SENATE—*Thursday June 24, 1976*

(Legislative day of Friday, June 18, 1976)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

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

Almighty God who has revealed Thyself as a presence to support us and a light to lead us, may this new day be rich in the awareness of Thy power and the light of Thy truth upon our deliberations. Divest us of the doubt and cynicism which so readily depletes the strength and enervates the spirit. Instill within us an unswerving loyalty to all that is right, and an uncompromising hostility to all that is wrong. Keep alive in us the vision of a better nation and a better world. Give us a steadfast determination to have a part in those actions which set forward Thy kingdom on Earth. Bring us to the evening at peace with Thee and with one another.

In the Redeemer's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., June 24, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. PROXMIRE thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, June 23, 1976, be approved.

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

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees except the Committee on Commerce, the Committee on Banking, Housing and Urban Affairs, and the Committee on Interior and Insular Affairs be authorized to meet during today's session until 12 noon.

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

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nominations will be stated.

NATIONAL INSTITUTE OF BUILDING SCIENCES

The second assistant legislative clerk proceeded to read sundry nominations in the National Institute of Building Sciences.

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

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

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

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

LEGISLATIVE SESSION

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

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

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of certain measures on the calendar beginning with Calendar No. 922 through and including Calendar No. 930.

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

ANNUAL REPORT OF THE NATIONAL FOREST RESERVATION COMMISSION

The resolution (S. Res. 445) authorizing the printing of the annual report of the National Forest Reservation Commission, was considered, and agreed to, as follows:

Resolved, That the annual report of the National Forest Reservation Commission for the fiscal year ended June 30, 1975, be printed with an illustration as a Senate document.

LIMITATION ON EXPENSES INCURRED FOR INTERCHANGE AND RECEPTION OF CERTAIN FOREIGN DIGNITARIES

The resolution (S. Res. 459) to amend Senate Resolution 91, 94th Congress, 1st session, to increase the fiscal year limitation on expenses which may be incurred by the Committee on Foreign Relations to facilitate the interchange and reception of certain foreign dignitaries, was considered and agreed to, as follows:

Resolved, That subsection (b) of the first section of S. Res. 91, 94th Congress, first session (agreed to March 18, 1975), is amended as follows:

(1) Strike out "ending June 30, 1975" and insert in lieu thereof "1976".

(2) Strike out "$10,000" and insert in lieu thereof "$15,000".

SUPPLEMENTAL EXPENDITURES BY THE TEMPORARY SELECT COMMITTEE TO STUDY THE SENATE COMMITTEE SYSTEM

The resolution (S. Res. 475) authorizing supplemental expenditures by the Temporary Select Committee To Study the Senate Committee System, was considered and agreed to, as follows:

Resolved, That section 4 of S. Res. 109, agreed to March 31, 1976, is amended by striking out the amounts "$275,000" and "$30,000" and inserting in lieu thereof "$300-000" and "$55,000", respectively.

SUPPLEMENTAL EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

The resolution (S. Res. 479) authorizing supplemental expenditures by the Committee on Rules and Administration for inquiries and investigations was considered and agreed to, as follows:

S. RES. 479

Resolved, That S. Res. 358, Ninety-fourth Congress, agreed to January 29, 1976, is amended as follows:

(1) In section 2, strike out the amount "$522,000" and insert in lieu thereof "$572,000".

(2) In section 4, strike out the amounts "$321,900" and "$50,000" and insert in lieu thereof "$371,900" and "$100,000", respectively.

BETTY R. KITE

The resolution (S. Res. 480) to pay a gratuity to Betty R. Kite was considered and agreed to, as follows:

S. RES. 480

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Betty R. Kite, widow of Guy J. Kite, Junior, an employee of the Senate at the time of his death, a sum equal to seven and one-half months' salary at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

"DUTIES OF THE SPEAKER"

The concurrent resolution (H. Con. Res. 623) providing for the printing of a booklet entitled "Duties of the Speaker" was considered and agreed to.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

CAPITOL WALKING TOUR MAP

The concurrent resolution (H. Con. Res. 624) providing for the printing of a walking tour map of the area surrounding the U.S. Capitol, was considered and agreed to.

"PROGRESS IN THE PREVENTION AND CONTROL OF AIR POLLUTION IN 1975"

The Senate proceeded to consider the resolution (S. Res. 472) authorizing the printing of the report entitled "Progress in the Prevention and Control of Air Pollution in 1975" as a Senate document, which had been reported from the Committee on Rules and Administration with an amendment on page 1, line 6, strike "illustration," and insert "illustrations,"; so as to make the resolution read:

S. RES. 472

Resolved, That the annual report of the Administrator of the Environmental Protection Agency to the Congress of the United States (in accordance with section 313 of Public Law 91-604, the Clean Air Act, as amended) entitled "Progress in the Prevention and Control of Air Pollution in 1975," be printed, with illustrations, as a Senate document.

SEC. 2. There shall be printed five hundred additional copies of such document for the use of the Committee on Public Works.

The amendment was agreed to.

The resolution, as amended, was agreed to.

HISTORY OF THE COMMITTEE ON THE JUDICIARY

The Senate proceeded to consider the resolution (S. Res. 467) history of the Committee on the Judiciary, 1816-1976, which had been reported from the Committee on Rules and Administration with amendments as follows:

On page 1, in line 5, strike out "five" and insert "two".

On page 1, at the end of line 7, strike out "Judiciary, of which fifty copies shall be bound in such style as the Joint Committee on Printing shall Direct." and insert "Judiciary."

The amendments were agreed to.

The resolution, as amended, was agreed to, as follows:

Resolved, That there be printed with illustrations as a Senate document a revised compilation of materials entitled "History of the Committee on the Judiciary Together With Chairmen and Members Assigned Thereto, 1816-1976", and that there be printed two thousand additional copies of such document for the use of the Committee on the Judiciary.

PRESIDENTIAL AUTHORIZATION PRESCRIBING REGULATIONS RELATING TO ALCOHOLIC BEVERAGES IN THE CANAL ZONE

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8471.

The ACTING PRESIDENT pro tempore laid before the Senate H.R. 8471, an act to authorize the President to prescribe regulations relating to the purchase, possession, consumption, use, and transportation of alcoholic beverages in the Canal Zone, which was read twice by its title.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

HORSE PROTECTION ACT AMENDMENTS OF 1976

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 811.

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 811) to amend the Horse Protection Act of 1970 to better effectuate its purposes.

(The amendment of the House is printed in the RECORD of June 21, 1976, beginning at page 19467.)

Mr. TUNNEY. Mr. President, today I urge my colleagues in the Senate to bring to fruition a 4-year effort to end the inhumane practice of horse soring by accepting the House amendment to S. 811, amendments to the Horse Protection Act 1970.

Mr. President, "soring" is the term used for the cruel practice which artificially alters the natural gait of a Tennessee walking horse, or any saddle horse, by the use of blistering agents—such as mustard—or mechanical devices—such as boots and chains—on the limbs of the creature. So intense is the pain inflicted by this practice that when the forefeet of a sored horse touch the ground, it lifts them immediately and thrusts them forward in an attempt to avoid the agony. This produces the high stepping championship gait, the achievement of which would otherwise require patient training and expert breeding.

In addition to being cruel, this practice can also result in unfair competition and can ultimately damage the integrity of the breed. When soring is used, the winning walker is not necessarily the best bred and trained horse; rather it is the most tortured. I have spoken to several horsemen who are reluctant to show their horses because they could not compete against owners and trainers who subject their horses to soring. It is these conscientious breeders and trainers who are among the most ardent supporters of S. 811.

When the Congress enacted the Horse Protection Act of 1970, it was with the specific intent to stop, once and for all, the inhumane and unnecessary practice of horse soring. However, a variety of factors, including statutory limitations on enforcement authority, law enforcement methods, and limited resources available to the Department of Agriculture to carry out the law, have combined to vitiate the effectiveness of the statute.

Thus, over the past 4 years Members of Congress, including myself, have introduced legislation to strengthen and clarify the Secretary's authority to enforce the act, and to increase the financial resources available to do so. In October of last year the Senate approved such a measure, S. 811, which I was pleased to have sponsored with the distinguished chairman of the Senate Commerce Committee, WARREN G. MAGNUSON. On May 15 of this year a similar bill was reported by the House Committee on Interstate and Foreign Commerce. This bill was approved by the House on Monday of this week.

The House amendment to S. 811 is quite similar to the original Senate version. Both bills strengthen the 1970 act by imposing specific responsibility upon the management of horse shows, exhibitions, and auctions, to disqualify a sored horse from these programs upon notification by a qualified person appointed to inspect horses or by the Secretary of Agriculuture. Management would also be required to keep such records as the Secretary may require and must permit access to its premises to duly authorized agents of the Secretary for inspection of records or animals.

Both versions of the bill provide the Secretary with the authority to disqualify from entry into shows for 1 year persons who are convicted for a criminal violation of the act or who have paid a civil penalty assessed under the act. In addition, the House bill stipulates that second offenders may be disqualified for up to 3 years. The Secretary would also have the authority under both versions to detain a horse for up to 24 hours in order to examine it for soring or to take evidence.

Each bill provides procedures for the administrative assessment, collection, review, compromise, modification, and remission of civil penalties and for the appeal and judicial review of administrative orders under the provisions of the act pertaining to civil penalties.

There are some differences between the Senate and House version of S. 811. The House bill, for instance, contains an expanded definition of the term "soring" which would include not only easily detectable practices such as application of blistering agents, and infliction of lacerations, but also the more subtle soring techniques such as limb deficiencies produced by improper diets or psychological conditioning. The House bill also provides for more stringent penalties for civil and criminal violations of the act.

In my view, the only way in which the House bill is not either equal to, or superior to the Senate bill is in the amount of appropriations. The Senate authorizes for appropriation to the Secretary of Agriculture $1 million each for fiscal year 1976 and 1977 and $500,000 for the transitional period. The House bill provides only half this amount. Nonetheless, it is my understanding that OMB has indi-

cated that the $500,000 per annum figure will be easily attained, and the Department has indicated it can do an adequate job with this amount.

To get down to basics, the House amendment to S. 811 is acceptable to all concerned, including the American Horse Protection Association, the Tennessee Walking Horse Industry, and the Department of Agriculture.

With the horse show season once again upon us, we should delay no longer. As the primary sponsor of the Senate version of S. 811, I exhort my colleagues in the Senate not to let another season pass without taking action to end the cruel and unsportsmanlike practice of soring. I urge my colleagues to adopt the House amendments to S. 811 so that the legislation may be sent to the President for his signature.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. I yield to the Senator from Kentucky.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

SCRIMSHAW ART PRESERVATION ACT OF 1975

Mr. FORD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 229.

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE) laid before the Senate the amendments of the House of Representatives to the bill (S. 229) to amend the Endangered Species Act of 1973 to assure the perpetuation of the art of scrimshaw, and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That section 4(f)(2)(B)(ii) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)(2)(B)(ii)) is amended by striking out "subsection (b)(A), (B), and (C)" and inserting in lieu thereof "subsection (b)(1)(A)".

SEC. 2. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end thereof the following new subsections:

"(f)(1) As used in this subsection—

"(A) The term 'pre-Act endangered species part' means—

"(i) any sperm whale oil which was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or

"(ii) any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity.

"(B) The term 'scrimshaw product' means any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea.

"(2) The Secretary, pursuant to the provisions of this subsection, may exempt, if such exemption is not in violation of the Convention, any pre-Act endangered species part from one or more of the following prohibitions:

"(A) The prohibition on exportation from the United States set forth in section 9(a)(1)(A) of this Act.

"(B) Any prohibition set forth in section 9(a)(1)(E) or (F) of this Act.

"(3) Any person seeking an exemption described in paragraph (2) of this subsection shall make application therefor to the Secretary in such form and manner as he shall prescribe, but no such application may be considered by the Secretary unless the application—

"(A) is received by the Secretary before the close of the one-year period beginning on the date on which regulations promulgated by the Secretary to carry out this subsection first take effect;

"(B) contains a complete and detailed inventory of all pre-Act endangered species parts for which the applicant seeks exemption;

"(C) is accompanied by such documentation as the Secretary may require to prove that any endangered species part or product claimed by the applicant to be a pre-Act endangered species part is in fact such a part; and

"(D) contains such other information as the Secretary deems necessary and appropriate for which the applicant seeks exemption.

"(4) If the Secretary approves any application for exemption made under this subsection, he shall issue to the applicant a certificate of exemption which shall specify—

"(A) any prohibition in section 9(a) of this Act which is exempted;

"(B) the pre-Act endangered species parts to which the exemption applies;

"(C) the period of time during which the exemption is in effect, but no exemption made under this subsection shall have force and effect after the close of the three-year period beginning on the date of issuance of the certificate; and

"(D) any term or condition prescribed pursuant to paragraph (5) (A) or (B), or both, which the Secretary deems necessary or appropriate.

"(5) The Secretary shall prescribe such regulations as he deems necessary and appropriate to carry out the purposes of this subsection. Such regulations may set forth—

"(A) terms and conditions which may be imposed on applicants for exemptions under this subsection (including, but not limited to, requirements that applicants register inventories, keep complete sales records, permit duly authorized agents of the Secretary to inspect such inventories and records, and periodically file appropriate reports with the Secretary); and

"(B) terms and conditions which may be imposed on any subsequent purchaser of any pre-Act endangered species part covered by an exemption granted under this subsection; to insure that any such part so exempted is adequately accounted for and not disposed of contrary to the provisions of this Act. No regulation prescribed by the Secretary to carry out the purposes of this subsection shall be subject to section 4(f)(2)(A)(i) of this Act.

"(g) In connection with any action alleging a violation of section 9, any person claiming the benefit of any exemption or permit under this Act shall have the burden of proving that the exemption or permit is applicable, has been granted, and was valid and in force at the time of the alleged violation.".

SEC. 3. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is further amended—

(1) by striking out "subsection" in the first sentence of subsection (c) thereof and inserting in lieu thereof "section"; and

(2) by striking out the period at the end of the second sentence of subsection (c) thereof and inserting in lieu thereof the following: "; except that such thirty-day period may be waived by the Secretary in an emergency situation where the health or life of an endangered animal is threatened and no reasonable alternative is available to the applicant, but notice of any such waiver shall be published by the Secretary in the Federal Register within ten days following the issuance of the exemption or permit.".

SEC. 4. Section 11(e)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)(3)) is amended—

(1) by inserting immediately before the words "execute and serve any arrest warrant," in the second sentence thereof the following: "make arrests without a warrant for any violation of this Act if he has reasonable grounds to believe that the person to be arrested is comitting the violation in his presence or view, and may"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof the following: ", but upon forfeiture of any such property to the United States, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by the Secretary in such a manner, consistent with the purposes of this Act, as the Secretary shall by regulation prescribe.".

SEC. 5. Paragraph (1) of section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532(1)) is amended by striking the period and inserting in lieu thereof ": *Provided, however*, That it does not include exhibition of commodities by museums or similar cultural or historical organizations.".

Amend the title so as to read: "An Act to amend the Endangered Species Act of 1973 in order to permit the disposal of certain endangered species products and parts lawfully held within the United States on the effective date of such Act."

Mr. FORD. Mr. President, I understand that these amendments have been agreed to on both sides and all those who are interested have agreed to them.

Mr. President, the Senate and the House have approved differing versions of S. 229, which would create exemptions from certain trade prohibitions contained in the Endangered Species Act of 1973. The House version is now at the desk. In further amending the bill slightly and sending it back to the House, we will expedite the ultimate enactment of the legislation and clarify some of its provisions.

The Endangered Species Act was enacted to prohibit the importation and sale in interstate and foreign commerce, of any endangered species of animal or plant, or their parts and products. Congress had earlier enacted the Marine Mammal Protection Act on October 21, 1972 which contained such prohibitions with respect to species of marine mammals only.

The Marine Mammal Protection Act expressly provides that the interstate trade prohibitions do not apply to marine mammals taken prior to December 31, 1972, the effective date of the act. However, the Endangered Species Act contains no such "grandfather" clause. This discrepancy has resulted in

the application of the Endangered Species Act prohibitions to marine mammal parts and products otherwise legally held or taken under the Marine Mammal Protection Act.

To remedy this situation with respect to scrimshaw, an art form using whale bone and teeth, the Senate Committee on Commerce approved, and the Senate passed, S. 229. This bill would authorize the Secretary of Commerce, who administers the Endangered Species Act with respect to whales, to grant exemptions for a limited period of time for the sale of finished scrimshaw products in interstate commerce. This would permit scrimshaw artisans, known as scrimshanders, sufficient time both to dispose of their present inventories and to adapt their art to a new medium, without encouraging endless trade in whale products.

In its deliberations on the Senate-passed bill, the House Merchant Marine and Fisheries Committee expanded S. 229 to include additional authority for issuing exemptions for legally held sperm whale oil. The exemption for sperm whale oil was deemed necessary to allow those who legally held this oil on December 31, 1972, to dispose of it. This includes the General Services Administration which holds approximately 23,400,000 pounds of sperm whale oil in the national stockpile as well as several private companies. The committee also made several other minor changes in the Endangered Species Act at the request of the Interior Department to improve administration and enforcement of the act.

During a recent oversight hearing on the Endangered Species Act held by the Senate Commerce Committee, three minor modifications to the House-passed bill were suggested. Rather than going to conference, however, we can expedite the entire process by sending the amended bill back to the House for its expected early approval. By taking this course we would also avoid any potential "scope of conference" problems that might be encountered in a conference with respect to the inclusion of the amendments.

The first amendment simply clarifies that the exemption for sperm whale oil applies to derivatives of this substance as well, including, for instance, spermacetti which is used by pharmaceutical companies as an ingredient in lotions, cosmetics, and the like. While this is the intent of the House version, it is desirable to make this absolutely clear.

The second amendment responds to a request by the General Services Administration that the validity of the contracts entered into by GSA with private companies for the disposal of the Nation's stockpile of sperm whale oil be made clear. This provision would not, however, legalize trade that took place in this material prior to enactment of S. 229.

