilization of this resource.

This program, however, is not enough. Unemployment is likely to go much higher than most estimates now indicate and it is likely to continue longer than anyone would like. There is a recycling lag in the changeover of large working forces that takes longer than is realized. Planning to anticipate and provide for this should be recognized as an essential ingredient.

We recommend legislation for an expanded public works program, which could be linked to construction of essential public facilities needed for the regeneration of housing and essential community development. This would not only help to stimulate the construction industry, but would also help to accelerate the initiation and development of new housing and the completion of stalled and dragging projects throughout the country.

XXVIII. Special housing census should be taken

Existing housing data in terms of evaluating national needs as well as local needs is very poor. The 1970 census was not comprehensive in terms of providing information about housing conditions and needs. Whatever data exists is certainly no longer relevant in view of the major changes that have taken place in the non-urban areas.

We recommend that as soon as it can possibly be structured, Congress should authorize the funds for a special housing census. The special housing census can then become the basis for congressional consideration on future housing appropriations, programs and goals.

NHC PROPOSED HOUSING PROGRAM WILL HELP REVIVE ECONOMY INSTEAD OF ADMINISTRATION'S PROGRAM WHICH WOULD CONTINUE DEEP RECESSION [24]

XXIX. Administration's program has caused depression in housing which helped get recession started

Toward the conclusion of his speech of January 20, 1975, before the National Association of Home Builders annual convention, former Secretary Lynn expressed his judgment that nothing was more vital to the health of home building than halting budget increases. He then stated two alternative ways of dealing with the budgetary deficit problem:

(1) to increase taxes—which would leave less purchasing power for home purchase down payments and monthly mortgage payments; or

(2) not to increase taxes, but have the government borrow more and more resulting in an increase in interest rates which would choke off funds for housing and other investments.

Former Secretary Lynn concluded his remarks by indicating that budgetary stringency is the policy to be followed, a course which he promised to pursue as Director of the Office of Management and Budget. The implication for housing is that the government should not increase the rate of housing assistance in order to increase housing production.

Such an Administration policy has, in effect, been pursued since January 1973 when a moratorium was placed on new approvals under subsidized housing programs. It was lifted only for the FmHA rural housing programs—although there has been a slow-down and little production under them—but has been continued for the HUD programs. Consequently, about 200,000 less Federally-assisted housing units were started in 1974 than in 1972 and the rate of production is even less this year. This and other Administration policies have contributed to the drastic decline in the annual rate of total housing starts between October 1972 and January 1975.

In the wake of declining construction activity during 1974, there followed decreased production and increased unemployment in the manufacture of lumber and wood products; stone, clay and glass products; and fabricated metal products, including major appliances. Directly related unemployment also developed in transportation, wholesale trade and finance and real estate activities. One step removed were the decreased demands, production and employment in furniture, fixtures and home furnishings. Finally, the decreased purchasing power of the construction-related unemployed seriously weakened demands for less durable consumer products and the overall rate of unemployment accelerated to reach the highest rate since 1941.

The current low level of housing production is creating a further dangerous distortion in the economy and causing mounting unemployment. There is a threat of disaster with many business failures among those engaged in this vital industry and others dependent upon it. In January of this year, the unemployment in construction was at a rate of 22.6 percent as reported by the Department of Labor which is almost triple the rate of unemployment generally. When we add the multiplier effect of unemployment in related and other industries caused by by the depression in construction, the total unemployment is 2,700,000 people. The unemployment in residential construction is about 40 percent. In this deepening recession, the housing industry has suffered earliest and most and it has contributed more to unemployment than any other industry.

Based on past experiences, we know that high unemployment results in substantial losses of production and income. As much as one-third of the total deficit in national production is due directly or indirectly to the housing shortfall and its ramifying effects upon so many other types of enterprises. The most effective way to reduce projected Federal budget deficits and borrowing needs of the Treasury is to get people back to work. Getting people back to work will reduce outlays for unemployment insurance benefits and provide increased tax revenues from ad-

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ditional income that would be generated in a revived economy.

The Administration's proposed program would reduce expenditures for housing, but this will create greater budget deficits because of the tremendous unemployment and the cost of unemployment insurance benefits and because of the tremendous loss in tax receipts. We find it hard to believe that the Administration has not learned from its past mistakes. The 1973 moratorium and post Administration policies on housing helped the recession get started. Even in the face of two years of declining housing starts and the deepening recession, former Secretary Lynn prescribes more of the same bad medicine. The inadequate housing programs proposed by the Administration will lead to a recession for years as projected in the President's economic report to Congress.

We are faced with an inflationary situation in housing which can only be overcome by increased production. Although short-term interest rates have been declining in recent weeks, the traditionally sticky mortgage interest rates have not shown much sign of significant decline. If we wait—as the Administration suggests—for market forces to reduce mortgage interest rates so that home building activity can be raised, the depression in residential construction will be protracted. This will cause a prolongation of the deep general economic recession which gives rise to very large budget deficits.

Treasury Secretary William Simon sees "blue patches" in the present clouded economic skies. To talk about "blue skies" now is a disservice says former Economic Council Chairman Walter Heller. There is a danger in the Administration's excessive optimism or its belief that recovery will be automatic. The danger is that these views discourage the strong stimulative actions—such as those recommended in these Resolutions—which are necessary to achieve an economic recovery.

As described below, Federally assisted housing programs of the level recommended in these Resolutions will accelerate the economic recovery and increase effective demands for housing. It will create jobs to relieve unemployment. It will increase national production which will increase tax revenues by billions of dollars. All of this will reduce the deficits in the budget nd reduce government borrowing.

XXX. NHC proposed program will help revive the economy and cut budget deficit

It is sound public policy to spend money for housing assistance and other measures which will increase housing production and create jobs. The money spent to stimulate housing construction should not be viewed as an added burden to the Federal budget because it has the effect of reducing the burden of high unemployment insurance benefits in the budget and increasing Federal tax receipts.

Hundreds of thousands of unemployed workers in construction trades, building materials and home appliance production and transportation are available to increase the level of housing construction. There is a desperate need for additional housing since we are currently starting new housing units at less than 40 percent of the rate that is required to meet population growth needs and replacement of units lost from the supply. Moreover, the high mortgage interest rates have priced more than two-thirds of families out of the home purchase market. High mortgage interest rates have also caused a collapse of multifamily construction, because the required rents would be too high for most families. Although rents on new units being completed are relatively high, the rental housing vacancy rate declined during 1974.

The additional assisted housing programs which we are recommending will increase housing starts by 2,400,000 units during a two-year period. This will include construction of a single-family houses under the revived Section 235 and under the new home ownership program for middle-income families. It will also include multifamily units under existing programs to be initiated during the transitional period at least through FY 1976 until we can determine whether the new and untried Section 8 program will be effective in achieving any substantial volume of construction.

With our proposed increased authorizations and with expeditious administration by HUD, it should be possible to achieve these housing starts on assisted units during FY 1976 and 1977. This will include units now in the pipeline, as well as the additional units which are authorized.

By the adoption of our program with these housing starts, there will be 2,400,000 full-time jobs a year for a two-year period. This includes not only construction, supplier industries and transportation, but also the ripple and multiplier effect in the economy.

With this level of re-employment through additional housing construction, it will be possible to reduce unemployment to a more tolerable level in a revived economy. During the week ending February 8, 1975, the budget carried the costly burden of unemployment insurance benefits for 5,960,000 workers! Through the proposed additional assisted-housing construction and the creation of additional jobs, there will be a large reduction in the number of workers receiving unemployment insurance benefits because they will obtain full-time jobs.

In testimony before the Joint Economic Committee on February 28, 1975, Mr. Arthur M. Okun, former Chairman of the Council of Economic Advisers, stated:

"The nation's rate of production is currently running some $175 billion below the levels that would be generated by an average prosperity with a 5 percent unemployment rate. That is the present toll of idle men and idle machines, and it keeps growing with the end nowhere in sight."

By the adoption of our program to stimulate additional assisted housing construction, there will be an increase in the national rate of production by $70 billion a year for a two-year period. This is almost half of the shortfall cited by Mr. Okun. This includes the multiplier effect of the additional construction throughout the economy. On an annual basis, this would represent a 5 percent increase in our Gross National Product. This improvement in the economy will increase tax revenues by more than $16 billion a year for a two-year period. The housing industry has contributed more to idle capacity than any other industry during this pervasive recession. With housing starts far less than half of what they were in 1972, our annual level of national production is at least $175 billion below potential.

In testimony before the Ways and Means Committee, the former Director of the Office of Management and Budget stated that tax receipts would be $40 billion greater than in FY 1976 if the economy were as fully employed as in 1974, which was not a year of full employment. This confirms the fact that increases in the Gross National Product as a result of the additional assisted housing construction will reduce the budget deficit as indicated.