The third amendment speaks to the effect which enactment of S. 229 would have on the enforcement of the existing Endangered Species Act prohibitions. The Department of Commerce has been enforcing these prohibitions, and sanctions have been applied in several cases. In addition, investigations are presently underway in connection with both civil and criminal violations of the act by persons dealing in scrimshaw and sperm whale oil. The purpose of this amendment is to resolve any uncertainty regarding previous enforcement actions or on-going investigations. The amendment simply states that nothing in S. 229 shall be construed to, first, exonerate any person for any act committed, prior to the date of enactment of S. 229, in violation of the provisions for which exemptions are being granted, or second, to immunize any person from prosecution for any such act.

The effect of S. 229 with these amendments will be to allow the interstate sale of legally held scrimshaw and sperm whale oil, but to preserve the right to prosecute persons who have violated existing provisions of the Endangered Species Act by trading in these whale products previous to these exemptions. The Commerce Committee is particularly concerned that persons who willfully ignored the act's provisions be subject to prosecution.

In its report on S. 229, the committee made clear that this would be a one-time exemption which would by no means encourage an endless trade in products of endangered species. I would like to reiterate that point at this time and assure my colleagues in the Senate that enactment of S. 229 and these amendments will in no way pose a threat to the living whale population.

With this assurance, I urge the adoption of the amendments.

UP AMENDMENT NO. 84

Mr. President, I move that the Senate concur in the House amendment with two amendments which I send to the desk.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD), for himself and Mr. MAGNUSON, proposes unprinted amendment No. 84:

Section 2 of the House amendment to the Senate bill is amended as follows:

Amend subsection 10(f)(1)(A)(i) by inserting after the term "sperm whale oil" the term ", including derivatives thereof,".

Section 2 of the House amendment to the Senate bill is amended as follows:

Amend subsection 10(f) by inserting at the end of paragraph (5) the following two new paragraphs:

"(6)(A) Any contract for the sale of pre-Act Endangered Species parts which is entered into by the Administrator of General Services prior to the effective date of this subsection and pursuant to the notice published in the Federal Register on January 9, 1973 shall not be rendered invalid by virtue of the fact that fulfillment of such contract may be prohibited under subsection 9(a)(1)(F).

"(B) In the event that this paragraph is held invalid, the validity of the remainder of the Act, including the remainder of this subsection, shall not be affected.

"(7) Nothing in this subsection shall be construed to—

"(A) exonerate any person from any act committed in violation of paragraphs (1)(A), (1)(E), or (1)(F) of section 9(a) prior to the date of enactment of this subsection; or

"(B) immunize any person from prosecution for any such act."

Mr. KENNEDY. Mr. President, I wish to thank the Commerce Committee Subcommittee on Environment and its most distinguished chairman, Senator PHIL HART, for the time and effort they have given to consideration of this legislation which I introduced to preserve the art of scrimshaw. I am particularly grateful to the staff members of the subcommittee, especially Kathi Korpon, for their work in refining this legislation to insure that our absolute commitment to end the slaughter of whales is in no way weakened by this amendment to the Endangered Species Act.

The legislation we act on today will permit the sale and shipment in interstate commerce of scrimshaw products for a limited period of time, 3 years, and under conditions which guarantee that no illegally obtained whale products are introduced into commercial activity.

It is particularly appropriate as we celebrate the Bicentennial that we preserve those art forms which reflect our unique heritage and culture. The noted author and scrimshaw expert E. Norman Flayderman points out:

> American whaling days are gone forever. Although the era can never be relived, the intriguing artifacts that remain are highly significant reminders of a wonderful era of our past that succeed in catching the spirit of a magnificent and departed period.

President Kennedy reflected that scrimshaw "tells us a very important part of our lives—our lives at sea." And it was President Kennedy's own collection of scrimshaw that reminded so many Americans of an exciting and courageous period in our history.

This legislation will allow our hundreds of scrimshaw artists sufficient time to learn their art on new materials. These artists are etching on beef bone and synthetic materials now in an effort to find a readily available material for their work. It will allow museums and collectors an opportunity to obtain scrimshaw products for their collections that are only available in States other than their own.

Most importantly, this bill will assure that this Nation's commitment to stop the killing of whales is in no way jeopardized. Any person seeking an exemption must establish that the whale products were taken legally. These inventories of legally held products will assist the Department of Commerce in their efforts to enforce provisions of the Endangered Species Act to end the smuggling of illegally taken products.

We owe a special debt of gratitude to the environmental and animal protection groups, particularly representatives of the Fund for Animals who gave us so much of their time and their valuable suggestions to insure that this legislation did not weaken the Endangered Species Act and who helped us strengthen provisions to enforce compliance with the law to end activity in illegally taken teeth and whale bone. Without their help we would not have been able to develop the legislation we act on today reflecting both our commitment to end

the killing of whales and our commitment to preserve scrimshaw as an American art form.

Any legislation which amends the Endangered Species Act, a law universally recognized as the strongest and most effective legislation in protecting animals in danger of extinction, must be carefully and thoughtfully drawn to assure that the Congress commitment to the protection of endangered animals is not diminished. The amendment we approve today has been under consideration for a year and a half, has been the subject of public hearings, and has had the most valuable input of the animal protection groups. As a result, we were able to draft this amendment to the Endangered Species Act which reaffirmed and strengthened the resolve of the Congress to protect the whale.

Mr. President, I share with my colleagues in the Senate a deep sense of regret that the slaughter of the sperm whale continues in record numbers even today. The largest quota permitted for the world's whaling nations is for the killing of the sperm whale. The United States is absolutely committed to end the whale slaughter and we renew our efforts to encourage other nations to follow our lead.

We are all too familiar with the pattern which recognizes the danger to our marine mammals and wildlife only after it is too late. I again assure all those citizens who have worked so hard to end the killing of the sperm whale that they have my strongest support. And I am hopeful that we in the Congress, working together with these citizens, can be successful in protecting the sperm whale for generations to come.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to concur in the House amendment with the Senate amendments.

The motion was agreed to.

ORDER OF BUSINESS

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

Mr. DOMENICI. No, I do not.

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

NATIONAL LEADERSHIP CONFERENCE ON ENERGY POLICY—SENATE JOINT RESOLUTION 206

Mr. STONE. Mr. President, memories of the 1973 gasoline shortage and the long waiting lines have faded. Retail gasoline prices have temporarily stabilized. The Damoclean sword of OPEC has passed from our minds. Most Americans no longer worry about energy shortages.

It is unusual to hear the Presidential candidates talking to voters about energy. They probably have read recent public opinion polls indicating that concern about energy ranks very low among the voters. According to the Harris Survey, at the beginning of 1976 only 13 percent of the American people considered "the energy shortage" as one of the "biggest problems" facing the American people. Few leaders seem anxious to alter this apathy.

In the Congress of the United States, which has the primary policymaking function under the Constitution, energy rarely occasions major debate. Since the enactment of the Energy Policy and Conservation Act of 1975, signed into law by President Ford, there has been little interest in Congress in reviewing our energy situation. Indeed, there appears to be an unfortunate and ill-founded assumption that the 1975 act established a sufficient energy policy for the Nation. Although when passed this legislation probably represened the best possible political compromise on energy, it certainly does not incorporate an effective national energy policy.

I respectfully suggest, Mr. President, that we have come to a point of national indifference toward America's energy supply. As a people we seem to prefer the illusion of short-term comfort to the reality of dealing with our fundamental energy problems. Ironically, this apathy is increasing as the country begins to recover from the economic recession and has a higher demand for energy. If the recovery continues—as we hope it would—demand for more energy must be expected to rise in tandem.

An example is the increased demand for motor gasoline. For the 4-week period ending May 21, 1976, demand for motor gasoline was 7.10 million barrels per day. Compared to the same period in the last 3 years, demand was up 7.7 percent over 1975; 10 percent over 1974; and, 4.4 percent over 1973. Motor gasoline demand for the year 1976 to date—ending May 21, 1976—was up 5.8 percent over the same period for 1975; 10.7 percent over 1974; and, 5.7 percent over 1973.

The increasing demand for gasoline is alarming because there has been a steady yearly decline in the rate of domestically produced oil. In 1972, there was a total of 3.5 billion barrels of oil produced domestically; in 1973, a total of 3.4 billion barrels; 1974, a total of 3.2 billion barrels; and, in 1975, a total of 3.05 billion barrels. The 1976 estimate shows a continued decline in the total number of barrels of oil produced domestically.

Analysts tell us that the demand for gasoline shows no sign of abating. The summertime, when most Americans take their vacations is upon us. Millions of Americans will be driving around the country. National celebrations during the Bicentennial Year are likely to push the demand for gasoline to even higher levels.

Recent sales reports from domestic automakers also point to increasing gasoline consumption. Domestic small cars and their foreign counterparts continue to take a smaller share of U.S. auto sales. Intermediate and large cars dominate sales reports. Cadillac sales, for example, are up 50 percent this year so far over 1975. This is due at least in part to less worry over availability and price of gasoline.

Two years ago we were shocked into the realization of our vulnerability to the foreign oil-producing nations. That vulnerability still exists. The gasoline lines have gone away, but the causes for those gasoline lines remain with us.

Crude oil imports through May 7 of this year were 35.6 percent above the same period for 1975; 83.4 percent above the same 1974 period; and 73.1 percent above the 1973 period. In 1973, the United States imported 35.8 percent of its total domestic demand for petroleum. In 1974, this figure was 36.6 percent. Last year, 1975, the figure increased to 40 percent. Despite all of the clamor about "energy independence" our Nation's dependence on unreliable, foreign sources of petroleum is actually increasing.

There has also been a disturbing increase in the amount of oil we import from sources that have proven to be unreliable in the past. In 1973, 14.6 percent of our imported petroleum came from the Arab OPEC countries—Algeria, Iraq, Kuwait, Libya, Qatar, Saudi Arabia, and the United Arab Emirates. In 1974, this figure decreased slightly to 12.3 percent. In 1975, this figure increased to 22.9 percent.

The fact that OPEC recently decided against an additional oil price increase should give us no sense of security. The disturbing fact is that OPEC could have then imposed an additional price increase and, most probably, will do so in the near future without the United States being able to do much, if anything, about it. We remain today—as we were at the time of the 1973 boycott—dangerously dependent upon OPEC for our vital energy supplies. Until this situation is corrected, our national security—as well as our economic well-being—will to a large extent, be subject to decisions made beyond our shores and over which we have no control.

Mr. President, I have regrettably come to two disturbing conclusions. First, we have failed as yet to put into place an effective energy policy for America. Second, we are doing very little right now toward the adoption of such a policy. We find ourselves in a position of policy paralysis with respect to energy, despite the fact that our national security and economic well-being depend greatly upon the implementation of an effective energy policy.

In order to rekindle our national resolve and to focus our thinking about energy, I am today proposing that the President of the United States convene a National Conference on America's Energy Policy. This conference should be held as soon as practical following the 1976 Presidential election, but no later than 60 days following the inauguration of the next President on January 20, 1977. For this purpose, I am introducing a joint resolution which requires approval by both the Senate and House of Representatives and which must be signed by the President. I propose the conference in this manner so as to secure from the national leadership a commitment to its call without regard to partisanship.

As set forth in section 2 of the joint resolution, the conference would consider alternative policies available to the United States in resolving the energy

problems confronting us. The conference would review our present situation, analyze our opportunities and difficulties, and construct proposals which would form the basis for an immediate national energy policy. In this process, the conference would consider the development of reliable sources of energy, the need for meaningful energy conservation, the economic, environmental, and international was well as domestic impact of specific energy proposals.

The participants should represent the broadest range of viewpoints and backgrounds—Members of Congress; Federal, State, and local government officials; representatives from energy companies, environmental and conservation organizations, organized labor, consumer organizations, industrial and financial trade associations, and academic and scientific communities; and individual citizens with particular expertise in the energy field.

Section 3 of the joint resolution directs the President to establish a conference committee, composed of 15 individuals representative of conference participants, to plan the conference pursuant to Presidential guidelines. It provides for the staffing of the conference under the authority of and direction of the conference committee. The conference committee should be directed by the President to consult with interested citizens, organizations, and associations at every stage of planning and structuring the conference, in order to assure that the format and focus of the conference reflects the whole range of concerns and viewpoints regarding energy.

Section 6 of the joint resolution provides for the authorization of such sums of money as are necessary to carry out the provisions of the resolution. The Conference Planning Committee would have control over the cost of the Energy Conference, but it could be, and should be as inexpensive as possible. As in the case of past Presidential conferences, I anticipate that most of the participants would pay their own way in order to present their views at such a crucial symposium.

It is critical that our national leadership move ahead quickly after the Presidential and congressional elections of 1976 to develop a workable national energy policy. The conference should convene soon enough to lay the groundwork for a Presidential and congressional energy-policy initiative early in 1977. The recommendations of the conference should provide a springboard for the President and the Congress to achieve a truly comprehensive energy program for the country.

The main focus of this conference is to be the development of a near-term energy policy. While we have much to accomplish in the area of research and development for new energy sources and improved technology, the Nation's most urgent need is to put into place an energy policy which will assure reasonable economic growth, encourage meaningful conservation, and safeguard the environment over the next 10 years. The conference should concentrate on what should be done now to encourage greater domestic production of oil, gas and coal recognizing that the American economy and standard of living will continue to require enormous amounts of energy.

We need to review and analyze the impact of present Government policies including oil and gas price control, Federal coal-mining regulation, and Federal tax provisions—to determine their impact on America's energy situation. Although the 94th Congress enacted the Energy Policy and Conservation Act of 1975 and has worked hard on other legislation affecting energy, we do not have either a clear understanding of the resulting impact of the present energy legislation or the proper future role of Government regulation in the energy field.

The conference should give attention to at least five areas which bear upon the formulation of a national energy policy. These areas are: The worldwide energy situation, energy resources in the United States, the social, economic, and political implications of energy policy options, the environmental implications of energy policy options, and energy conservation. Each of these areas interrelate and these relationships should also be explored.

Most Americans realize that there can be no consideration of America's energy needs without reference to the international energy situation. The OPEC cartel controls crucial production and pricing levels. To a great extent, the economies of the industrial West and Japan and the survival and development capabilities of the Third World are tied to OPEC supplies. The possibility of changing this control seems remote, therefore, we have to review the international situation carefully in the process of developing a national energy policy.

The conference will want to study our own American energy resources. Our highly developed technological capabilities and our abundant natural resources give the United States a unique position among industrialized nations in meeting future energy needs. Taken together and properly fastened, we may have sufficient sources of oil, gas, coal, and nuclear power to meet our energy needs in the near future. How wisely we use these resources and technology will in large part determine our future economic development and national security.

There is a price to be paid for new energy development or the lack thereof. The impact of alternative energy policies on our way of life must be recognized. It is incumbent upon us as a people to chart a course somewhere between ill-considered development and no development at all. The conference must address these matters.

There is strong sentiment that energy development in this country must not be undertaken without first carefully considering the impact on the environment. We have already paid a high price for the random energy development practices of the past. Only the orderly and intelligent use of the Nation's energy resources can provide for continued economic development without ruining our precious natural heritage. The national leadership Conference on Energy Policy should review carefully the relationship between the need for energy development and the imperative of preserving the environment.

Additionally, Mr. President, the conference must look to energy conservation. No nation wastes more energy than the United States. A significant amount of our consumption is mindlessly lost without purpose. As yet, neither the Federal Government nor State governments have implemented an effective energy conservation program. Consumption levels must be reduced, however, without undue disruptions to the essential requirements of our economy and standard of living. What we need, and what the conference should work toward is a practical and equitable conservation program for the country that will have the support of the American people.

Mr. President, we cannot afford to wait for another boycott, or outrageous price increases, or a freezing winter to jolt us into action. We need a comprehensive energy program now. Waiting earns us nothing and may cost us plenty in lost jobs, another round of inflation, and low national morale.

Our energy problems are serious—and they are not going away by wishful thinking. Let us marshal our resources—our advanced technology, our material abundance, our diplomatic skills, and our "can do" spirit—and direct them toward our most critical continuing dilemma—energy. To do less is to invite disaster.

At the same time all this is taking place, the only call that the Senator from Florida has observed of caution and warning took place today, in a press dispatch by Reuters from Tokyo, in which Frank Zarb, the head of the Federal Energy Administration, warns of the possibility of another embargo on oil supplies.

Mr. President, for all these reasons, the resolution I have submitted today, calling for what amounts to a summit conference on energy, should be agreed to and implemented.

There are two ways in which we can refocus our attention on energy. One is by an embargo or an oil squeeze imposed from abroad. The other way is as selfstarters, knowing of our problem and doing something about it.

The leadership conference I am proposing today would be chaired by the President-elect, participated in by the Members of the Senate and the House joint conference on the energy bill that we passed in December of 1975, as well as leaders in the energy field and experts in the areas on which energy impacts.

Several years ago, Congress called for an economic summit. It was chaired by the newly selected President, selected by the constitutional process. That summit conference led to significant Presidential and congressional moves which may well have provided the impetus for the recovery we are beginning to enjoy today.

The Senator from Florida hopes that through a summit leadership conference

on energy, properly attended and covered by our national press, we can focus our deserved attention on the energy problems, with a view toward solving them. Without that kind of focus, without that kind of attention, the attention will be drawn to our problems only by a renewed squeeze.

I hope we have the good sense to choose to solve our own problems rather than be faced with a boycott and the pressures of having to solve these problems under the gun.

Mr. President, I have a series of charts, graphs, and newspaper articles that I would like to include in the RECORD. I ask unanimous consent that these materials and the text of the joint resolution be printed at this point in the RECORD, together with the press dispatch I referred to.

There being no objection, the joint resolution and material were ordered to be printed in the RECORD, as follows:

S.J. RES. 206

Whereas, the United States continues to face critical problems relating to energy, despite enactment in 1975 of the Energy Policy and Conservation Act;

Whereas, because of insufficient development of reliable domestic energy sources, such as oil, gas, and coal, and insufficient energy conservation programs, United States dependence on unreliable foreign energy sources has continued to increase during 1976;

Whereas, the Nation's security, economic vitality, and environmental well-being depend upon the adoption of a comprehensive energy policy to resolve these problems; and

Whereas, the successful development and implementation of such a policy requires the active support of the American people and the cooperation of all levels and branches of government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall call a National Leadership Conference on Energy Policy (hereafter in this joint resolution referred to as the "Conference") to convene in Washington during 1977. The President shall, not later than April 1, 1977, announce the beginning date of the Conference.