A rapid restoration of housing construction would be the best and biggest positive stimulant to recovery. By a prompt and major expansion in housing construction, we can help fulfill the needs for more and better housing, stop this costly and wasteful recession and help bring us back to economic prosperity.

We oppose the Administration's proposed program which would reduce expenditures for the avowed purpose of reducing budget deficits. In fact, that program results in higher budget deficits because it continues the depression in construction and the deep recession in the economy. The main elements in causing the current budgetary deficits under the Administration's program are the added cost of unemployment insurance benefits and the tremendous loss in tax revenues. By reducing the cost of unemployment relief and increasing tax revenues, there will be an improvement in the budget which will more than offset the annual cost of additional assistance payments for housing. Our proposed assisted housing program will reduce budget deficits rather than add to them. Moreover, the expenditures to stimulate housing construction will increase our capital assets and add to the real wealth of the Nation.

CONCLUSION

The housing expenditures we recommend will (1) create 2,400,000 full-time jobs a year for a two-year period which will cut budget expenditures for unemployment insurance benefits and (2) improve the national rate of production by $70 billion a year for two years which will increase tax revenues by $16 billion for each of these years. This will reduce the deficits in the Federal Budget and reduce Government borrowing. Through the adoption of the programs we recommend, housing can again be the bellwether to lead the economy out of the recession, relieve unemployment and meet the urgent housing needs so long neglected.

EXHIBIT A

HUD'S PROJECTIONS OF HOUSING STARTS BASED ON EXCERPTS FROM ITS TABLE ENTITLED "INVENTORY OF RESERVATIONS OUTSTANDING"

	236	Low rent public housing	Rent supplements	235	Total
Fiscal year 1975 starts	30,000	35,000	6,000	18,300	89,300
Fiscal year 1976 starts	40,000	35,000	7,000	.....	82,000
Reservations outstanding on July 1, 1976, without housing starts	54,166	51,147	14,603	.....	119,916
Total	124,166	121,147	27,603	18,300	291,216

NOTES

1. The foregoing table relates to housing projects which are already in the HUD pipeline and have funds available under assisted programs. The table is more optimistic in its projection of housing starts than is justified based on HUD's current slow rate of achieving housing starts.

2. In sec. II of our resolutions, we recommend that HUD get a quick start on construction this year of the above 291, 216 units of assisted housing by reviving the operation push-out program which was used successfully in 1971. These housing projects are already in the HUD pipeline and have funds available.

3. Our resolutions contain other legislative and administrative recommendations to increase housing production to the annual goal of 2,600,000 units (excluding mobile homes) established in the 1968 Housing Act, with a revised annual goal of 1,200,000 units for those of low and moderate incomes and others who have been priced out of the market.

SUPPLEMENTAL RESOLUTION CALLING FOR ACTION TO PUT ALL PROGRAMS INTO FULL-SCALE OPERATION

XXXI. Resolution calling for action by the President and the Congress—and, if necessary, the courts—to mandate the use of assistance programs for housing those of low, moderate and middle incomes

(Resolution adopted by the Board of Directors and Presented to the Membership on March 10, 1975)

Whereas, the National Housing Conference, since its founding in 1931, has been committed to the provision of decent housing in suitable environments for all American families, and

Whereas, over these 44 years it has worked particularly for the enactment of Federal

programs to provide assistance, where needed, for those of low, moderate and middle incomes to obtain such housing, and

Whereas, there are now available an array of proven programs, with funding, which can be used to meet the housing needs of the nation's low, moderate and middle income families but which have been stopped by administrative fiat, or so encumbered with excessive requirements and red tape that practically no housing is being provided under them, and

Whereas, the National Housing Conference believes that the full use of these housing and community development programs should represent a matter of the highest priority for this nation and its government, to meet not only the unquestioned needs of millions of families now residing in inadequate housing, but also to restore an opportunity for employment to the hundreds of thousands of workers who have been thrown out of their jobs because of the severe falloff in housing construction,

Now, therefore, be it resolved by the Board of Directors of the National Housing Conference that it calls upon the President and the Congress to take every necessary action to put into full-scale operation immediately all programs which are available to assist in the construction and provision of housing for low, moderate and middle income families, and

Be it further resolved, that the Congress, unless immediate action is taken by the President, mandate that the President use these programs to the full extent of funds available through such means as may be necessary, including conditioning the continued operation of the Department of Housing and Urban Development on their use and tieing such a mandate to the next appropriate appropriations act that will be before the Congress, and

Be it further resolved, that, if necessary, the National Housing Conference initiate or support appropriate action in the courts of the United States to assure that the programs are, in fact, carried out.