SEC. 2. (a) It shall be the purpose of the Conference to consider alternative policy approaches available to the United States with respect to energy. In particular, the Conference shall develop specific proposals to increase the supply of energy from reliable sources with minimum impact on the environment, and decrease domestic energy demand in ways not harmful to America's economic recovery, which shall form the basis for the adoption of a national energy policy to be implemented during 1977 and thereafter.

(b) The Conference shall be composed of, and bring together—

(1) Members of the Congress and Federal, State, and local government officials with responsibility over energy policies and programs;

(2) representatives of energy industries, especially industries involved in producing oil, gas, and coal;

(3) representatives of public utilities;

(4) representatives of environmental and conservation organizations;

(5) representatives of consumer organizations;

(6) representatives of industrial and financial trade associations;

(7) representatives of organized labor;

(8) representatives of the academic and scientific communities; and

(9) individual citizens with particular expertise in the energy field.

SEC. 3. (a) Within 15 days after January 22, 1977, the President shall appoint a committee which shall make all necessary arrangements and preparations for the Conference. The committee shall consist of 15 members and shall, insofar as possible, be representative of members of the Conference. The President shall designate one of the members of the committee to serve as chairman and one to serve as vice chairman.

(b) The committee shall prepare and make available background materials for the use of members of the Conference.

(c) The committee is authorized—

(1) to request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities, and

(2) to employ such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil 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 no individual so employed may be paid compensation at a rate higher than the annual rate of level V of the Executive Schedule under section 5316 of such title.

(d) Each Federal department and agency is authorized and directed to cooperate with and provide assistance to the committee upon its request.

SEC. 4. Members of the Conference and members of the committee shall, when attending the Conference or when attending to the business of the committee, as the case may be, and away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistance, as may be authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 5. A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 60 days following the close of the Conference, which final report shall be made public and, within 30 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing the President's recommendations with respect to such report.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this joint resolution.

APPENDIX TO ENERGY CONFERENCE SPEECH

A. GRAPHS AND CHARTS

1. U.S. Demand Situation—Oil and Gas Products.
2. Drilling Activity in U.S.
3. Barrels of Oil Produced Domestically.
4. U.S. Crude Production vs. U.S. Crude Imports.
5. U.S. Total Petroleum Imports (1960–1976).
6. U.S. Petroleum Imports by Country (1973–1976).
7. U.S. Imports.
8. U.S Refinery Operations.

B. EDITORIALS

1. "Energy, a Return to Complacency?", Ulf Lantske, *Washington Post*, May 21, 1976.
2. "Energy Problems Neglected Too Long", *The Oil Daily*, June 2, 1976.
3. "Issues 76: Energy", *New York Times*, March 30, 1976.
4. "Energy Crisis Growing", Louis Rukeyser, McNaught Service.

TABLE. 1—U.S. DEMAND[1] SITUATION

[Thousands of barrels per day

4 week ending	May 7, 1976	May 9, 1975	May 10, 1974	May 11, 1973	Percentage change 1976–75	1976–74	1976–73
Motor gasoline	7,178	6,717	6,396	6,876	+6.9	+12.2	+4.4
Distillate	2,671	2,848	2,749	2,575	−6.2	−2.8	+3.7
Residual	2,172	2,081	2,390	2,496	+4.4	−9.1	−13.0
Kerosine	137	141	141	149	−2.8	−2.8	−8.1
Jet fuel—Naphtha	214	225	205	218	−4.9	+4.4	−1.8
Jet fuel—Kerosine	711	860	708	934	−17.3	+.4	−23.9
Total, 6 products	13,083	12,872	12,589	13,248	+1.6	+3.9	−1.3
Other products[2]	2,983	2,711	3,020	3,157	+10.0	−1.2	−5.5
Total, demand	16,066	15,583	15,609	16,405	+3.1	+2.9	−2.1

4 week ending	May 7, 1976	May 9, 1975	May 10, 1974	May 11, 1973	Percentage change 1976–75	1976–74	1976–73
Year to Date (19 reports)							
Motor gasoline	6,733	6,383	6,070	6,375	+5.5	+10.9	+5.6
Distillate	3,464	3,479	3,430	3,434	−.4	+1.0	+.9
Residual	2,678	2,759	2,689	3,141	−2.9	−.4	−14.7
Kerosine	194	214	229	256	−9.4	−15.3	−24.2
Jet fuel—Naphtha	214	206	219	214	+3.9	−2.3	
Jet fuel—Kerosine	815	812	736	862	+.4	+10.7	−5.5
Total, 6 products	14,098	13,853	13,373	14,282	+1.8	+5.4	−1.3
Other products[2]	3,221	2,959	3,155	3,274	+8.9	+2.1	−1.6
Total, demand	17,319	16,812	16,528	17,556	+3.0	+4.8	−1.4

[1] "Demand" is defined as disappearance from primary supply.
[2] Other products estimation based on U.S. BOM historical data.

Source: API Weekly Statistical Bulletin.

BARRELS OF OIL PRODUCED DOMESTICALLY

1972 total of 3.5-b barrels of oil produced domestically—per rate, 9,441,000 per day.

1973—total of 3.4-b barrels of oil produced domestically—per rate, 9,208,000 per day.

1974—total of 3.2-b barrels of oil produced domestically—per rate, 8,774,000 per day.

1975—total of 3.05-b barrels of oil produced domestically—per rate, 8,362,000 per day.

1976—(estimated) approximately 1.25-b barrels per daily average of 8,140,000.

Source: A.P.I. Weekly Statistical Bulletin.

TOTAL U.S. PETROLEUM IMPORTS BY COUNTRY OR AREA SOURCE

[Thousands of barrels per day]

	January	February	March	April	May	June	July	August	September	October	November	December	12 mo Average	12 mo Percent of imports
1975														
OPEC:														
Algeria	280	239	296	226	345	347	347	269	284	236	296	211	282	4.6
Iraq					7			16	3	3			3	.1
Kuwait	17	38	36	4	12	24	2	1	11	19	11	12	15	.2
Libya	19	82	175	125	211	183	248	407	456	236	276	355	232	3.9
Qatar	56		25	1	5		10	17		27		11	18	.3
Saudi Arabia	848	795	637	428	335	501	588	748	731	961	934	1,075	715	11.9
United Arab Emirates	47	106	112	70	125	77	107	260	216	93	69	114	116	1.9
Total Arab OPEC	1,267	1,260	1,281	854	1,040	1,132	1,362	1,718	1,701	1,576	1,586	1,778	1,381	22.9
Ecuador	53	59	31	39	83	48	77	39	70	41	50	94	57	.9
Gabon	4	38	77	17	21	59	27	18	28	18	11	13	28	.5
Indonesia	294	319	286	351	359	481	463	472	443	402	397	390	389	6.4
Iran	394	298	181	346	256	232	218	203	277	311	473	186	280	4.7
Nigeria	882	846	836	619	643	619	715	804	817	773	802	785	762	12.6
Venezuela	1,016	753	722	824	801	711	679	522	624	515	585	622	698	11.6
Total non-Arab OPEC	2,643	2,313	2,133	2,196	2,163	2,150	2,179	2,058	2,259	2,060	2,318	2,090	2,213	36.7
Total OPEC	3,910	3,573	3,414	3,050	3,203	3,282	3,481	3,776	3,960	3,636	3,904	3,868	3,594	59.6
OPEC as percent of total imports	(57.2)	(57.9)	(59.6)	(60.6)	(61.9)	(60.7)	(58.2)	(60.3)	(58.2)	(57.7)	(61.4)	(62.1)	(59.6)	
Canada	949	855	747	704	574	873	889	888	918	946	893	907	845	14.0
Mexico	20	46	38	37	86	72	85	71	98	105	106	85	71	1.2
Central America/Caribbean	1,440	1,180	1,113	848	879	830	984	953	1,052	945	792	837	987	16.4
South America	244	301	227	192	272	217	312	298	299	254	294	269	265	4.4
Europe	86	46	63	59	33	11	57	74	174	194	196	65	89	1.5
Africa	114	82	53	103	92	53	102	117	106	72	51	102	88	1.5
Asia	35	58	48	24	23	20	20	36	61	43	47	44	38	.6
Middle East	23	11	7	8	7	21	18	38	84	33	24	16	18	.3
Communist Nations	19	24	20	8	7	28	33	8	53	69	55	34	30	.5
Total non-OPEC	2,930	2,603	2,316	1,983	1,973	2,125	2,500	2,483	2,845	2,661	2,458	2,359	2,431	40.4
Eastern Hemisphere	3,118	2,984	2,852	2,389	2,481	2,655	2,955	3,488	3,744	3,491	3,641	3,414	2,923	48.5
Western Hemisphere	3,722	3,192	2,878	2,644	2,695	2,752	3,026	2,771	3,061	2,806	2,721	2,813	3,102	51.5
Total imports	6,840	6,176	5,730	5,033	5,176	5,407	5,981	6,259	6,805	6,297	6,362	6,227	6,025	100.0
Total U.S. domestic demand	17,983	17,084	16,316	16,041	15,118	15,611	15,762	15,767	15,765	16,344	15,721	17,989	16,291	
Imports as a percent of domestic demand	(38.0)	(36.2)	(35.1)	(31.4)	(34.2)	(34.6)	(37.9)	(39.7)	(43.2)	(38.5)	(40.5)	(34.6)	(40.0)	
OPEC imports as a percent of domestic demand	(21.7)	(20.9)	(20.9)	(19.0)	(21.2)	(21.0)	(22.1)	(23.9)	(25.1)	(22.2)	(24.8)	(21.5)	(22.0)	
Arab OPEC imports as a percent of domestic demand	(7.0)	(7.4)	(7.9)	(5.3)	(6.9)	(7.3)	(8.3)	(10.9)	(10.8)	(9.6)	(10.1)	(9.9)	(8.4)	
1974														
OPEC:														
Algeria		3	8	120	239	351	326	209	264	290	208	252	190	3.1
Iraq														
Kuwait				2	1	4	3	33			16	5	5	.1
Saudi Arabia	21	39	86	66	592	671	621	606	544	754	742	760	461	7.6
Libya	1	17	5	8	4				20				4	.1
Qatar					5		35	10	23	65	44	14	16	.2
United Arab Emirates	10			14	85	159	141	199	112	58	25	38	71	1.2
Total Arab OPEC	32	59	99	210	916	1,185	1,126	1,057	963	1,167	1,035	1,069	747	12.3
Ecuador	61	38	64	58	65	76	16	16	23	46	20	22	42	.7
Gabon				11	24	22	10	43	52	81	23	13	24	.4
Indonesia	172	419	265	376	281	265	336	225	331	232	340	374	300	4.9
Iran	467	337	381	617	580	552	567	486	436	398	349	445	469	7.7
Nigeria	466	357	549	711	720	735	868	910	789	708	1,031	692	713	11.7
Venezuela	1,093	1,125	1,102	987	787	778	878	874	956	1,054	1,116	1,015	980	16.1
Total non-Arab OPEC	2,259	2,276	2,361	2,760	2,457	2,428	2,675	2,554	2,587	2,519	2,879	2,561	2,528	41.5
Total OPEC	2,291	2,335	2,460	2,970	3,373	3,613	3,801	3,611	3,550	3,686	3,914	3,630	3,275	53.8
OPEC as a percent of total imports	(42.8)	(44.7)	(47.2)	(49.7)	(52.0)	(56.3)	(58.6)	(56.8)	(59.0)	(59.9)	(58.3)	(54.6)	(53.8)	
Canada	1,180	1,177	1,111	1,177	1,226	987	944	988	991	975	966	1,097	1,068	17.5
Mexico	25	4	19	4		1		13	4	5	19	6	8	.1
Central America/Caribbean	1,317	1,229	1,073	1,005	1,188	1,150	1,100	1,186	1,064	1,111	1,221	1,258	1,157	19.0
South America	239	204	208	273	283	344	315	308	215	194	246	302	261	4.3
Europe	174	223	248	321	237	143	139	119	63	54	181	140	167	2.8
Africa	52	14	20	121	129	109	98	77	78	72	66	72	75	1.2
Asia	32	14	32	19	32	28	39	20	24	33	23	40	28	.5
Middle East			16	16	5	27	44	14	26	12	23	29	18	.3
Communist Nations	45	21	28	64	15	16	9	21	7	9	54	76	30	.5
Total non-OPEC	3,064	2,886	2,775	3,000	3,115	2,805	2,688	2,746	2,472	2,465	2,799	3,020	2,812	46.2
Eastern Hemisphere	1,440	1,445	1,638	2,465	2,938	3,082	3,236	2,972	2,769	2,767	3,125	2,950	2,571	42.2
Western Hemisphere	3,915	3,776	3,577	3,505	3,550	3,336	3,253	3,385	3,253	3,384	3,588	3,700	3,516	57.8
Total imports	5,355	5,221	5,215	5,970	6,488	6,418	6,489	6,357	6,022	6,151	6,713	6,650	6,087	100.0
Total U.S. domestic demand	17,270	17,371	16,045	15,919	15,720	16,176	16,301	16,546	15,994	17,025	17,215	17,997	16,629	
Imports as a percent of domestic demand	(31.0)	(30.1)	(32.5)	(37.5)	(41.3)	(39.7)	(39.8)	(38.4)	(37.7)	(36.1)	(39.0)	(37.0)	(36.6)	
OPEC imports as a percent of domestic demand	(13.3)	(13.1)	(14.7)	(18.7)	(21.5)	(22.3)	(23.3)	(21.8)	(22.2)	(21.7)	(22.7)	(20.2)	(19.7)	
Arab OPEC as a percent of domestic demand	(0.2)	(0.3)	(0.6)	(1.3)	(5.8)	(7.3)	(6.9)	(6.4)	(6.0)	(6.9)	(6.0)	(5.9)	(4.5)	
1973														
OPEC:														
Algeria	177	177	142	115	183	159	157	137	155	147	62	1	134	2.2
Iraq								11	17	12			4	.1
Kuwait	59	44	57	50	66	58	19	57	44	56			42	.7
Saudi Arabia	372	270	401	312	416	461	659	682	626	788	635	196	486	7.8
Libya	152	230	211	185	177	98	179	184	194	203	139	24	164	2.6
Qatar						6		12	41	18	9	3	7	.1

	January	February	March	April	May	June	July	August	September	October	November	December	12 mo Average	12 mo Percent of imports
United Arab Emirates	10	39	162	75	58	80	102	64	88	62	107	(2)	71	1.1
Total Arab OPEC	770	760	973	737	900	862	1,116	1,147	1,165	1,286	952	224	908	14.6
Ecuador	41	80	26	86	18	44	38	62	40	49	38	62	48	.8
Gabon														
Indonesia	110	152	229	137	230	259	279	209	284	181	207	270	213	3.4
Iran	71	149	155	109	258	261	233	264	215	250	254	447	223	3.6
Nigeria	410	454	427	488	427	421	487	471	418	516	448	535	459	7.4
Venezuela	1,058	1,134	1,118	922	993	861	1,157	1,156	1,309	1,086	1,336	1,374	1,126	18.2
Total non-Arab OPEC	1,690	1,969	1,955	1,742	1,926	1,846	2,194	2,162	2,266	2,082	2,283	2,688	2,069	33.4
Total OPEC	2,460	2,729	2,928	2,479	2,826	2,708	3,310	3,309	3,431	3,368	3,235	2,912	2,977	48.0
OPEC as a percent to total imports	(42.3)	(42.8)	(44.5)	(44.4)	(48.6)	(46.1)	(53.6)	(50.9)	(53.8)	(51.6)	(47.1)	(49.0)	(48.0)	
Canada	1,378	1,456	1,399	1,482	1,333	1,287	1,249	1,228	1,280	1,240	1,304	1,137	1,313	21.1
Mexico	12	32	17	33	8	13			20	12	22	16	15	.2
Central America/Caribbean	1,387	1,326	1,306	993	1,069	1,208	1,006	1,197	985	1,103	1,309	1,296	1,182	19.1
South America	315	235	357	268	262	277	246	313	255	229	303	246	276	4.5
Europe	128	441	398	199	134	199	198	252	278	309	376	172	255	4.1
Africa	55	25	69	76	74	105	92	138	29	147	113	81	84	1.4
Asia	49	64	31	20	32	20	51	32	50	49	66	47	42	.7
Middle East	14	10	19	20	51	14	14	5	15	30	87	4	24	.4
Communist Nations	13	56	51	18	28	48	6	32	31	38	49	34	33	.5
Total non-OPEC	3,351	3,645	3,647	3,109	2,991	3,171	2,862	3,197	2,943	3,157	3,629	3,033	3,224	52.0
Eastern Hemisphere	1,620	2,111	2,352	1,804	2,134	2,189	2,476	2,548	2,484	2,806	2,555	1,813	2,241	36.1
Western Hemisphere	4,191	4,263	4,223	3,784	3,683	3,690	3,696	3,958	3,890	3,719	4,309	4,132	3,960	63.9
Total imports	5,811	6,374	6,575	5,588	5,817	5,879	6,172	6,506	6,374	6,525	6,864	5,945	6,201	100.0
Total U.S. domestic demand	18,713	19,094	17,216	15,921	16,626	16,481	16,372	17,499	16,656	17,202	18,492	17,538	17,308	
Imports as a percent of domestic demand	(31.1)	(33.4)	(38.2)	(35.1)	(35.0)	(35.7)	(37.7)	(37.2)	(38.3)	(37.9)	(37.1)	(33.9)	(35.8)	
OPEC imports as a percent of domestic demand	(13.1)	(14.3)	(17.0)	(15.6)	(17.0)	(16.4)	(20.2)	(18.9)	(20.6)	(19.6)	(17.5)	(16.6)	(17.2)	
Arab OPEC imports as a percent of domestic demand	(4.1)	(4.0)	(5.7)	(4.6)	(5.4)	(5.2)	(6.8)	(6.6)	(7.0)	(7.5)	(5.2)	(1.3)	(5.2)	

[1] Less than 1/10 of 1 percent.

[2] Less than 100 barrels per day.

Source: USBOM.

TABLE 4. U.S. IMPORTS

[Thousands of barrels per day]

4 weeks ending	May 7, 1976	May 9, 1975	May 10, 1974	May 11, 1973	Percentage change 1976/75	Percentage change 1976/74	Percentage change 1976/73
Crude oil	4,785	3,476	3,562	3,240	+37.7	+34.3	+47.7
Motor gasoline	103	103	241	66		−57.3	+56.1
Distillate	87	160	261	229	−45.6	−66.7	−62.0
Residual	877	942	1,690	1,564	−6.9	−48.1	−43.9
Jet fuel—Naphtha	23	20	10	23	+15.0	+130.0	
Jet fuel—Kerosene	71	147	136	190	−51.7	−47.8	−62.6
Other products	259	279	511	467	−7.2	−49.3	−44.5
Total products	1,420	1,651	2,849	2,539	−14.0	−50.2	−44.1
Total imports	6,205	5,127	6,411	5,779	+21.0	−3.2	+7.4
Year to date (19 reports)							

4 weeks ending	May 7, 1976	May 9, 1975	May 10, 1974	May 11, 1973	Percentage change 1976/75	Percentage change 1976/74	Percentage change 1976/73
Crude oil	4,993	3,682	2,722	2,885	−35.6	+83.4	+73.1
Motor gasoline	127	133	178	65	−4.5	−28.7	+95.4
Distillate	178	247	316	340	−27.9	−43.7	−47.7
Residual	1,268	1,369	1,689	2,095	−7.4	−24.9	−39.5
Jet fuel—Naphtha	25	30	11	19	−16.7	+127.3	+31.6
Jet fuel—Kerosene	91	135	141	162	−32.6	−35.5	−43.8
Other products	310	315	454	397	−1.6	−31.7	−21.9
Total products	1,999	2,229	2,789	3,078	−10.3	−28.3	−35.1
Total imports	6,992	5,911	5,511	5,963	+18.3	+26.9	+17.3

Source: API Weekly Statistical Bulletin.

TABLE 3.—U.S. REFINERY OPERATIONS

[Thousands of barrels per day]

4 week ending	May 7, 1976	May 9, 1975	May 10, 1974	May 11, 1973	Percentage change 1976/75	Percentage change 1976/74	Percentage change 1976/73
Operable capacity	15,139	15,027	14,230	13,618	+0.7	+6.4	+11.2
Input to crude oil processing units	12,997	12,235	12,341	NA	+6.2	+5.3	NA
Percent capacity utilized [1]	85.9	81.4	86.7	NA			
Crude oil runs	12,661	11,765	11,835	12,106	+7.6	+7.0	+4.6
Percent capacity utilized [2]	83.6	78.3	83.2	88.9			
Production:							
Motor gasoline	6,598	6,009	6,264	6,516	+9.8	+5.3	+1.3
Distillate	2,589	2,439	2,594	2,489	+6.2	−.2	+4.0
Residual	1,270	1,212	873	891	+4.8	+45.5	+42.5
Kerosene	143	158	116	197	−9.5	−23.3	−27.4
Jet fuel—Naphtha	206	199	189	183	+3.5	+9.0	+12.6
Jet fuel—Kerosene	691	680	645	684	+1.6	+7.1	+1.0
Year to date (19 reports) week ending							

4 week ending	May 7, 1976	May 9, 1975	May 16, 1974	May 11, 1973	Percentage change 1976/75	Percentage change 1976/74	Percentage change 1976/73
Operable capacity	15,120	14,989	14,149	13,535	+.9	+6.9	+11.7
Input to crude oil processing units	13,161	12,506	11,980	NA	+5.2	+9.9	NA
Percent capacity utilized [1]	87.0	83.4	84.7	NA			
Crude oil runs	12,795	12,011	11,470	12,171	+6.5	+11.6	+5.1
Percent capacity utilized [2]	84.6	80.1	81.1	89.9			
Production:							
Motor gasoline	6,549	6,232	6,036	6,234	+5.1	+8.5	+5.1
Distillate	2,737	2,625	2,561	2,743	+4.3	+6.9	−.2
Residual	1,336	1,303	953	971	+2.5	+40.2	+37.6
Kerosene	173	194	164	259	−10.8	+5.5	−33.2
Jet fuel—Naphtha	184	176	215	192	+4.5	−14.4	−4.2
Jet fuel—Kerosene	737	676	621	712	+9.0	+18.7	+3.5

[1] New API definition.
[2] Old API definition.

Source: API Weekly Statistical Bulletin.

[From the Washington Post, May 21, 1976]

ENERGY: A RETURN TO COMPLACENCY?

(By Ulf Lantzke)

The energy problem is still very much with us and could well become a burning issue very soon again. Oil reserves are limited and one can foresee the world again getting into a supply/demand situation similar to that of late 1973 with its higher prices and periodic shortages. This could lead, in the long-term, perhaps even in my lifetime, to a situation where there simply will not be enough energy available to sustain economic and social progress unless something is done about it and soon.

The greatest danger is public complacency. In the '60s the world grew accustomed to the idea of an abundant supply of energy at low prices that would be available indefinitely. But the harsh realities of the 1973–74 energy crises with its long lines at gas stations and, more seriously with increased unemployment and accelerated inflation, which brought world economic progress to a halt, brusquely brought home the fragility of the existing structure of energy suppy, demand and prices.

It was this crisis that generated the Washington conference of February 1974, called at Secretary of State Kissinger's initiative, which in turn led to the creation of the International Energy Agency, an autonomous body of 18 nations of the industrialized world based in Paris within the framework of the Organization for Economic Cooperation and Development (OECD).

Since its founding in November 1974, IEA has galvanized its members' national efforts to use energy resources more economically and to enlarge energy choices. More than that, a demonstrable increase in international cooperation and commitment has already been achieved within the IEA. Contrary to the situation in 1973, a political platform is now available where industrialized countries can discuss and decide upon intricate energy issues. An emergency sharing system in case of oil shortages has been worked out and a comprehensive longterm program has been agreed to that covers conservation, the development of alternative energy resources, and cooperative energy research and development efforts. As an active observer in the north-south dialogue, the IEA has submited a number of basic analytical papers that have provided an objectives basis for discussion.

Thus, substantial progress has already been made in the IEA. But this is not enough.

Unfortunately, the world is in danger of once again slipping back into the complacency of the '60s. Short term supply difficulties have been overcome and over-capacity currently exists. National economies are again on the upswing and the inflation rate is abating. The public seems to have become accustomed to higher prices and to the confortable feeling that the energy crisis has ended.

It cannot be emphasized too strongly that this is a very dangerous illusion. Energy cannot be looked upon as a short-term problem. It is very much a medium and longterm issue that requires action now.

Barring further unexpected political or economic developments, it seems clear that the rate of economic growth and energy demand will continue upward, possibly resulting in a renewed seller's market as early as 1979. It may sound nightmarish but one can easily imagine a number of scenarios resulting in a shortage of oil in the medium term even without a political crisis in the Middle East.

In the long term, we must face the fact that we are going to run out of depletable energy resources—the availability of oil has limitations that can already be calculated. We must take immediate steps to change the bulk of our energy supply from oil and other non-renewable resources to renewable resources such as solar, nuclear fusion, and geothermal power.

This obviously cannot be done overnight due to the long lead times required for the development of new technologies. Economic implementation of nuclear energy, for example, required 30 years from the time of the first pilot plant.

It is clear that current efforts are not sufficient to avoid severe energy shortages early in the 21st century and corresponding economic and social consequences. Efforts must be stepped up:

1) We must make a realistic assessment of the energy situation, going beyond the usual formulation of future world energy scenarios. Concrete targets must be met and reached in the short, medium, and longer term.

2) We must take stock of existing energy and related economic structures both on a national and international level and build and improve upon them. The necessary changes must be made smoothly, without creating additional frictions damaging to harmonious, economic progress.

3) Market principles will have to be reinforced and stimulated by policy action and incentives.

In concrete terms, what does this mean?

First, we must move away as quickly as possible from the highly dangerous course of a one-sided energy economy based on oil if we are to avoid the economic and social breakdown from which the world has just escaped. OPEC countries cannot be expected to act as the ultimate balance for energy supply and demand indefinitely. Quite independently of general political considerations, individual OPEC countries will limit their production for quite sound and valid economic reasons, just as industrialized countries also do with their resources.

But we must be realistic and recognize that nuclear power and coal are the only real alternatives to oil over the short and medium term. "Solar," "fusion," "geothermal," etc., cannot be a panacea to our problems for, at the very least, another 20 or 30 years. Therefore a far more positive approach must be taken toward the accelerated development of coal and nuclear power, in tandem with increased efforts to satisfactorily resolve attendant environmental and safety problems.

Second, we must stop looking upon energy as an abundant, wasteable resource. Public awareness of the need for energy conservation must be increased and people's habits and attitudes toward energy consumption must be significantly altered. Industry must look at its consumption habits and patterns. Industry also must seize the opportunity for new markets for already existing conservation equipment and more energy efficient appliances. Government policies must be implemented to provide the proper incentives, and where necessary, regulation for eliminating wasteful consumption. Energy conservation does not have to mean a reduced standard of living. On the contrary, it may well lead to better health and well-being.

Third, "solar," "fusion," "geothermal," etc., must be assessed for their longterm value and developed into an economically viable energy source for the 21st century. But they won't be unless hard, intensive and costly efforts are begun today to lay the groundwork for resolving the many complex problems that still stand in the path of widespread use.

Fourth, as we have seen, there already have been radical changes in energy structures as the decisionmaking power for oil production and pricing has shifted from the oil companies and purely market forces to the oil producing countries. Further changes can be anticipated—the growth in national oil companies and the even greater involvement of both producer and consumer governments. We must channel these changes in such a way as to avoid frictions and a dangerous loss of flexibility in the world energy market.

The changing relationship between government and industry, the modified role of the market, and the increased complexity, cost, and lead times for energy exploration and development cast doubt on whether purely market forces can, by themselves, assure sufficient energy supplies in the future. We have to create a reliable investment climate and encourage increased energy investment. We must avoid the atmosphere of uncertainty that has already been created by the new power achieved by OPEC, and that has been aggravated by the uncertain energy policies of some industrialized nations.

The task ahead for all of us is a difficult one, but it can and must be done. Public complacency and lack of international understanding and cooperation are principal obstacles. The opportunity and time is now for the industrialized countries, in close cooperation with the oil producing and energy deficient developing countries to make substantial progress toward solving our medium and long energy problems.

[From the Oil Daily, June 2, 1976]

ENERGY PROBLEMS NEGLECTED TOO LONG

SAN FRANCISCO.—"The U.S. has neglected its enegy problems far too long to reverse its growing dependence on imported oil in the near future."

The quote is from an energy study prepared by Standard Oil Co. of California, which says it seems almost certain that U.S. oil imports will continue to grow, at least until 1985.

The study pointed out that U.S. energy needs grew at the rate of 4.3% a year between 1960 and 1973. However, because of slower economic expansion and energy conservation, SoCal expects energy consumption to increase only about 3% a year in the future.

The study cited that it called "two popular energy misconceptions": (1) that the nation can solve its energy problems principally by reducing its consumption and, (2) that it can switch rapidly to new energy sources.

"Increasing the efficiency of our energy use can and will contribute importantly to a favorable energy balance in the U.S." the study stressed. It pointed out, however, that conservation can do only part of the job.

"We cannot arbitrarily place severe limits on energy growth without seriously damaging our economy," it said.

The often cited new energy sources (solar, nuclear, fusion, geothermal, etc.) cannot contribute significantly to the energy supply in the next 10 years—and perhaps not very much before the turn of the century, according to the study which pointed out the long lead times required to develop the technology, then to place these sources into wide use.

Some points made by the SoCal energy report:

Nuclear: Despite construction, regulatory and siting delays which have plagued it, nuclear energy has the potential to expand rapidly to provide 10% of the total U.S. energy needs by 1985, compared to about 2% currently.

Coal: Because of serious obstacles limiting coal development and use, SoCal expects coal consumption to increase by only 65% between 1975 and 1985 to supply about one fifth of U.S. energy needs.

Natural gas: As early as 1980, the U.S. will be getting only about one-fifth of its energy from natural gas, compared to about one-third in the early 1970's. Only 40% of total U.S. natural gas production will be coming from currently developed reserves by 1985. Most of the remaining 60% must come from new and high-cost discoveries in deep onshore wells, from arctic regions and the outer continental shelf.

Oil: SoCal expects the decline in U.S. oil production to continue until 1977 or 1978 when Alaska North Slope oil will begin moving to domestic markets. Then for a few years, U.S. production will increase slightly to reach a level just over that attained in the early 1970's.

It is significant, the SoCal study pointed out, that by 1985 more than 40% of U.S. oil production will have to come from expensive new "assisted recovery" projects (using water, steam, gas and other means to drive more oil out of producing fields) and from new discoveries.

New discoveries, the study stressed, are most likely to occur in "frontier" areas such as those of Alaska and the outer continental

shelf, where operating conditions are difficult and costs are exceedingly high.

The feasibility of finding new oil, and making old oilfields produce more, the study concluded, depends largely on economics—the price of oil, the cost of producing it, taxes the oil industry must pay, etc.

[From the New York Times, Mar. 30, 1976]

ISSUES '76: ENERGY

The term of the next President will in all likelihood bridge the transformation of this country from a carefree squanderer of energy, as it long has been, into an acutely energy-conscious society of the kind that rising costs and scarcity are forcing it to become.

Congress and the Ford Administration have vast unfinished work in fashioning a coherent energy policy in the months before the election; the modest energy bill that finally emerged, after a full year of hauling and screaming, scarcely begins to address critical and specific issues involved in balancing the energy budget.

In the election campaign, however, the longer-term challenge should define the debate among the candidates. How is this far-reaching transformation of a social structure and ethic to be accomplished? Can the burdens and benefits be made to fall equitably across the whole population, or will some segments be squeezed for the enrichment of others? Will, indeed, the transformation proceed under measured policy direction or continue as before by default, by a haphazard interplay of the competing interests and values?

First priority in any long-range energy policy must go to conservation, to reducing the demand side of the energy equation by eliminating wasteful practices and improving the efficiency with which energy is produced, delivered and employed. Study after study has shown conservation of existing energy resources to be the most effective and readily available "new source" of supply to meet urgent needs.

Conserving energy, no less than the parallel means of expanding supply by increasing production, involves agonizing tradeoffs. Candidates like President Ford, who have relied primarily upon the price mechanism and theoretical free-market behavior to discourage consumption, offer a straightforward and blunt formula: If the price is higher, people will use less. But this policy forces hardships indiscriminately upon poorer segments of the population and upon essential and socially beneficial consumption of energy as well as on wasteful uses.

The alternative to the price mechanism is Government direction—regulation, subsidies, controls. These techniques offer ways of distributing the burdens of scarcity where they can best be carried and of emphasizing the broad social interest in energy-related decisions as they are made. They also invite bureaucratic bungling, inefficiencies and loopholes from which the most nimble could benefit in more than fair share.

The obvious device that combines these two alternatives is a high gasoline tax—politically unpopular and requiring rare courage from the candidate who dares to advocate it. The price would rise, with all the conservation inducements that would provide; the extra revenues would go, not to the oil companies, but to the Federal Treasury which could then pump them back into society through rebates to the low-income groups and to consumers most reliant upon gasoline for their livelihood, and also through some form of subsidies to energy producers and technologies showing most promise of national benefit.

Energy policymaking is plagued by the necessity, in the words of the Brookings Institution, "to sort out real from imaginary problems and real from imaginary choices." The choice between solar and nuclear power, for instance, is imaginary. Both can play their roles in supplying this country's energy; candidates may well differ on the relative reliance to be placed on each.

One of the most prevalent, but imaginary, policy problems is the one contained in the catch phrase, "ending reliance on imported oil." As a practical matter, there are virtually no energy experts who believe that total self-sufficiency is even possible for this country under existing technology; nor, weighing the economic, social and environmental costs involved in massive expansion of domestic energy supplies, is elimination of all oil imports necessarily desirable.

Instead of echoing the outmoded rhetoric of President Nixon's Project Independence, this country's next leaders would do far better to evolve specific programs for a Project Interdependence, in which oil producers and importers would share genuine mutual interest in longterm stability of contracts. Dependence on imports from unreliable foreign sources, however, remains a national danger; reducing that dependence is vital, and it will require a massive effort to get it down from the present 45 percent even to one-third or less.

The literature of energy policy is full of catch phrases to trap the unwary and score debating points. Everyone involved can be eloquent about the need for sacrifices by everyone else. The policy leadership which this country needs for the years to come will have to make a convincing case to the electorate for sacrifices in an energy-conscious society. It would be the refusal to make those sacrifices, not the sacrifices themselves, that would inhibit growth in living standards and tarnish the quality of life for the nation and all its citizens.

ENERGY CRISIS GROWING

(By Louis Rukeyser)

NEW YORK.—The real energy crisis in America is over whether the country is ever going to get up enough energy to head off another crisis.

Frankly, the outlook is dubious.

The politicians, characteristically, have managed to avoid effective action on either of the two possible solutions—building up supplies or conserving usage—preferring to take the less uncomfortable route of beating on the oil companies.

Apparently, there are few votes to be lost by attacking the large petroleum corporations, whose popularity with the electorate ranks somewhere south of that of the Anopheles mosquito. And so we have the tempting election-year proposals to dismember these corporations by restricting the number of functions in which one company can be involved.

These proposals make a number of fallacious assumptions. They assume that the country has been poorly served by its oil industry, when in fact the ready availability of cheap energy—unmatched anywhere else in the industrial world—has been a significant factor in American growth.

They assume that the industry is currently noncompetitive, when in fact it is fiercely competitive—in exploration and production (more than 10,000 companies and individuals), transportation (102 interstate pipelines vying to carry raw materials and finished products), refining (133 companies operating 264 refiners) and distribution (15,000 wholesalers, 300,000 privately operated service stations).

And they assume that dissolution of the large integrated companies would lower prices for consumers and prevent future energy shortages, when in fact it would have precisely the opposite result in both cases.

The best thing going for those who play such silly tunes on their anti-business flutes is that the public's memory is so short. People have not only forgotten the long lines and shortages the last time the Government inserted itself into the energy business, in 1973; they also have forgotten that the cause of the trouble lay in the Mideast-dominated oil cartel, whose hand would be strengthened immeasurably if the American companies were crippled.