In presenting this Resolution to the members, President Leon N. Weiner stressed the urgency of the housing situation as follows:

"The time for hand wringing, pleading, and hoping is over. As housing production slipped dramatically in the past two years, we have watched our country fall further and further away from attaining our national goal of a decent home in a suitable environment for every American family. Our repeated warnings have gone unheeded.

"We cannot wait any longer; the time to take action is now. The tools already exist, only the will to utilize them is lacking. Fund commitments have already been made for 300,000 units of subsidized housing. The Administration, however, has proposed that only 170,000 starts be made under these commitments during the current and next fiscal years. Through an Operation Push-Out, all of the 300,000 units could be started this year. The suspended Section 235 low income home ownership program could produce 240,000 more units if impounded funds were released. In addition, funds should be reallocated from the new and untested Section 8 program to the public housing and turnkey programs in order to provide 200,000 units in a minimum of time.

"The measures, if taken now would produce 740,000 units of desperately needed low and moderate income housing in the shortest time possible. This does not include an additional housing under new programs which we support. It only includes the use of existing programs effectively and to the fullest possible extent.

"The additional housing starts will help revive the economy. They will provide about 1,500,000 full-time jobs for a year. They will increase the national rate of production by $45 billion for a year. They will increase Federal tax revenues by about $10 billion."

FOOTNOTES

[1] This topic is covered in Part I below.

[2] The underscoring in these Resolutions is to emphasize matters of major importance.

[3] These two incentives should help sell many houses which overhang the market and which qualify for this assistance. See Part IX below for a discussion of this.

[4] For a fuller discussion of the reduction in budget deficits through increased housing construction, see Parts X, XXIX and XXX.

[5] This topic is covered in Parts II through X below.

[6] For a fuller discussion of this, see Part VI.

[7] For a discussion of the maladministration of these programs and HUD's failure to take necessary and timely actions on many matters which created problems, see paragraphs (a) through (g) and (1) of Part XX, Part XXII, and paragraphs (d), (h) and (i) of Part XXIV.

[8] For a full discussion of the actions necessary to improve and expedite HUD administration, see Part XXII.

[9] This will assure the use of the Operation Push-Out program described in Part II.

[10] For references to discussions of this elsewhere in the Resolutions, see footnote 7.

[11] For a full discussion of this, see paragraph (a) under Part XX.

[12] For a full discussion of this, see paragraph (b) under Part XX.

[13] For a full discussion of this, see Part VIII.

[14] These recommendations are in Parts IV through IX below.

[15] The developers include private non-profit corporations, consumer cooperatives, limited profit sponsors and public bodies or agencies.

[16] For a full discussion of this, see Part XXIII.

[17] For a further discussion of this subject, see paragraph 6 under Part XI.

[18] The amendment in the 1974 Housing Act establishing the new income limit of 80 percent of the median is applicable to Section 236 projects undertaken before June 30, 1974, at the option of the mortgagor. It applies to all projects undertaken after that date.

[19] The same Bill was introduced in the Senate as S. 587 by Senator Ernest F. Hollings. This same Bill was also introduced by Senator Harrison A. Williams as S. 591 except that it includes provisions which would carry out some of the recommendations made in these Resolutions, such as expending assistance payments for two additional years.

[20] The programs listed below are described elsewhere in these Resolutions as follows: item (a) in paragraph (A) under Part III; item(b) in paragraph (B) under Part III; item (c) in paragraph (C) under Part III; item (d) in paragraph (B) under Part VII; and item (e) in Part IX.

[21] The House Subcommittee on Housing and Community Development approved a modified version of H.R. 29. The Subcommittee Bill, H.R. 4485, was then approved by the full House Committee with amendments. The Committee Bill authorizes commitments until June 30, 1976, for a program of 400,000 units instead of 1,000,000 units per year for two years which we still recommend. The aggregate amount of contracts for interest reduction payments under the Committee Bill is $300 million per year. Under S. 773, Chairman Proxmire estimates that the annual cost would be $300 million to reduce interest rates to 6 percent on 1,000,000 homes for middle-income families, based on financing through the Federal Financing Bank at Treasury rates.