The public is right that the energy shortage was contrived, but it has forgotten who it was that did the contriving. The Arab-led OPEC nations, which control two-thirds of the world's reserves, first embargoed oil shipments to the United States and then quadrupled their prices. Next, to maintain his blackmail of the consumer nations, they reduced their production levels.

Still another artificial hike in the world oil price may be coming after the OPEC bullies meet again in Indonesia May 27. And instead of moving to meet this international challenge, we are dealing only with domestic class-war emotions and political mythology.

Even President Ford, nominally committed to the Grandly named Project Independence (which aims at making the U.S. self-sufficient in energy by 1985), approved—however reluctantly—an energy bill that bore no resemblance to this policy.

Meanwhile, domestic production of crude oil and natural gas actually declined last year by, respectively, more than 4 per cent and nearly 7 per cent. The trend is continuing in 1976.

By one estimate, hostile Congressional tax and price measures already have reduced the oil companies' cash flow by $4.5 billion; by any estimate, our brilliant legislators have managed to discourage a significant amount of hunting for new oil fields and other energy sources.

How stupid can we get? Every month, every year—while politicians seek cheap applause by battering our own producers—the country grows more and more dependent on the good will of the sheiks.

Imports supplied more than a third of total U.S. oil demand last year, a figure that is expected to rise to 44 per cent for 1976 and to 60 per cent by 1985. Inexorably, we are moving toward what has been described cynically as "the Arab solution."

In other words, the country is following the one route it swore to abjure: the road to total dependence on the consciousless blackmailers of Saudi Arabia and Kuwait. When and if another embargo comes, we will be damaged far worse than we were in 1973 and it will be too late then to remember who the enemy really was.

ZARB URGES STEPS AGAINST EMBARGO

TOKYO, June 23.—The head of the U.S. Federal Energy Administration said here today that oil importing nations must prepare for the possibility of another embargo on supplies.

Frank Zarb, who is on his way back to the United States after a tour of the Middle East, said he had heard no assurances from oil producing countries that oil would not be used again as a political weapon.

It has "simple realism" for the importers to recognize the danger, increasing oil stockpiles and boosting their self-sufficiency in energy, Zarb said.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there

will now be a period for the transaction of routine morning business, for not to exceed 10 minutes, with statements therein limited to 2 minutes each.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY APPROPRIATIONS

Mr. HARTKE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9291.

The ACTING PRESIDENT pro tempore laid before the Senate H.R. 9291, an act to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, which was read twice by its title.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the bill.

Mr. HARTKE. Mr. President, we are considering today legislation to extend the National Traffic and Motor Vehicle Safety Act. This legislation, like S. 2323, reported favorably by the Commerce Committee on May 5, 1976, would authorize to be appropriated not to exceed $13 million for the fiscal year transition period and $60 million for each of fiscal years 1977 and 1978 for implementation of this important legislation.

Additionally, H.R. 9291 would delay from October 27, 1976, to April 1, 1977, the effective date of the schoolbus safety regulations required pursuant to Public Law 93-492. In granting this extension of a little over 5 months, Congress would be responding to a request of the School Bus Manufacturers Institute, SBMI, to allow additional time to achieve compliance with the standards using the best possible design solutions.

It is important to note that this extension would affect only a small percentage of the 1977 schoolbus production. According to the SBMI, only 16 percent of each year's production is achieved in January, February, and March. The bulk of the production occurs during the summer months in anticipation of the new school year beginning in the fall.

Mr. President, I ask unanimous consent that there be printed in the RECORD a letter from Berkley Sweet, executive director of the School Bus Manufacturers Institute regarding this proposed extension of the effective date.

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

SCHOOL BUS MANUFACTURERS INSTITUTE,
Washington, D.C., May 10, 1976.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce, Dirksen Senate Office Building, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: The purpose of this letter is to give you and other members of the Committee on Commerce my full assurance as a representative of the six school bus body manufacturers that the extension of the effective date of the school bus safety standards to April 1, 1977, which H.R. 9291, as amended by the House Committee on Interstate and Foreign Commerce, would provide, will *not* be used to produce a large portion of the 1977 bus orders according to the "old" standards.

Every manufacturer has told me personally that his company will begin to incorporate the required features as soon as possible in the 1977 production run. Furthermore, the industry-wide production figures which we have compiled over a number of years indicate that, at most, only 16% of a year's production is ever produced during January, February, and March, which is the only part of the 1977 production year actually affected by the extension. For your information, I am enclosing a graphic profile of the school bus production year, which illustrates this fact.

As you are aware, the manufacturers need this additional time principally to bring all the buses built according to new standards into a maximum level of quality control for compliance. All of the standards will be phased gradually into production, but compliance with the seating standard, which requires manufacturers to totally change their methods of seat construction, will present some especially difficult quality control problems.

The engineers for these manufacturers conclude that they need an extension of the effective date of the standards to April 1, 1977 in order to firmly establish the best production techniques possible instead of relying on "reasonable guesstimates" so that they can be absolutely certain that the methods they have selected for compliance result in the production of the safest possible bus.

The school bus manufacturers are as vitally interested in seeing that the new safety features are rapidly incorporated in their buses as are you, the other Members of the Committee on Commerce, and the rest of the Congress. This extension will permit us to get the job done using the soundest methods possible.

Sincerely,

BERKLEY SWEET,
Executive Director.

Enclosure.

Typical schoolbus manufacturing profile (Six year average based on Assembly Starts)

Calendar month:	*Percent of yearly production*
January	4
February	4
March	8
April	7
May	11
June	12
July	14
August	14
September	13
October	10
November	3
December	*

* Assembly Starts for December approximately equal zero due to model year production change over and Christmas and New Years Holidays.

Mr. HARTKE. Mr. President, there have been some fears expressed that this extension will be used by the manufacturers to exempt the entire 1977 school bus production from the Federal standards by stockpiling chassis. This letter offers us assurance that this extension will be used for nothing more than allowing manufacturers to incorporate new designs more conveniently into production cycles and that only a small percentage of the 1977 production will be affected.

Mr. President, 1976 marks the 10th anniversary of the National Traffic and Motor Vehicle Safety Act. Since the promulgation of the first Federal motor vehicle safety standards in 1967, there has been a continuous and significant decline in the Nation's highway fatality rate. In 1966, when both the National Traffic and Motor Vehicle Safety Act and the Highway Safety Act were enacted, the fatality rate was 5.5 to 5.6 per 100 million miles traveled. By 1973, the rate had dropped about 25 percent to 4.15 per 100 million miles. Estimates based on the 1966 accident statistics conclude that had we not embarked on these safety programs, the Nation would have suffered 75,000 highway fatalities in 1973. Instead, in that year, 54,347 lives were lost on the American highways.

The ACTING PRESIDENT pro tempore. The Senator's 2 minutes have expired.

Mr. HARTKE. I ask unanimous consent to proceed for another 2 minutes.

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

Mr. HARTKE. A combination of factors have contributed to this decrease in highway fatalities. During the last decade, the highway environment was being improved, new motor vehicle safety standards were introduced, and new traffic safety programs in States and communities were being implemented. While it is difficult to proportion these safety gains among the three programs, Dr. James Gregory, Administrator of the National Highway Traffic Safety Administration, recently stated his belief that—

> The efforts to improve the safety performance of motor vehicles and motor vehicle equipment are likely to achieve concrete results earlier than efforts aimed at the more difficult task of improving human driving habits. It is, therefore, my assessment that our motor vehicle safety programs have contributed most to the safety gains we achieved through 1973.

Since 1973, additional safety gains have been achieved through the implementation of a national 55-mile-per-hour speed limit. The number of fatalities declined from 54,347 in 1973 to 45,717 in 1974 and an estimated 45,674 in 1975. This decline cannot be explained solely in terms of changes in total vehicle miles driven because while total mileage dropped somewhat from 1973 to 1974, it reached a new height of 1.315 billion in 1975. The net effect of the changes in fatalities and mileage was that the fatality rate fell to about 3.6 per 100 million miles in 1974 and to an estimated 3.5 per 100 million miles for 1975.

A savings in lives is not the only benefit of the motor vehicle safety program. Hundreds of thousands of injuries have been prevented. In terms of dollars and cents, motor vehicle accidents have been estimated by the National Safety Council to cost the Nation in excess of $19.3 billion. This figure includes $6 billion in wage loss, $1.7 billion in medical expense, $5.1 billion in insurance administration costs, and $6.5 billion in property damage from moving motor vehicle accidents. There can be no question but that in its first decade, the motor vehicle and highway safety programs have made a major contribution in increasing the safety of the highway environment.

Mr. President, I urge approval of H.R. 9291.

UP AMENDMENT NO. 85

Mr. CRANSTON. Mr. President, I have an amendment that I send to the desk and ask that it be considered.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CRANSTON. 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 of Senator CRANSTON and Senator TUNNEY is as follows:

On page 2, after line 4, insert the following:

"Sec. 3. Section 103(i) of such Act is amended by adding at the end thereof the following new paragraph:

"'(3) Not later than 6 months after the date of enactment of this section, the Secretary shall conduct a study and report to Congress on (A) the factors relating to the school bus vehicle which contribute to the occurrence of school bus accidents and resultant injuries, and (B) actions which can be taken to reduce the likelihood of occurrence of such accidents and severity of such injuries. Such study shall consider, among other things, the extent to which injuries may be reduced through the use of seat belts and other occupant restraint systems in school bus accidents, and an examination of the extent to which the age of school buses increases the likelihood of accidents and resultant injuries.' ".

Mr. CRANSTON. Mr. President, Senator JOHN V. TUNNEY and I are proposing this amendment to H.R. 9291, the National Traffic and Motor Vehicle Safety Act authorization bill. It directs the Department of Transportation to conduct a study of pupil transportation and report to Congress on the actions which might be taken to reduce the occurrence of schoolbus accidents. There have been many accidents injuring and killing children traveling to and from school in buses. The latest, and apparently one of the worst in United States history, occurred on May 21 in Martinez, Calif. Twenty-seven students from Yuba City High School and one adult supervisor were killed. Every other passenger and the bus driver, a total of 25 persons, suffered injuries, many serious. Along with the families in Yuba City, the State of California, and the Nation, Senator TUNNEY and I were shocked and saddened by this needless accident. Because of the tragedy we have resolved to take whatever steps we can to reduce the chances for future schoolbus catastrophes.

Thus we are proposing an investigation of pupil transportation. The finding of this study will assist in evaluating and improving the critical safety standards needed to protect children riding in schoolbuses.

Considering the rapid advances which continue to be made in the technology of vehicle construction, there is no excuse for permitting any of the Nation's pupils to ride in outmoded schoolbuses, or buses on which few improvements have been made to protect its passengers. While there appears to be a dearth of factual information as to what could have been done to prevent this tragic incident, there has not been sufficient effort made to implement existing technology to prevent such happenings. It is our hope that this Department of Transportation study will provide us with the necessary recommendations to make those needed changes so that future schoolbus passengers may be assured of the benefits of the existing technology. Inclusion of this provision is an initial step in understanding and preventing the dangers that schoolchildren are exposed to in their year-round use of school vehicles.

Mr. HARTKE. Mr. President, I am prepared to accept the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. HARTKE. Mr. President, I ask unanimous consent that S. 2323 be placed on the Calendar under "Subjects on the Table."

Mr. MANSFIELD. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MANSFIELD. That is on the unanimous-consent request putting an item on the calendar under "Subjects on the Table."

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. HARTKE. Mr. President, I ask for indefinite postponement of Calendar Order 812, S. 2323.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

AMENDMENT OF THE FEDERAL RAILROAD SAFETY ACT OF 1970

Mr. HARTKE. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 11804, which is an act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

The ACTING PRESIDENT pro tempore (Mr. PROXMIRE) laid before the the Senate H.R. 11804, an act to amend the Federal Railway Safety Act of 1970 to authorize additional appropriations, and for other purposes, which was considered to have been read twice by its title.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to its immediate consideration.

Mr. HARTKE. Mr. President, H.R. 11804 is the House passed version of legislation to authorize additional appropriations for implementation of the Federal Railroad Safety Act of 1970. On May 13, 1976, the Senate Commerce Committee reported S. 3119 which would authorize for appropriation the same amount as H.R. 11804. H.R. 11804 contains several additional amendments to various Federal rail safety statutes which I believe are important. I will explain those amendments momentarily.

Subsequent to the passage of H.R. 11804, the members of the Commerce Committee were polled, and we agreed that the provisions of H.R. 11804, with two or three exceptions, should be approved by the Senate. Accordingly, I am sending to the desk amendments to H.R. 11804 and ask for their immediate consideration.

Mr. President, H.R. 11804 is designed to address several deficiencies in the Federal regulatory scheme relating to railroad safety. As I mentioned previously, it would authorize to be appropriated not to exceed $35 million for fiscal year 1977 and $35 million for fiscal year 1978 for implementation of the Federal Railroad Safety Act of 1970. Of that $35 million, up to $18 million shall be available for the Office of Safety; up to $3.5 million shall be available for the State program under section 206(d) of the act; up to $3.5 million shall be available for other salaries and expenses of the Federal Railroad Administration; and up to $10 million shall be available for research and development.

H.R. 11804 would modify the penalty provisions of the Safety Appliances Acts, the Locomotive Inspection Act, and the safety appliance provisions of the Interstate Commerce Act to make them conform to the provisions of the Federal Railroad Safety Act of 1970. The amendments would provide that a violation of such acts would be subject to a minimum penalty of $250 and a maximum penalty of $2,500. The Secretary would be authorized to compromise such penalties pursuant to the provisions of the Federal Claims Collection Act of 1966 but not for an amount less than $250. It is my hope that this provision will motivate greater compliance with the Federal Rail Safety statutes.

H.R. 11804 would also amend the act of March 4, 1907, commonly referred to as the Hours of Service Act, in several respects. First, it would be a violation of that act to fail to provide clean, safe, and sanitary sleeping quarters for employees which do not afford an opportunity for rest free from interruptions caused by noise under the control of the railroad. Similarly, it would be a violation of the act to being construction or reconstruction of any sleeping quarters within the immediate vicinity of any area where railroad switching or bumping operations are performed.

It is important those those involved in the railroad operations of this Nation be alert while they are on the job. This is impossible to achieve if the employees are not afforded an opportunity for rest, free from interruption or if they are subjected to quarters which are not clean, safe, and sanitary.

The motivation for requiring these sleeping quarters to be located away from the immediate vicinity of switching or

humping operations stems from a 1974 accident in the Norfolk and Western Railroad yards in Decatur, Ill. Seven employees were killed and over 100 were injured when an explosion demolished crew quarters and an eating facility in the middle of the yard. This provision is designed to insure that such a tragedy is not repeated. The Secretary of Transportation is mandated to determine precisely how far from the switching or humping operations these sleeping quarters must be.

Another amendment to the Hours of Service Act relates to the number of hours an employee may work without relief in emergency situations. Section 1(c) of the act currently exempts crews of wreck or relief trains from the limitations of the Hours of Service Act. There are some indications that this limited exemption has been abused by expanding the circumstances which constitute an emergency. Accordingly, this amendment would provide that the crew of a wreck or relief train may be permitted to remain on duty for not to exceed 4 additional hours in any period of 24 consecutive hours whenever an actual emergency exists and work of the crew is related to that emergency. An emergency is deemed to cease to exist when the track is clear and the line is open for traffic.

Finally, the Hours of Service Act would be amended to bring within its protection hostlers and signalmen. The act presently covers all operating employees who are engaged in or connected with the movement of any train and telegraphers, operators, and dispatchers.

The primary functions of hostlers are to move engines into and out of the shop areas and to service the locomotives by loading water, sand, and fuel. The duties of signalmen encompass the construction, installation, repair, maintenance, testing, and inspection of signal systems. These signal systems include automatic blocks signal systems, traffic control systems, train stop, train control, and cab signals, interlocking systems, rail highway grade crossing protection, automatic classification yards, hot box detectors, broken flange detectors, and other similar devices, appliances, and systems.

Under H.R. 11804 as passed by the House, signalmen would not be allowed to work 4 additional hours during emergencies. One of my amendments would permit signal employees to work beyond the normal hours of service limits in emergency situations in which continued work is essential to the restoration of uninterrupted signal service. It would parallel the emergency provisions that I outlined above.

The second amendment which I am offering would extend to signal employees the same safety protection afforded by the provisions of H.R. 11804 which I described earlier regarding sleeping quarters. That provision requires that the railroads provide sleeping quarters for employees which are free from interruptions caused by noise and in quarters which are clean, safe, and sanitary.

One of the most important provisions of this legislation requires the Federal Railroad Administration, within 180 days, to establish rules of procedure by which it will initiate and complete all rulemaking activities within 12 months. The FRA has been notorious in its unresponsiveness to petitions from the public. For example, in August 1974, several labor organizations filed a petition with FRA which would require every railroad to move its sleeping quarters at least 1 mile away from its yards where switching or humping is performed. This was in response to the Decatur, Ill., accident. To date, the FRA has taken no action on the petition—it has neither initiated a rulemaking nor denied the request. The same is true with respect to rear-end flag protection for slow moving trains—so-called rule 99. On January 10, 1975, the Railway Labor Executives Association filed a petition with FRA seeking a rulemaking for rear-end flag protection. No action has been taken with respect to this petition.

It would not be difficult to cite additional cases of the failure of FRA to respond to the public. This provision is designed to insure that our Federal regulatory programs are responsive and accountable to the public.

The legislation would also require the FRA, within 180 days, to issue rules, regulations, orders, and standards in two areas. First, FRA must promulgate a rule to require that in any case in which activities of railroad employees—other than train or yard crews—assigned to inspect, test, repair, or service rolling equipment are carried out on, under, or between rail equipment, that each manually operated switch providing access to the track on which the equipment is located must be lined against movement to that track and secured by an effective locking device. That locking device may not be removed except by the class or craft of the employees performing the inspection, testing, repair, or servicing.

The second area in which FRA would be required to establish regulations relates to rear-end markers. H.R. 11804, as passed by the House, requires the promulgation of regulations mandating that the rear car of all passenger and freight trains be equipped with highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility. One of the amendments which I am offering would modify this provision. It would require that the rear car of all passenger and commuter trains shall have one or more highly visible markers which are lighted during periods of darkness, or whenever weather conditions restrict clear visibility. With respect to the rear car of all freight trains, they shall be equipped with highly visible markers during periods of darkness or whenever weather conditions restrict clear visibility.

The amendment further provides that existing State laws which relate to lighted markers on freight trains that are in effect as of the date of enactment of these amendments may continue in full force and effect. Section 205 of the Federal Railroad Safety Act generally requires that standards relating to railroad safety shall be nationally uniform to the extent practicable. In this case, however, we are preserving certain existing State laws, but that deviation from section 205 applies only to the rear lighting requirements of freight trains.

The only limitation on a State which has in force a law, rule, regulation, order or standard relating to lighted markers on the rear car of freight trains is a constitutional restriction which prohibits the State provision from being in direct conflict with the Federal provision. However, this provision would not prohibit a State which currently has in effect a rear lighting requirement for freight cars from retaining that requirement even though the Federal regulation requires reflective markers under certain conditions.

There are three other amendments which would be accomplished by H.R. 11804. First, it would require that the FRA be divided into not less than eight safety officers for purposes of administering and enforcing all Federal railroad safety laws. Second, it would require the Office of Technology Assessment to conduct a study of the Federal Railroad Safety Act of 1970 and related Federal laws to evaluate their effectiveness in improving the safety of our Nation's railroads. Third, it would amend the Department of Transportation Act to provide for uniformity of judicial review by the Department.

Mr. President: The inability of the Federal Railroad Administration and the Nation's railroads to make major safety gain continues to be a source of great frustration to the committee. While some may take comfort in the fact that the rate of increase in train accidents declined in 1975 over 1974, other safety statistics tell a different story. While the percentage increase in train accidents for 1975 over 1974 was about 5 percent, and the comparable figure for 1974 over 1973 was 19 percent, the fact remains that there were 7,895 train accidents in 1975—404 more than the previous year. To put this increase in perspective, it was accompanied by a 12.9-percent decrease in the number of train miles traveled during the year. Thus, there was an increase of 21.1 percent in the accident per million train miles rate from 9 in 1974 to 10.9 in 1975. More than 60 percent of the train accidents were due to equipment or track failures.

There are several disturbing aspects concerning the Federal Railroad Administration's administration of the safety program in the past year. According to comments submitted to the committee by the Railway Labor Executive Association, there are now only 78 inspectors throughout the United States responsible for inspecting for compliance approximately 1.7 million freight cars, 34,000 locomotives and 6,800 passenger cars. FRA's reports show that there were fewer locomotive and freight car inspections in calendar year 1975 than in 1974.

The Railway Labor Executives Association further noted that during 1975, the freight cars inspected for freight car defects were 25.9 percent defective, 13 percent had safety appliance defects—the highest percentage in more than 18 years.

Mr. President, this is very discouraging. The Commerce Committee will continue to monitor the Federal railroad safety program in the months to come to see what steps are being taken to reverse this trend.

The members of the Committee on Commerce report that we agree that the provisions of H.R. 11804, with several exceptions should be approved by the Senate. I send to the desk several amendments to H.R. 11804 and ask for their immediate consideration en bloc.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. HARTKE) proposed unprinted amendment No. 86:

On page 7, line 9, after the word "sections", insert "2(a)(3),".

On page 7, line 15, delete the quotation mark and the period following the question mark and insert between lines 15 and 16 the following new subsection:

"(f) Notwithstanding subsection (a) of this section, an individual engaged in installing, repairing, or maintaining signal systems may be permitted to be or remain on duty for not to exceed 4 additional hours in any period of 24 consecutive hours whenever an actual emergency exists and work of the individual is related to such emergency. For purposes of this subsection with respect to the on-duty time of an individual engaged in installing, repairing, or maintaining signal systems, an emergency ceases to exist when the signal systems are restored to service.".

On page 8, delete lines 18–21, and on line 22, delete "(2)" and insert in lieu thereof "(1)".

On page 9, line 7, delete the quotation mark and the period following the new paragraphs:

"(2) the rear car of all passenger and commuter trains shall have one or more highly visible markers which are lighted during periods of darkness or whenever weather conditions restrict clear visibility; and

"(3) the rear car of all freight trains shall have highly visible markers during periods of darkness or whenever weather conditions restrict clear visibility.

Notwithstanding the provisions of section 205 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 434), nothing in paragraphs (2) and (3) of this subsection shall prohibit a state from continuing in force any law, rule, regulation, order or standard in effect on the date of enactment of the Federal Railroad Safety Authorization Act of 1976 relating to lighted markers on the rear car of freight trains except to the extent that such law, rule, regulation, order, or standard would cause such cars to be in violation of this section.".

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments, en bloc.

The amendments were agreed to en bloc.

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

The bill was read a third time and passed.

Mr. HARTKE. Mr. President, I ask that S. 3119 be indefinitely postponed.

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

(Routine morning business transacted today is printed later in today's RECORD of Senate proceedings.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business has passed. Morning business is now closed.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, 1977

Mr. MANSFIELD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 14261, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 14261) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

The ACTING PRESIDENT pro tempore. Time for debate is limited to 1 hour, to be equally divided and controlled by the Senator from Oklahoma (Mr. BELLMON) and the Senator from New Mexico (Mr. MONTOYA), with 30 minutes on any amendment and 20 minutes on any debatable motion, appeal, or point of order.

The Senator from New Mexico is recognized.

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

Mr. MONTOYA. Yes.

Mr. DOMENICI. I ask unanimous consent that Janice Cohn of my staff be granted floor privileges during consideration of this measure.

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

Mr. GLENN. Will the Senator yield?

Mr. MONTOYA. Yes, I yield.

Mr. GLENN. I ask unanimous consent that Reginald Gilliam and Leonard Bickwit of my staff be granted privileges of the floor during debate and discussion of this measure.

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

Mr. MONTOYA. Mr. President, on behalf of the Committee on Appropriations, I am pleased to present the Treasury, Postal Service, and general Government appropriations bill for fiscal year 1977, H.R. 14261.

The President's budget, as amended, requested $8,004,892,000 for programs and activities under this appropriation bill. The recommendation of the committee is $8,301,160,000. This is an increase over fiscal year 1976 appropriations of $1,491,018,500.

The bill passed the House of Representatives June 14, 1976 in the amount of $8,267,636,000. The committee recommendation is an increase of $296,268,000 over the budget estimate and an increase of $33,524,000 over the House bill. Budget amendments amounting to $21,745,000 were received subsequent to House action. The appropriations recommended in this bill are well within the allocation contained in the first concurrent resolution for these agencies and functions.

I shall briefly highlight the major items in the bill.

TITLE I—TREASURY DEPARTMENT

The subcommittee recommendation for the Treasury Department is $2,574,300,000. This is a reduction of $1,301,000 below the fiscal year 1976 appropriation, a reduction of $5,897,000 below the budget estimate, and $1,160,000 below the House bill.

Increases above the House allowance are recommended for the Bureau of Alcohol, Tobacco and Firearms and the U.S. Customs Service. For ATF, the committee recommends an additional $2,500,000 to provide for personnel being transferred from enforcement of the illicit liquor laws where violations are declining to enforcement efforts involving firearms and explosives, and for implementation of the necessary research and development activities leading to an explosives "tagging" program to assist in the identification of the manufacturer of an explosive.

For the Customs Service, the committee recommends $340 million, which is an increase of $6 million above the House allowance. The committee recommended allowance will permit Customs to continue the 373 personnel positions for which funding was included in the Second Supplemental Appropriations Act, 1976, for antidrug smuggling efforts and staffing for new ports of entry at high-security locations. In addition, the committee recommends denial of the budget estimate reduction of 322 personnel positions. The major workload indicators have moved up sharply from comparable periods in fiscal year 1975. Third quarter activity in 1976 compared to 1975 reflects that entries have increased by 13 percent, air passengers have increased 12 percent, and land border crossings have increased 10 percent.

For the Internal Revenue Service, the budget estimate reflected a reduction of $20 million below the fiscal year 1976 level of activity. The House restored $10 million of the budget estimate reduction. The committee recommends $1,672,500,000 for IRS activities. This is an increase of $1 million above the budget estimate and a reduction of $9 million below the House allowance. The increase above the budget estimate is to provide taxpayer assistance at the same level as was available during 1976. Testimony to the committee indicates that 1,700,000 fewer taxpayers would receive assistance in 1977 than in 1976 if the budget estimate were adopted. This committee has been instrumental in providing resources for the taxpayer assistance activity, and report language directs IRS to continue the resources for this activity at the fiscal year 1976 level.

During hearing in support of the fiscal year 1977 budget estimates, officials of the Internal Revenue Service presented a comprehensive briefing to the committee

on its plans for a complete redesign and restructure of the current income tax processing system. The proposed system, called TAS for Tax Administration System, is to fill the need for an improved tax administration data processing capability in the 1980's. It is estimated to cost over $600 million for system design, implementation and operating costs through 1985. This estimate was developed during a cost-benefit analysis by IRS in 1974 and does not reflect price escalation.

The proposed procurement is the largest data processing project ever undertaken by the Federal Government. Although the committee is in sympathy with the needs of IRS for future tax administration capability, it is concerned with the planned system procurement plan and the need for additional review so as to minimize the risks of failure, disruption, cost overrun and waste of taxpayers' dollars.

The committee report discusses this proposal and recommends that IRS consider other system procurement plans of a more evolutionary nature to improve the probability of success and reduce the inherent risk.

TITLE II—U.S. POSTAL SERVICE

The committee recommends concurrence with the House bill of $1,766,100,000 for the U.S. Postal Service. This is an increase of $307,366,000 over the budget estimate to provide funding for the extended phasing authorized by Public Law 93-328.

Although Public Law 93-328, which was Senate bill S. 411, extended the period for phasing in full postal rates from 5 years to 8 years for certain regular-rate mailers and from 10 years to 16 years for certain nonprofit mailers, the President failed to include the required funding in his recommendations. I might add the President similarly failed to include a request for support of the extended phasing-in period in fiscal years 1975 and 1976; however, the Congress has included funding in each of these years to allow our daily newspapers, magazines, and nonprofit organizations sufficient time to adjust to the ever-increasing postal rates.

Failure to include the funding in support of the extended phasing-in period would have required the Postal Service to impose a substantial increase in postage on the affected classes of mailers. The committee believes that continued support of the extended phasing-in period is in the public interest.

The remaining items in this title are authorized in the Postal Reorganization Act (Public Law 91-375). They include $920,000,000 for public service costs, $484,700,000 for revenue foregone by the Postal Service, and $54,104,000 for unfunded liabilities of the former Post Office Department prior to reorganization.

The committee report refers to comprehensive studies by the General Accounting Office and the Defense Appropriations Subcommittee relative to stateside operations of the military postal system. Although the committee directed the stateside postal operations performed by full-time military personnel be terminated and the U.S. Postal Service provide delivery operations to stateside installations; this has not been implemented. The committee report directs the Department of Defense and the U.S. Postal Service to reach final agreement on this matter within 60 days.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

The committee recommends $66,000,000 for appropriations funded under the Executive Office of the President. This is a reduction of $516,000 below the budget estimate and an increase of $22,432,000 above the House allowance.

The increase above the House allowance is due to the denial by the House of appropriations for the White House Office, Special Assistance to the President, the official residence of the Vice President, executive residence, Domestic Council, and unanticipated needs. Although budget estimates were received for these appropriations in the fiscal year 1977 budget and appropriations provided in past years, the House, by floor amendments, denied funding on points of order that the requested appropriations were lacking authorization. The House approved authorization for these appropriations in H.R. 6706 on July 9, 1975. This bill was referred to the Senate Post Office and Civil Service Committee, where it is currently pending consideration.

The committee recommends that funding for these appropriations be included in the Senate bill. It is the view of the committee that funding should be continued for these appropriations to allow time for the Senate Post Office and Civil Service Committee to consider H.R. 6706.

TITLE IV—INDEPENDENT AGENCIES

For title IV, independent agencies, the committee recommends $3,894,690,000. This is a reduction of $4,685,000 below the budget estimate and an increase of $12,252,000 above the House allowance. The increase is due to budget amendments totaling $21,745,000 which were received subsequent to House action. The committee recommends increases to the House bill of $350,000 for the National Study Commission on Records and Documents of Federal Officials; $1,300,000 for the National Commission on Electronic Fund Transfers; and $20,000,000 for the Harry S Truman Scholarship Foundation.

For the Civil Service Commission, the committee recommends $3,440,692,000. This concurs with the budget estimate and reflects a reduction of $5,000,000 from the House allowance for intergovernmental personnel assistance. The allowance for the Civil Service Commission includes $102,328,000 in direct appropriation and $24,365,000 transferred from trust funds, $451,844,000 for the Government payment for annuitants, employees health benefits appropriation, $2,874,955,000 for payment to the civil service retirement and disability fund, and $1,565,000 for the Federal Labor Relations Council.

For the General Services Administration, the committee recommends $332,588,000. This agrees with the House allowance and is a reduction of $10,540,000 from the budget estimate. For the Federal building fund, the committee recommends $1,141,755,000 which agrees with the amended budget estimate and is an increase of $16,800,000 over the House allowance. The increase will permit GSA to complete construction projects for which funding will expire on September 30, 1976, pursuant to the Treasury, Postal Service, and General Government Appropriations Act, 1976 (Public Law 94-91) and will provide $11,300,000 for completion of Federal buildings in Honolulu, Detroit and New York City.

The committee recommends $80,000,000 for the Defense Civil Preparedness Agency. This is an increase of $9,000,000 above the budget estimate and a reduction of $5,000,000 below the House allowance. The recommended amount included $29,600,000 of Federal matching funds for State and local governments personnel and administrative charges. This is the same level of effort supported in fiscal year 1976.

LANGUAGE CHANGES

The committee recommends approval of several language changes which are of general interest. Section 506 of title V includes language to permit the General Services Administration to negotiate and accept the conveyance of land adjacent to Dulles International Airport in exchange for conveyance of surplus real property of equal value. I want to emphasize this is permissive legislation only and the section provides—

> Acceptance by the United States of any exchange proposal is contingent upon review by the appropriate committees of the Congress.

Section 507 is included to restrain foreign procurement of stainless steel flatware by the General Services Administration. A similar provision relating to specialty metals has been included in the Department of Defense appropriations acts for some years.

CONCLUSION

Mr. President, before concluding my remarks, I wish to express my appreciation for the assistance of Senator HENRY BELLMON, the senior Senator from Oklahoma and the ranking minority member of the subcommittee. Senator BELLMON participated actively in the hearings and the markup of the bill. He has contributed in large measure to the committee's recommendations before the Senate.

I commend the subcommittee staff that worked with us during the hearings and during the markup. They have done an excellent job for the subcommittee.

Mr. BELLMON. Mr. President, as ranking minority member of the subcommittee which considered H.R. 14261, the appropriation bill for the Treasury, Postal Service, and General Government for the fiscal year ending September 30, 1977, I want to associate myself generally with the remarks of the chairman of the subcommittee, the distinguished senior Senator from New Mexico (Mr. MONTOYA) and to applaud his leadership of our subcommittee.

This legislation now before the Senate is the product of many days of hearings

and persevering efforts put forth not only by our chairman but also the other members of the subcommittee.

I wish to join our distinguished chairman in complimenting the staff for their dedicated work which they did on this bill.

I wish to thank and congratulate them for the fine work which they have done, particularly Fred Rhodes, who is the majority counsel, and Burkett Van Kirk, who is the minority counsel.

This bill provides a total of $8.3 billion in budget authority and $8.3 billion in outlays for fiscal year 1977. These amounts are within the allocation made by the Senate Appropriations Committee to the Treasury, Postal Service, and General Government Subcommittee and, therefore, it can be said that the money in this bill is within the congressional budget resolution.

The subcommittee and the full committee were aware of the discipline of the congressional budget and I believe exercise the restraints which will be so necessary for Congress to achieve a balanced budget in the very near future.

Unfortunately, but through no fault of the subcommittee, this bill represents an increase of $296,268,000 over the President's budget estimate and an increase of $33,524,000 over the House bill. One of the prime reasons for the increases was the necessity of providing $307 million over the President's budget for the U.S. Postal Service. This appropriation was made necessary when Public Law 93-328 was passed by Congress and signed by the President. Failure to make this appropriation would be to illegally abrogate this law. It was the view of the committee that we must follow the statute and pay the costs of extending the phasing-in period of full rates for certain regular mailers from 5 to 8 years, and for certain nonprofit mailers from 10 to 16 years.

The Senate should know that this bill appropriates $1,766,170,000 for the U.S. Postal Service. This enormous sum is the forerunner of vastly larger appropriations which will be required in future years unless the Congress or the Postal Service quickly come to grips with basic postal problems.

For example, this appropriation does not include additional funds which might be needed to help cover the fiscal year 1977 deficit if an authorization bill which will soon come to the floor contains $0.5 billion for this purpose. I am gravely concerned that there may be no end to this bottomless pit called the post office deficit.

Mr. President, in the report which accompanies this appropriation bill, H.R. 14261, there is language directing the General Services Administration to focus attention on accomplishing needed and necessary repairs to deteriorating Government-owned properties in areas of high unemployment. In the near future our committee will hold hearings to ascertain the most feasible method for the General Services Administration to reduce its repair backlog in areas of high unemployment. During the course of our hearings, we received evidence that the General Services Administration repair backlog of $1 billion. Additional appropriations in this area could put thousands of unemployed Americans back to work, as well as making necessary and timely repairs and alterations to Government-owned properties.

Mr. President, I am exceedingly skeptical of funds contained in this bill for the Defense Civil Preparedness Agency. The President's budget estimated $71 million for the DCPA. The House allowed this agency $85 million, and our committee recommends $80 million. I am pleased to report that the General Accounting Office is currently preparing a report on the management, effectiveness and mission responsibility of this agency. I am looking forward to a thorough reading of this report. Over the past decade, the American taxpayer has spent almost $1 billion on civil defense. Tangible results of this huge expenditure are difficult to identify. In a simpler time when conventional bombs or even nuclear bombs were dropped from airplanes this program may have made some sense. However, in an age of MIRV missiles, is there a place to hide from a major attack? This question needs to be answered. Has the Civil Defense Preparedness Agency become merely a "make work" agency which supports over 6,000 full-time and part-time Civil Defense employees at the State and local levels of government, and an additional 700 Federal employees? Much of the mission of this agency appears to be a duplicity of services performed by the National Guard, the State Highway Patrol, police and fire departments, and other local groups. I believe the Congress should be fully informed of and convinced of the necessity for the continued existence and funding of the Defense Civil Preparedness Agency before we go on year after year pumping scores of millions of dollars into an agency which may have outlived its usefulness.