[22] The foregoing table does not include other programs recommended in these Resolutions which relate to unassisted housing, such as additional mortgage purchases under the Emergency Housing Act and the Tandem Plan and measures to prevent massive foreclosures. These are described in Parts XVI, XVII and XX.

[23] There is an explanation for the figures of 2,600,000 and 2,400,000 used in the text. The *authorizations* are 2,600,000 units for additional assisted housing. Under the middle-income home ownership program of 2,000,000 units in H.R. 29 and S. 773 as introduced, at least 400,000 units may involve existing housing. There is a balance of 2,200,000 involving construction on assisted housing plus the 300,000 units in the pipeline. Of these, we are projecting 2,400,000 *starts* of assisted housing for a two-year period, with the balance remaining in the pipeline along with pending applications for Section 8 assistance.

[24] See Parts XXIX and XXX which show how the proposed assisted housing programs will help revive the economy and reduce budget deficits.

[25] This topic is covered in Parts XI through XIV below.

[26] For a discussion of other grounds for damage suits if new communities are not completed and environments improved in accordance with HUD-approved plans, see Part XIII relating to possible suits for the failure to complete urban renewal areas and plans.

[27] This topic is covered in Parts XV through XIX below.

[28] For a further discussion of S. 773, see Part IX.

[29] This topic is covered in Parts XX and XXI below.

[30] Hopefully new programs are being formulated by legislation and by HUD to try to avoid massive future foreclosures and acquisitions of projects.

[31] This topic is covered in Parts XXII through XXIV below.

[32] Former FHA Commissioner Sheldon Lubar states that the processing time often reached two years because of the requirements that have been imposed on multifamily. He also states that multifamily housing had the major impact on the downturn and that is where we need a clearer, simpler, direct system.

[33] This topic is covered in Parts XXV through XXVIII below.

[34] This topic is covered in Parts XXIX and XXX below.

TRIBUTE TO JAMES H. SCHEUER

The National Housing Conference salutes our immediate past president, Congressman James H. Scheuer, who resigned as President upon his reelection to the U.S. House of Representatives.

Jim Scheuer has been a dedicated fighter for decent housing for all Americans all of his life.

He has been a long-time member and supporter of the NHC. He served as a member of the Board of Directors from 1959 through 1965 when he resigned to become a member of the House of Representatives.

He served for four terms as President of the Citizens Housing and Planning Council of New York City.

He was appointed by Governor Averell Harriman of New York as Chairman of the Housing Advisory Council of the New York State Commission Against Discrimination.

In 1973, he replaced the late Nathaniel S. Keith as President of NHC and carried on the work of the organization in the great tradition of his predecessor.

Jim Scheuer has demonstrated his concern for good housing both as a private developer who pioneered under the urban renewal program and as a public leader in and out of Congress for better housing programs and legislation for the American people.

The National Housing Conference regrets the loss of Jim Scheuer's services as its Presi-

dent, but is deeply appreciative of its new friend in Congress with a depth of knowledge of the problems of the housing industry and the housing needs of the American people. We look forward to his continued advice and counsel in the years ahead. We pay tribute to him for his dedicated service.

OBITUARIES

The National Housing Conference notes with regret the loss of the following loyal and effective supporters of good housing and community development:

TRACY B. AUGUR

Tracy Augur received many honors as an urban planning pioneer. His 40 years of Federal service included participation in the development of the Tennessee Valley Authority and eight years as the first director of the "Section 701" urban planning assistance program in HHFA, which in 1954 established Federal aid for local, metropolitan and regional planning on a permanent basis.

EDWARD H. BAXTER, SR.

Ed Baxter's career in HUD and its predecessor HHFA included 9 years as regional administrator in Atlanta.

ARCHIE P. BURGESS

Archie Burgess spent most of his long Federal service in public housing architecture and design. He was an assistant director of public housing in San Francisco and Philadelphia regional offices before returning to Washington as director of design services.

IVAN D. CARSON

After service as director of the Federal government's rent control program, Ivan D. Carson joined HHFA's then new slum clearance and urban redevelopment program in 1950. He was regional director of urban renewal in Chicago for nearly 5 years.

RAYMOND M. FOLEY

A permanent foundation for HUD's present extensive housing and community development functions was created during Ray Foley's 7-year tenure as national housing administrator. First was the establishment in 1946 of the Housing and Home Finance Agency as a permanent peacetime housing agency, of which Ray was first administrator. Then came enactment after a long struggle of the first omnibus housing legislation, the Housing Act of 1949, which among other things reactivated the low-rent public housing and established the sum clearance and urban redevelopment (later urban renewal) progam. Other major accomplishments of his administration were accelerated housing production to alleviate the critical post-war shortages and the establishment of FHA's Section 213 cooperative housing program. But to him one of the biggest accomplishments was bringing greater understanding and less controversy between private industry and the government agencies.

A. R. HANSON

Ray Hanson spent his entire 27 years of Federal service in public housing, most of them in Atlanta. From 1952 to 1969 he directed Federal public housing activities in the Southeast region.

FRANK S. HORNE

Dr. Frank S. Horne was for many years in the forefront of the struggle for better housing for all, the elimination of racial discrimination in housing and in public employment opportunities. In 1940, after two years service under Robert C. Weaver, he became Federal public housing's principal racial relations officer and later directed the greatly expanded minority group activities for the entire HHFA. After 1955 he performed similar services for New York City. He was a longtime member and supporter of NHC, a founder of the Committee against Discrimination in Housing and a member of several civil rights organizations.

ANDREW S. IDDINGS

Andrew Iddings fought for the first state housing authority law, in Ohio in 1933, helped draft the United States Housing Act of 1937, and was a founder and long-time chairman of the Dayton Metropolitan Housing Authority.

JOHN A. KERVICK

John Kervick's services to housing were extensive and varied. As regional director of the Federal public housing in New York he supervised the production of more than 78,000 war housing units. He was an ardent supporter of NHC and fund raiser, a member for approximately 30 years, board member for more than a decade, for many of which he was also chairman.

MARY C. MAHER

Mary Maher was the nation's first woman public housing manager. She managed the Lakeview Terrace project of the Cleveland Metropolitan Housing Authority for 23 years until, in 1965, she retired at the age of 80 years.

THEO J. MCGEE

When Theo McGee retired in 1972 after 34 years of continuous service as chairman of the Housing Authority of the City of Columbus, a board resolution designating him honorary chairman and identified his name as "synonymous with public housing, urban renewal, slum clearance, community improvement and all related worthwhile objectives in Columbus". His quarter century of service on the NHC board of directors included terms as chairman, president and vice president. He was elected an honorary director in 1974. Theo also found time as a practicing lawyer to be an active Methodist layman on a local, state and national scale and to participate in politics and other civic enterprises.

ORVIL R. OLMSTED

Orvil Olmsted's 18 years in the Federal public housing program included service as regional director in Chicago and as assistant PHA commissioner of development in Washington.

ALFRED RHEINSTEIN

As chairman of the New York Housing Authority from 1937 Alfred Rheinstein selected the sites, bought the land and supervised planning and construction of the city's initial public housing project financed under the United States Housing Act of 1937.

CLARENCE S. STEIN

Clarence S. Stein, town planning pioneer, was best known for his advocacy of the "garden city" concept and for the prototype projects he designed, including the three Federal greenbelt towns built in the '30's, Sunnyside Gardens in Queens, Baldwin Hills Village in Los Angeles, and the planned suburb of Radburn, N. J. He had a broad interest in social problems and politics. He was an extensive writer and received many architectural and planning awards.

RUSSELL C. TAYLOR

Russell Taylor, director of the Columbus (Ohio) Metropolitan Housing Authority for 22 years, was particularly proud of its accomplishments in providing better housing for the city's elderly residents. He was a member of NHC for nearly 20 years.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon on Monday next, following a recess.

After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business, of not to exceed 1 hour, with statements therein limited to 5 minutes each, for which I ask unanimous consent.

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

Mr. ROBERT C. BYRD. Mr. President, under the agreement entered, business can be transacted on Monday by unanimous consent, and business may be transacted by voice vote. But any rollcall votes that are ordered will go over until Wednesday under the agreement. I was about to ask that they follow the vote at 5 o'clock which will occur on the farm bill, but it is quite possible that Senators would be agreeable to having any votes that would be ordered on Monday occur prior to 5 p.m. on Wednesday. So I will not deprive them of that decision, which can be made later.

The Senate, upon the close of business Monday, will go over until 9 a.m. on Wednesday. Immediately after the two leaders or their designees have been recognized on Wednesday under the standing order, the farm bill will be resumed, under a time agreement. Rollcall votes may occur during the day on amendments thereto or on related motions or appeals or points of order, with a final vote to occur on that bill at 5 p.m.