Mr. President, I fully support the appropriation recommended for the Secret Service which is the same amount as requested. As Senators know, in this Bicentennial Year, the Secret Service is experiencing the most active period in its history with the protection of Presidential candidates and numerous visiting foreign dignitaries. Notwithstanding the earlier than anticipated startup of protection for candidates, the Service, under the leadership of Director H. S. Knight has, as always, responded in a most admirable and professional manner to the awesome protective responsibilities with which it is charged.

I am sure all of my colleagues are aware of the increasing terrorist activity in this country. Presently, there is a bombing somewhere in the United States every 4½ hours. One of the lead agencies responsible for the prevention and solution of bombings is the Bureau of Alcohol, Tobacco, and Firearms. This bill now before the Senate contains funds for the Bureau to implement a predetonation and postdetonation "tagging" system designed to curtail the ability of terrorists to transport and use explosive devices. Lives are at stake in this area, and there is absolutely no excuse for any delay in inaugurating an effective explosives identification program.

Mr. President, the U.S. Customs Service, as a law enforcement arm of the Department of the Treasury, is charged with the responsibility to collect revenue on imports, and also protect our citizens against the nefarious activities of drug smugglers. Every member of this body has localities within his State which are ravaged by narcotics, and it is upon the Customs Service that falls the duty of seeking to stop the illegal flow of dangerous drugs across our borders. This is a difficult if not impossible assignment. We are all familiar with our miles of unprotected borders in the Southwest, and in the North from the Atlantic to the Pacific. It is across these borders and through our ports of entry that the Customs Service becomes the first line of defense against the illegal importation of dangerous drugs. With this task in mind, I am happy to report that the committee reported $340 million for the U.S. Customs Service. This is $11 million more than last year's appropriation, $14 million above the President's budget, and $6 million over the House allowance. This increase is aimed primarily at slowing down and ultimately stopping the drug traffic. It is my fervent hope that this Senate figure for the work of the Customs Service will prevail in conference.

With respect to the Internal Revenue Service, the committee recommendation is slightly above the budget estimate but below the House allowance. I am concerned about a new plan referred to as the Tax Administration System—TAS. It occurs to me that both the Internal Revenue Service and the General Accounting Office ought to conduct the most thorough review and analysis of this program that is possible. TAS could be the largest data processing project ever undertaken by the Government. In the past, we have seen what happens with cost overruns when new data processing systems are inaugurated. It was not the intent of the Committee to delay the promulgation of the new tax processing system, rather it is the committees' desire to insure that the approach utilized minimizes the risk of a failure, cost overruns, and a scandalous waste of the taxpayer's dollars.

Finally, Mr. President, I believe that the Senate should be aware of the money appropriated to pay the interest on the public debt is expected to total $45 billion for fiscal year 1977. This is a drain on the Federal Treasury which grows larger each year as we pile one deficit upon another. It is imperative that Congress achieve and maintain a balanced budget at the earliest possible moment. Therefore, I encourage my colleagues if and when they suggest amendments adding additional sums to this bill that they bear in mind that we will be adding to an already huge deficit and that every day, seven days a week, our constituents already pay $123 million—not to reduce the public debt, but merely as interest on that debt.

In closing, Mr. President, I want to express my appreciation to the distinguished chairman of our subcommittee (Mr. MONTOYA). He has held thorough hearings for all the agencies involved, and has been most fair and cordial to every member of the subcommittee.

I again commend him for his leadership.

Mr. MONTOYA. I thank the Senator for his kind remarks.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall be considered to have been waived by reason of agreement to this order.

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

The amendments agreed to en bloc are as follows:

On page 2, in line 20, strike out "$3,810,000" and insert "$3,500,000".

On page 2, in line 25, strike out "$9,000,000" and insert "$8,650,000".

On page 3, in line 18, strike out "$112,000,000" and insert "$114,500,000".

On page 4, in line 2, strike out "$334,000,000" and insert "$340,000,000".

On page 5, in line 8, strike out "$795,900,000" and insert "$790,900,000".

On page 5, in line 16, strike out "$838,900,000" and insert "$834,900,000".

On page 6, in line 7, after "permanent" insert "and observer".

On page 6, beginning with line 23, insert "This title may be cited as the 'Treasury Department Appropriations Act, 1977'."

On page 7, beginning with line 11, insert "This title may be cited as the 'Postal Service Appropriation Act'."

On page 7, beginning with line 19, insert:

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For expenses necessary for the White House Office as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109, at such per diem rates for individuals as the President may specify and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be accounted for solely on the certificate of the President); and not to exceed $10,000 for official entertainment expenses to be available for allocation within the Executive Office of the President; $16,530,000.

EXECUTIVE RESIDENCE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence, to be expended as the President may determine, notwithstanding the provisions of this or any other Act, and official entertainment expenses of the President to be accounted for solely on his certificate, $2,095,000.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, furnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, $61,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For expenses necessary to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS–18, compensation for one position at a rate not to exceed the rate of level II of the Executive schedule, and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service, including hire of passenger motor vehicles, $1,246,000.

On page 10, beginning with line 9, insert:

DOMESTIC COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Domestic Council, including services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem equivalent of the rate for grade GS–18; and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government service; $1,700,000.

On page 11, in line 5, strike out "$25,500,000" and insert "$25,300,000".

On page 11, beginning with line 19, insert:

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year, and to pay administrative expenses (including personnel, in his discretion and without regard to any provision of law regulating employment and pay of persons in the government service or regulating expenditures of government funds) incurred with respect thereto, $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1977".

On page 12, in line 25, strike out "$1,200,000" and insert "$1,402,000".

On page 15, in line 7, strike out "$15,000,000" and insert "$10,000,000".

On page 18, in line 1, strike out "$1,124,955,000" and insert "$1,141,755,000".

On page 18, in line 2, strike out "$22,600,000" and insert "$39,400,000".

On page 18, in line 3, after "of" insert "buildings previously specified in annual Appropriation Acts and".

On page 18, beginning with line 11, insert:

Hawaii:

Honolulu, Prince J. K. Kalanianaole Federal Building Courthouse, $7,500,000".

On page 18, beginning with line 17, insert:

Michigan:

Detroit, Patrick V. McNamara Federal Office Building, $800,000

New York:

New York, Customs Courthouse Federal Office Building Annex, $3,000,000

On page 20, line 15, strike out "$1,150,518,000" and insert "$1,156,018,000".

On page 22, in line 19, strike out "$4,000,000" and insert "$3,000,000".

On page 27, beginning with line 1, insert:

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

PAYMENT TO THE HARRY S TRUMAN MEMORIAL SCHOLARSHIP TRUST FUND

For payment to the Harry S Truman Memorial Scholarship Trust Fund, $20,000,000.

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of title II of Public Law 93–495, $1,300,000, to remain available until expended.

On page 27, in line 18, strike out $2,500,000" and insert "$3,000,000".

On page 28, beginning with line 3, insert:

NATIONAL STUDY COMMISSION ON RECORDS AND DOCUMENTS OF FEDERAL OFFICIALS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of title II of the Act of December 19, 1974 (Public Law 93–526), as amended by Public Law 92–261 (44 U.S.C. 33), $350,000.

On page 28, in line 13, strike out "$7,322,000" and insert "$7,222,000".

On page 29, in line 8, after the semicolon, insert "$15,000,000".

On page 32, in line 5, after the period, insert: Acceptance by the United States of any exchange proposal is contingent upon review by the appropriate committees of the Congress.

On page 32, beginning with line 8, insert:

SEC. 507. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures provided by section 6–104.4(b) of Armed Services Procurement Regulation, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

On page 39, beginning with line 23, insert:

This title may be cited as the "Independent Agencies Appropriations Act, 1977".

Mr. MONTOYA. Mr. President, there is a typographical error on page 29, line 8 of the bill as reported to the Senate. The House approved $20,000,000. The committee amendment would strike that $20,000,000 and insert in lieu thereof $15,000,000. I ask unanimous consent that the Secretary of the Senate be authorized to make this technical correction in the engrossment of the Senate amendments.

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

UP AMENDMENT NO. 87

Mr. MONTOYA. Mr. President, I send to the desk an amendment and ask for its immediate consideration. This amendment is of a technical nature to correct the title citations of the bill.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. MONTOYA) proposes an unprinted amendment No. 87.

The amendment is as follows:

On page 39, strike lines 23 and 24 and insert in lieu thereof:

This Act may be cited as the "Treasury, Postal Service, and General Government Appropriation Act, 1977".

On page 29, insert between lines 18 and 19 the following:

This title may be cited as the "Independent Agencies Appropriations Act, 1977".

Mr. MONTOYA. I ask for its immediate consideration.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. MONTOYA. I yield all my time back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

SUBCOMMITTEE ON INDIAN AFFAIRS

Mr. ABOUREZK addressed the Chair.

Mr. MONTOYA. Mr. President, I yield to the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, apparently, last night there was an objection, or yesterday, at some point there was an objection to the meeting of the Indian Affairs Subcommittee today.

I just want to advise the Senate that we have witnesses from the Indian tribe in California who were here yesterday for the hearing and they are sitting waiting for hearings to start.

This is the second time they have been cancelled out and the second time we have had to bring several people here for the hearings.

So I want to remove the objection of whoever made it. I want to ask unanimous consent that the Indian Affairs Subcommittee be entitled to meet today to have those hearings.

The PRESIDING OFFICER. Is there objection?

Mr. BELLMON. Mr. President, reluctantly I must object on behalf of the Republican leadership. I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Will the Senator yield further?

Mr. MONTOYA. Yes.

Mr. ABOUREZK. Might I ask the Senator from Oklahoma, on whose behalf he is objecting, specifically, so that I might find out what is behind all this?

Mr. BELLMON. Mr. President, the objection is lodged on behalf of the Republican leadership. I suggest the Senator from South Dakota might want to contact both the Republican leaders.

Mr. ABOUREZK. I will do that.

I want to say another thing on this matter.

Mr. MONTOYA. I yield 1 minute to the Senator from South Dakota.

Mr. ABOUREZK. I thank the Senator.

The previous hearings we had cancelled had scheduled Secretary Kleppe as a witness. Secretary Kleppe did not want to testify and he did not show up at the other hearings, even though he was asked to do so. He finally reluctantly agreed to another date for hearings. I see this as some kind of move on the part of the Republican leadership for the minority members of the Interior Committee, perhaps at the request of the Secretary, to prevent his testimony from taking place. I just wanted to put that into the RECORD.

I thank the Senator for yielding.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, 1977

The Senate resumed consideration of the bill (H.R. 14261) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1977, and for other purposes.

Mr. GLENN. Is the bill open for amendment at this time, Mr. President?

The PRESIDING OFFICER. Yes.

AMENDMENT NO. 1892

Mr. GLENN. Mr. President, I call up my amendment No. 1892.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes amendment No. 1892.

On page 2, line 20, strike "$3,500,000" and insert in lieu thereof "$3,810,000".

Mr. GLENN. Mr. President, my amendment is not a complicated one. It would simply add $310,000 to the Treasury Department's fiscal year 1977 appropriation of $3,500,000 for the purpose of enlarging the Office of Revenue Sharing's compliance staff by 21 positions. The majority of these new positions, 14, would be assigned to civil rights enforcement.

The administration has requested these positions and only last week an identical amendment passed the House.

H.R. 14621, as presently written would reduce ORS's request for an increase in compliance staff by nearly 75 percent. This decrease would, according to ORS, allow only 6 new positions in compliance—contrary to the Appropriations Committee report language that indicates that 10 new compliance positions would be allowed.

I ask unanimous consent that the full text of a letter from Ms. Jeanna D. Tully, the Director of the Office of Revenue Sharing be printed in the RECORD at this point. Ms. Tully's letter is in support of my amendment and includes the ORS calculations of staffing costs as used in its budget request.

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

OFFICE OF REVENUE SHARING,
Washington, D.C., June 22, 1976.

Hon. JOHN GLENN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GLENN: As you requested, I am pleased to provide information concerning the impact of the Senate Appropriations Committee action to reduce the FY 1977 budget request of the Office of Revenue Sharing and to summarize the critical need for the positions and funds requested.

The budget proposed by the Administration for the Office of Revenue Sharing for FY 1977 is an economical one which contemplates the continuation of the extraordinary efficiency achieved in the operation of the revenue sharing program. Only in the vital area of compliance was increased staff requested. This increase was essential to carrying out the law enacted by the Congress. While the restrictions and limitations contained in that law (Public Law 92-512) are few, we believe they are exceedingly important.

Despite the most extensive intergovernmental cooperation, which involves cooperative agreements with 44 States for auditing and cooperative agreements with 14 States for civil rights matters, as well as cooperative agreements with several major Federal agencies, it is clear that the Office of Revenue Sharing cannot fulfill its own responsibilities with regard to these agreements nor its mandated obligations under the law without additional staff in the compliance function.

Specifically, the budget request for the Office of Revenue Sharing requested 21 additional positions for compliance: these 21 positions would bring the total staff for compliance only to 62 positions. These 62 positions are the staff by means of which the Secretary of the Treasury must carry out his substantial obligations under the Act.

The general revenue sharing Act requires the Secretary to ensure that all States and nearly 39,000 local governments do not discriminate on the basis of race, color, national origin or sex in any program or activity funded in whole or in part with shared revenues. The Act further requires ensuring that certain minimal financial standards are met in the use of the funds, that State and local laws are complied with, that certain Davis-Bacon requirements are met, and that reporting and other duties of the recipient governments are carried out. Further, it is, of course, essential that remedial action be achieved in cases where violations have occurred. Thus, the compliance staff in the Office of Revenue Sharing is responsible for monitoring as well as for achieving enforcement and corrective action.

The urgent need for the 21 additional positions is based on actual experience in the program since October of 1972. Staff increases greatly exceeding those requested by the Office of Revenue Sharing have been urged by a number of independent authorities. Especially in the area of civil rights, the House Subcommittee on Civil and Constitutional Rights has stressed the urgency of staff increases. National Public interest groups, the General Accounting Office, and research organizations have pointed out the need for added staff.

The lack of adequate staff in the compliance function in the Office of Revenue Sharing has led to a large and growing backlog of cases which long since should have received full attention; many of these cases require on-site field review at locations throughout the United States. Citizen complaints regarding compliance are being received by the Office of Revenue Sharing on an average of one each day. Coupled with the backlog of cases, some regrettably dating back to calendar year 1974, these new cases make it highly likely that we will begin FY 1977 with unresolved civil rights complaints involving more than 300 jurisdictions. The new compliance positions which were allowed and partially funded in the FY 1976 budget have been established and advertised, with selection and appointment near completion. Even with these added resources, with the additional staff requested, the backlog undoubtedly will increase during FY 1977, further lessening the ability of citizens and organizations to obtain timely action by the Office of Revenue Sharing on their grievances.

Thus, it is of great importance that the 21 additional positions and $411,000 increase requested in FY 1977 for the Office of Revenue Sharing be authorized. The requested increase will provide an additional 14 civil rights specialists, slightly more than doubling the present authorized civil rights staff of the Office of Revenue Sharing. Three of the positions would provide essential clerical support services, and four of the positions would be professional auditors. The cost for these positions is arrived at as follows:

14 Civil rights specialists (average GS-12/1) (Salaries)	$267,939
4 Auditors (average GS-13/1) (Salaries)	91,441
3 Clerk-typists (average GS-5/1) (Salaries)	25,500
Total salaries	384,880
Less 36% lapse	-138,557
Subtotal	246,323
Plus other objects	164,677
Total cost	411,000

NOTE.—"Other Objects" include fringe benefits, space, office equipment and supplies, travel, etc.

The Senate Appropriations Committee agreed with the previous House Appropriations action to reduce the requested appropriations increase by $310,000 to the amount of $101,000. The House restored the full amount in an amendment to the appropriations bill on June 14, 1976. The bill now pending in the Senate indicates that only ten additional positions would be allowed. In fact, however, the funds allowed are adequate only for six additional positions. Thus,

the effect of this action is to reduce the requested new civil rights specialists positions by approximately two-thirds, to reduce the requested clerical positions by two-thirds, and to eliminate the requested increase in auditors entirely. The calculation that leads to this result is as follows:

5 Civil rights specialists (average GS-11/6) (Salaries)	$95,066
1 Clerk-typist (GS-5/1) (Salary)	8,500
Total salary	103,566
Less 36% lapse	-37,284
Subtotal	66,282
Plus other objects	34,718
Total cost	101,000

Restoration of the FY 1977 requested increase in staff and appropriations in the Office of Revenue Sharing is essential to afford to the residents and employees of the 39,000 governments which are receiving more than $30 billion in revenue sharing, the civil rights so clearly mandated by the Congress in the revenue sharing act.

Please let me know if I may provide any further information or assistance to you in this matter.

Sincerely yours,

JEANNA D. TULLY,
Director.

Mr. GLENN. Mr. President, the fact that the administration and the full House, which only last week adopted this identical amendment, agree that 21 new compliance positions are needed indicates a recognition of a worsening problem within the Office of Revenue Sharing which needs prompt attention.

Several studies of the ORS civil rights effort, the latest of which was released by GAO on June 2, have documented a significant civil rights case backlog, delays in the processing of complaints which in many cases have extended to 12 months or more. ORS itself describes a backlog dating back to 1974 and estimates that it will begin fiscal year 1977 with unresolved civil rights complaints involving more than 300 jurisdictions.

The Office of Revenue Sharing has had the responsibility of distributing over $6 billion a year of Federal tax moneys to 39,000 jurisdictions since 1972. Such a commitment of resources also must be accompanied by a commitment to our basic national pledge to put an end to race and sex discrimination and the denial of equal opportunity. This basic commitment must remain strong despite revenue sharing's feature of wide discretion in the use of funds. This discretion simply cannot under any circumstances include the discretion to engage in discriminatory practices. Congress has mandated nondiscrimination in revenue sharing and now it must also mandate vigorous enforcement and adequate staffing of the antidiscrimination effort. $310,000 is a very small price to pay for the carrying out of so important a national goal.