If the conference report on the tax bill has been adopted by the other body and is ready for action in this body by Wednesday, that action would follow the final vote on the farm bill on Wednesday.

TIME LIMITATION AGREEMENT

Mr. President, I ask unanimous consent that time on any point of order in relation to the farm bill also be limited to 20 minutes, to be equally divided, in accordance with the usual form.

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

RECESS UNTIL MONDAY, MARCH 24, 1975

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 12 o'clock on Monday next.

The motion was agreed to; and at 2:09 a.m., Saturday, March 22, 1975, the Senate recessed until March 24, 1975, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate March 21, 1975 (legislative day of March 12):

IN THE COAST GUARD

The following graduates of the Coast Guard Academy to be permanent commissioned officers in the Coast Guard in the grade of ensign:

Gregory Don Ahlstrom
John Joseph Albertine
Douglas Harold Alsip
Mark Raymond Anderson
William Duncan Angel
William Coolidge Antrican, Jr.
William Timothy Bailey
David Paul Baird
Thomas John Baird
Danny Lee Barney
John Roger Barrett
Daniel Chris Becker
Charles Thomas Bennett III
William Clayton Bennett

Craig Randall Berry
Gary Thomas Blore
Raymond Walter Blowitski
Mark Elvin Blumfelder
Roger Wayne Bogue
Gregory Merle Bowlry
Dave Lee Brannon
Michael Bray
Lawrence Michael Brooks
Raymond Thomas Brooks
David Wallace Broughton
Daniel Morris Brown
Roger William Browne III
Lutz Gerd Buesing
John Louis Byczek
Jon Travis Byrd
Michael Shaun Canavan
George Albert Capacci
Keith William Chase
Stephen Thomas Ciccalone
Stephen Dennis Cmar
John Edward Comeau
Steven Marr Conway
John Ennis Crowley, Jr.
John Emmett Crowley, Jr.
Arthur Ernest Cubbon, Jr.
John Joseph Davin, Jr.
Michael John Devine
Jon Scott Dilloway
Michael John Dobravec
Brian Neil Durham
Julian Orante Elevado, Jr.
Paul Charles Ellner
Lawrence Allen Eppler
Phillip Allen Fallis
Douglas Martin Farley
Robert Edward Fellrath
John Lawrence Ferrare
Randall Robert Fiebrandt
Jeffrey Arthur Florin
Elijah Flynn
Daniel Wayne Fouts
David Michael French
Erik Norton Funk
Dale Gerald Gabel
Gordon David Garrett
Christopher Albert Gauvin
Joseph Gerard Gianfalla, Jr.
David Cannon Glover
Richard Wayne Goodchild
William Ernest Goodwin
John Lawrence Grenier
Gregory Peter Griffiths
Frank Jeffrey Gross
Donald Stephen Grushey
Jonathan Todd Gunvalson
Wayne David Gusman
Lawrence Alan Hall
James Joseph Hanks
Dennis John Hardacker
Barry Albert Harner
Stephen Philip Healow
Harlan Henderson
Joel Charles Hendrix
Benjamin Arnold Herrick
Michael Francis Holmes
David Willis Hoover
Gregory Joseph Horton
Richard Reid Houck
Dwight George Hutchinson III
Dennis Ihnat
Harvey Elwood Johnson, Jr.
William Logan Johnson
David Wyn Jones
Richard Dan Kassler
William Connor Kessenich
Roosevelt Lincoln Kinney
William Alan Kosty
Scott Vincent LaBurn
Charles Taylor Lancaster
Robert Michael Latas
Harold Devoy Lee
Patrick Kenneth LeSesne
Warren David Levine
Carl Andrew Lindberg
James Jerome Lober, Jr.
Kevin John MacNaughton
Christopher Ryder Marple
Douglas Eugene Martin
Thomas John Martin
George Ritchie Matthews, Jr.
Thomas Jackson McDaniel
Eugene Lawrence McDermott
Joseph Robert McFaul
Kenneth David McKinna
Thomas Henry Micklas
Terence Russell Miller
Walter Scott Miller
Steven Allen Newell
Frederick Thomas Nichols
Dana Vincent O'Hara
Robert Andrew Opkins
John Gerard Pagani
Robert Joseph Papp, Jr.
William Melvin Parker, Jr.
John Frederick Pillsbury
Richard Charles Pohland
Marvin James Pontiff
Martin Bernard Potkalesky
Geoffrey David Powers
Richard Paul Prince
Wayne Clay Raabe
David James Radachy
Paul Ellery Redmond, Jr.
Gregory John Robinson
Walter John Romanosky, Jr.
Richard Arthur Booth
Fred Mandez Rosa, Jr.
Richard Lee Roseberry
Douglas Paul Rudolph
David Wayne Ryan
Patrick Joseph Ryan
James Sabo
Arthur Louis Sala
Richard Wayne Sandford
James Robert Santucci
Craig Louis Schnappinger
Mark Warren Schultz
Mark Linsly Scirf
Richard Michael Sebek
Herbert Henry Sharpe
Bernard Joseph Silkowski
Michael Jeffrey Smith
John Clyde Simpson
Michael Jeffrey Smith
Glenn Louis Snyder
William Henry Southwood
Robert Arnold Stromsted
Timothy Shawn Sullivan
Jeffery Henry Sunday
Philip Allen Thibault
Michael Edward Thompson
Dennis Coleman Thorseth
Timothy Edward Tilghman
Craig Richard Trump
George Robert Turner, Jr.
Mark Gustav Vanhaverbeke
William Stephen Otto Vicek
Walter Emil Veselka III
Arthur Joseph Volkle, Jr.
Charles Lewis Wakefield
Mark Richard Warburton
Clyde Kazuto Watanabe
Ty G. Waterman
Thomas Alden Watkins
Christopher Cyrus Watson
Andrew Garey Webb
James Duffy Weselcouch
Joel Raphun Whitehead
Franz Meredith Wilcenski
David Ernest Willhite
Frank James Williams
John Robert Williams
Matthew Gilbert Williams
Henry Kendall Witmer
Frederick Roy Wright

The following regular officers of the permanent commissioned teaching staff of the U.S. Coast Guard for promotion to the grades indicated:

Captain

Jimmie D. Woods
Ronald A. Wells

Commander

David A. Sandell

The following member of the U.S. Coast Guard for appointment as Director of the Coast Guard Band to be a permanent commissioned officer in the grade of lieutenant (junior grade):

Lewis J. Buckley

The following Reserve officers of the U.S. Coast Guard to be permanent commissioned officers in the Regular Coast Guard in the grades indicated:

Lieutenant commander

Lawrence G. D'Oench
John A. Goodman

Lieutenant

Peter S. Heins	William C. Thompson
John C. Beckwith	William J. Van Orden
Douglas H. Eldridge	Daniel V. Wallace
Paul K. Anderson	Gary J. Turvill
Robert A. Breunig	Richard J. Davison
William Y. Clark II	Thomas H. Donek
John K. Colvin	James G. Force III
Richard B. Franks III	Brian W. Hadler
Richard W. Harbert	Timothy J. Jamison
John G. Kotecki	William S. Jerrems
Paul D. Mankovich	Paul J. Larson
Timothy R. McHugh	John R. McElwain
James B. Morris	Robert G. Ramsay
Zoran Sajovic	John A. Unzicker, Jr.

The following Reserve officers of the U.S. Coast Guard to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant (junior grade) and for promotion to the grade of lieutenant:

James L. Arias	Paul G. Golden
Philip K. Chase	John H. Johnson III
Charles N. Cobb	Raymond E. Mattson
William E. Dahlberg	Donald P. Montoro
Robert V. Diaz	Bruce Pickard
Craig S. English	Scott H. Smith
Barry A. Farnsworth	Thomas H. Spooner
Pedro G. Filipowsky	Gregory N. Yaroch

CONFIRMATIONS

Executive nominations confirmed by the Senate March 22, 1975 (legislative day of March 12):

DEPARTMENT OF JUSTICE

Harold R. Tyler, Jr., of New York, to be Deputy Attorney General.

DEPARTMENT OF STATE

John E. Reinhardt, of Maryland, a Foreign Service information officer of the class of Career Minister for Information, to be an Assistant Secretary of State.

Wiley T. Buchanan, Jr., of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Austria.

Eugene V. McAuliffe, of Massachusetts, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

Donald B. Easum, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Arthur Z. Gardiner, Jr., of the District of Columbia, to be an Assistant Administrator of the Agency for International Development.

U.S. ADVISORY COMMISSION ON INFORMATION

John M. Shaheen, of Illinois, to be a member of the U.S. Advisory Commission on Information for a term expiring January 27, 1977.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)