I find it hard to find any persuasive reasons for opposition to this amendment. There are those, I am sure, who would argue "no more redtape," "no bureaucratic regulation" in opposing this amendment. This kind of argument, while superficially appealing, should not be used as covering rhetoric to obscure the fact that race and sex discrimination is intolerable and must be prosecuted vigorously. An overall ORS staff of 129, which would be the size of the ORS staff should my amendment pass, with the duty of administering a multibillion dollar program to 39,000 jurisdictions surely is not a proper subject for criticizing the "overloaded bureaucracy." Quite the contrary, ORS will remain a lean and efficient agency. My amendment in fact would help make it efficient in the vital area of discrimination-fighting whereas now it is not.

I urge the Senate to join the House and the administration in support of this amendment.

I ask unanimous consent that appendix 3 and appendix 4 of the June 2 GAO report to the House Committee on Judiciary entitled "Nondiscrimination provision of the Revenue Sharing Act should be strengthened and better enforced" be printed in the RECORD. These appendices fully document delays in processing, analyzing and investigating civil rights complaints received by ORS, delays that are in large part, attributable to ORS' lack of adequate staff.

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

APPENDIX III

PROCESSING TIMES (MONTHS) FOR ORS' 1973-74 CIVIL RIGHTS CASES

9 TO 12 MONTHS

Closed—7

Saco, Maine (9.7).
Austintown Township, Ohio (11.7).
Pittsburgh, Penn. (11.5).
Rock Hill, S.C. (9.8).
Brenckenridge, Tex. (10.6).
Henderson, Tex. (11.7).
Dane County, Wisc. (11.2).

Open—21

Union City, Calif. (9.0).
Crosset, Ark. (10.8).
Miami, Fla. (11.2).
Joliet, Ill. (11.0).
Joliet Township, Ill. (11.0).
Charles County, Md. (11.1).
Alameda County, Calif. (9.6).
Princeville, N.C. (10.3).
Wooster, Ohio (9.7).
Auburn, Ala. (9.4).
Contra Costa, Calif. (10.3).
Shreveport, La. (10.6).
Philadelphia, Penn. (9.7).
DeSoto Parish, La. (11.6).
San Jose, Calif. (10.4).
Yolo County, Calif. (10.8).
Racine, Wisc. (9.7).
Will County, Ill. (11.0).
Norfolk, Va. (10.7).
Michigan (10.0) (note a).
Topeka, Kan. (11.9).

12 TO 15 MONTHS

Closed—4

Los Angeles, Calif. (13.8).
Peoria, Ill. (12.0).
Ouachita Parish, La. (13.8).
Lorain, Ohio (12.1).

Open—15

Lake Village, Ark. (13.7).
Oakland, Calif. (12.0).
Hammond, Ind. (14.2).
New Mexico (13.3).
Muskingum County, Ohio (12.0).
Harris County, Tex. (12.6).
Yakima, Wash. (13.8).
Fort Pierce, Fla. (13.7).
Pierce County, Wash. (13.7).
Winter Haven, Fla. (13.7).
Quitman County, Miss. (12.0).
Monroe, La. (12.5).
Memphis, Tenn. (13.5) (note a).
Dallas, Tex (12.7) (note a).
Tuskegee, Ala. (12.4) (note a).

15 TO 18 MONTHS

Closed—7

Redwood, Calif. (15.1).
Mobile, Ala. (15.5).
Bond County, Ill. (15.6).
Bladensburg, Md. (16.4).
Boston, Mass. I (15.5).
Beaumont, Tex. (16.4).
Atlanta, Ga. (16.3).

Open—5

Picayune, Miss. (15.7).
Lake County, Ohio (15.4).
Knoxville, Tenn. (15.0).
Bremen, Ga. (17.6).
Haralson County, Ga. (17.5).

18 TO 21 MONTHS

Closed—1

Pleasant Mound Township, Ill. (18.7).

Open—6

Waterbury, Conn. (19.2).
Bogalusa, La. (20.5).
Amarillo, Tex. (20.0).
Santa Clara County, Calif. (18.8).
Lake County, Ind. (18.4).
Logan, Utah (20.6).

21 TO 24 MONTHS

Closed—2

Craven County, N.C. (23.0).
New Bern, N.C. (23.3).

Open—2

Powhatan County, Va. (22.6).
Chicago, Ill. (21.4) (note *).

24 TO 27 MONTHS

Closed—0

Open—1

Centralia, Ill. (26.9).

27 TO 30 MONTHS

Closed—1

Alton, Ill. (28.4).

Open—0

*Special status case.

APPENDIX IV

CASES TAKING 6 MONTHS OR MORE (THROUGH JUNE 30, 1975) BETWEEN PROCESSING ACTIONS

DELAY IN INVESTIGATING AFTER RECEIVING A COMPLAINT OR IN SENDING A FOLLOWUP LETTER WHEN INITIAL LETTER WAS NOT ANSWERED

Case and length of delay

Lake Village, Ark., 13 months.

Miami, Fla., 7 months between an ORS-initiated audit finding ethnic groups underrepresented in the city government work force and a 15-day letter to the city.

Bremen, Ga., 9 months.

Haralson County, Ga., 9 months.

Ottumwa, Iowa, 7 months between receiving and acknowledging a complaint.

Bogalusa, La., 10 months.

Quitman County, Miss., 12 months after telephone complaint, no 15-day letter had been sent. However, ORS had not received additional information requested from the complainant.

New Mexico, 13 months after a complaint, no acknowledgment or 15-day letter had been sent.

Craven County, N.C., 10 months between a complaint and an audit of the county's revenue sharing records prior to issuing a 15-day letter.

Lake County, Ohio, 8 months.

Muskingum County, Ohio, 8 months.

Beaver Falls, Penn., 6 months between 15-day letter and followup letter with no reply received.

Pittsburgh, Penn., 9 months.

Rock Hill, S.C., 6 months.

York County, S.C., 6 months.

Knoxville, Tenn., 6 months; ORS acknowledged that the city's reply was past due since

October 1974. A field investigation was requested.

Harris County, Tex., 6 months.

Logan, Utah, 9 months between complaint and a letter to the city.

Powhatan County, Va., 7 months.

DELAY IN COMPLETING ANALYSIS OF INITIAL INFORMATION RECEIVED FROM GOVERNMENT

Case and length of delay

Auburn, Ala., 6 months; ORS acknowledged the analysis was past due in January 1975. There was no record of followup action.

Bibb County (West Blocton), Ala., 7 months.

Rockford, Ill., 6 months. Four months after receiving the reply from the city, upon criticism from the complainant for laxity, ORS asked for more information.

Boston, Mass., II, 6 months.

DELAY IN SCHEDULING OR CONDUCTING A CIVIL RIGHTS REVIEW

Case and length of delay

Crossett, Ark., 9 months.

Yolo County, Calif., 8 months between a compliance audit report and a civil rights review.

St. Lucie County, Fla., 8 months.

Winterhaven, Fla., 7 months.

Bremen, Ga., 6 months between an audit report and a civil rights review.

Haralson County, Ga., 6 months between an audit report and a civil rights review.

Alton, Ill., 10 months between the compliance audit and the civil rights review; part of the delay was due to waiting for pending litigation to be resolved.

Centralia, Ill., 9 months between issuing the compliance audit report and the conducting of a civil rights review in the city.

Joliet, Ill., 9 months.

Joliet Township, Ill., 9 months.

Will County, Ill., 9 months.

Hammond, Ind., 6 months between a field audit and a civil rights review.

Lake County, Ind., 7 months.

Topeka, Kans., 10 months.

De Soto Parish, La., 7 months.

Shreveport, La., 10 months.

Picayune, Miss., 8 months.

Winterville, N.C., 7 months after compliance audit no civil rights review had been scheduled.

Akron, Ohio, 6 months.

Lake County, Ohio, 8 months.

Wooster, Ohio, 9 months.

Charleston, S.C., 6 months.

Amarillo, Tex., 8 months.

Kenbridge, Va., 6 months.

Norfolk, Va., 8 months.

King County, Wash., 7 months.

Racine, Wisc., 9 months.

DELAY IN ISSUING THE FINDINGS OF A CIVIL RIGHTS REVIEW

Case and length of delay

Oakland, Calif., 9 months.

San Jose, Calif., 9 months.

Santa Clara County, Calif., 9 months.

Waterbury, Conn., 8 months.

Fort Pierce, Fla., 10 months.

Kansas, 8 months.

Monroe, La., 13 months.

Amarillo, Tex., 8 months.

Powhatan County, Va., 7 months.

Pierce County, Wash., 9 months.

Yakima, Wash., 9 months.

DELAY IN CLOSING CASE AFTER FINAL ACTION

Case and length of delay

Atlanta Ga., 12 months.

Craven County, N.C., 7 months.

Logan, Utah, 6 months.

Mr. GLENN. Mr. President, that concludes my statement. I would be happy to answer any questions and would hope the distinguished leadership on both sides of the aisle might accept this amendment on a voice vote.

Mr. MONTOYA. Mr. President, I wish to point out to the Senate, especially to the Senator from Ohio, there are only 3 months of authorization left for this appropriation. The committee has allowed a fiscal year appropriation despite the 3 months' authorization left under the revenue sharing bill. The authorization for continuation of the revenue sharing is, of course, pending. I understand that it passed the House just recently.

I wish to point out another fact. Up to now this particular office in Treasury, dealing with revenue sharing compliance activities and so forth, has had 41 employees under the fiscal year 1976 appropriation. The committee is allowing 10 additional employees under this appropriation which we are recommending to the Senate.

The Senator from Ohio seeks to add 10 or 11 more positions with the increase represented by his amendment.

That means that we are going to add 50 percent more employees to this function for a 3-month period.

I am suggesting that the Senator give up his amendment so that when the new authorization clears the Congress, we can consider the matter of additional manpower depending on what kind of an authorization has passed, and depending also on what new obligations may be imposed upon the personnel. We shall then be able to consider this in a thorough hearing for a subsequent or future supplemental appropriation.

I am not adverse to giving this compliance function the manpower that it might need in order to carry out the edicts of any authorizing legislation, but it seems to me that this is an unjustifiable increase from 41 to 62 personnel at this time. This is one of the principal reasons why I rise to oppose the amendment.

Our subcommittee held extensive hearings on this activity as well as the other appropriations under our jurisdiction for which the President requested funding. Testimony in these hearings indicated that until the middle of fiscal year 1976, only five civil rights specialists were employed. This has recently been doubled to 10. The Committee recommendation will allow an additional 10 positions and provide the compliance activity with 51 employees.

Formal audit agreements have been concluded with 43 State governments and 12 agreements have been concluded with human rights agencies. The committee believes this is an innovative approach to provide financial audit and civil rights compliance coverage. The House report recommends that discussions be initiated with other Federal agencies that are concerned with compliance activities so that the overall compliance effort can be better coordinated and more effectively and efficiently operated. This should provide for increased compliance coverage without an increase in personnel.

The current authorizing legislation for general revenue sharing expires at the end of this calendar year. The proposed extension to September 1982, H.R. 13367, has passed the House and is currently pending consideration in the Senate Finance Committee. This may have more stringent compliance regulations than the current act. I submit that an early supplemental appropriation request in fiscal year 1977 may be the vehicle to consider increasing the number of personnel for this activity.

By a floor amendment, the House allowed the full budget estimate of 21 additional personnel and $3,810,000. Our recommendation is 10 additional personnel and $3,500,000. This will be an item in conference, and I assure the Senate that we shall consider this item very carefully.

It stands to reason that if the House of Representatives insists on its figure, we might have to reach some kind of a compromise between the two figures, That of the Senate and that of the House. I can assure the Senator from Ohio that if he will withdraw his amendment, we shall give the matter adequate consideration as we go along. We shall conduct proper and relevant hearings on any future supplemental request, once the final authorization for the next 5 years is enacted.

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

Mr. MONTOYA. I yield.

Mr. BELLMON. Mr. President, I wish to join our chairman in opposition to this amendment.

If the Senator from Ohio will look at the report, he will find that already the committee has recommended an increase of $931,000 more for the Office of Revenue Sharing than that office received last year. In the current fiscal year, 1976, the appropriation was $2,569,000. The subcommittee has recommended $3,500,000. That is an increase of $931,000 that we have already provided, or roughly 30 percent more than this agency received last year.

The Senator from Ohio has made the statement that this is a lean agency. It seems to me that when it is growing at the rate of a third a year, it is not going to stay lean very long. I would think that Senators who are interested in keeping it lean would join the subcommittee in seeking to avoid having it grow any faster than this rate.

As the chairman has stated, the addition of 11 employees would let this one division grow by almost 50 percent. I would agree that that seems too rapid a growth rate for efficient management of this or any other agency.

We have provided $3,500,000 to supervise the distribution of $30.2 billion under the revenue-sharing law. As the chairman has stated, if there are additional requirements in the law that finally clears the Senate and is passed by Congress, we would certainly consider those needs when we consider the next supplemental.

Mr. GLENN. Mr. President, I wish to reply to some of the statements by the distinguished floor managers of the bill on both sides of the aisle.

I think when the Senator from New Mexico referred to 41 employees in the compliance division of the ORS, it should be pointed out that there are only 10 employees in the civil rights branch

of that division. The Office of Revenue Sharing says that the committee cut would permit the addition of only 6, not 10 employees in compliance activity. This is substantiated by the letter from Ms. Jeanna D. Tully that I submitted for the RECORD earlier. So the committee has not awarded the tremendous increase that the Senator from New Mexico has indicated.

As for the argument that the Office of Revenue Sharing might have a limited tenure and that we should wait for the determination of the future of revenue sharing before acting, it is clear that the whole thrust of this bill in providing money for fiscal year 1977, with the House of Representatives already having passed an extension of revenue sharing, indicates that it is very likely that the Senate will also. It is highly unlikely that we are going to be folding the Office of Revenue Sharing up in the very near future.

In addition, we certainly need these additional people to deal with what is a 300-case backlog now, and to speed up the processing, which is now more than a year behind. This problem is a worsening one, the backlog grows daily.

In connection with the third comment by the Senator from New Mexico as to the reliance on the States that exists, I would submit that the ORS has only been able so far to negotiate such civil rights agreements with some 14 States, as I understand it, and that the civil rights groups that follow this type of monitoring of the ORS programs have been particularly unimpressed with what the State programs have done in those areas. They have felt that the State programs were ineffective, and it just seems illogical to ask States that have not been actively pursuing a rigid, stringent civil rights policy in support of Congress and in support of the court rulings to go in and voluntarily enforce themselves. This flies in the face of logic.

Civil rights problems have to be approached at every level, of course, and for those States moving ahead rapidly and aggressively, all I can say is "bless them," but we also need a strong Federal input and push behind the antidiscrimination effort.

I think ORS' own statement that they need these in-house people to cope with the backlog and the increasing caseload that they have, and the huge number of cases involved in that backlog, is indicative of their need for help.

The House has taken action affirmatively on this matter. The administration backs the proposal. It is for an increase of $310,000. In putting the firm stamp of the Federal Government and the United States Senate behind civil rights enforcement, Mr. President, I feel this is the very least we can do. We must increase the compliance staff, particularly in the civil rights area, beyond the very minimal skeleton staff they are trying to operate with at the present time.

I would still urge the leadership on both sides of the aisle to accept this amendment. I hope they can see the need for it. I am ready to yield for any further comment from the leadership on either side of the aisle.

Mr. President, if there is no further comment on either side of the aisle, if the leadership is still opposing, I would prefer to proceed with a yea and nay vote, hoping this proposal will be accepted. I shall not call for the yeas and nays at this point, pending any further comment by the distinguished floor managers of the bill.

Mr. MONTOYA. Mr. President, I am prepared to yield back the remainder of my time.

Mr. GLENN. I ask for the yeas and nays, then, Mr. President, and yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FORD). Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. GLENN. Mr. President, I ask for the yeas and nays on amendment No. 1892.

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

The yeas and nays were ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BROCK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

The result was announced—yeas 55, nays 30, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—55

Baker	Garn	Johnston
Bayh	Glenn	Kennedy
Beall	Gravel	Leahy
Bentsen	Griffin	Mansfield
Brooke	Hart, Gary	McGovern
Bumpers	Hart, Philip A.	McIntyre
Burdick	Hartke	Metcalf
Byrd, Robert C.	Haskell	Mondale
Case	Hatfield	Moss
Chiles	Hathaway	Muskie
Clark	Hollings	Nelson
Cranston	Huddleston	Pastore
Culver	Humphrey	Pell
Durkin	Inouye	Percy
Eagleton	Jackson	Proxmire
Ford	Javits	Randolph
Ribicoff	Stevenson	Williams
Scott, Hugh	Stone	
Stafford	Taft	

NAYS—30

Allen	Fong	Pearson
Bartlett	Hansen	Roth
Bellmon	Helms	Sparkman
Byrd, Harry F., Jr.	Hruska	Stennis
Cannon	Laxalt	Stevens
Curtis	McClure	Talmadge
Dole	McGee	Thurmond
Domenici	Montoya	Tower
Eastland	Morgan	Young
Fannin	Nunn	
	Packwood	

NOT VOTING—15

Abourezk	Long	Scott, William L.
Biden	Magnuson	Symington
Brock	Mathias	Tunney
Buckley	McClellan	Weicker
Church	Schweiker	
Goldwater		

So Mr. GLENN's amendment was agreed to.

Mr. GLENN. I move to reconsider the vote by which the amendment was agreed to.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage.

The PRESIDING OFFICER (Mr. FORD). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Will the Senator from New Mexico yield?

Mr. MONTOYA. I yield.

Mr. PROXMIRE. I understand that a number of provisions in the bill have not been authorized and in fact, have been struck from the bill under a point of order by the other body. These provisions include White House office salaries and expenses at $16 million for staff; executive residence operating expenses, $2.1 million; official residence of the Vice President; special assistants to the President, salaries and expenses; Domestic Council; and unanticipated needs. I understand that there is no indication of when the authorization will be passed and will the distinguished manager of the bill enlighten us on that?

Mr. MONTOYA. The authorization is now pending in the Senate and has been passed by the House. I have no idea as to when the authorization will clear the Senate. It passed the House on July 9, 1975. That was last year, but it is still pending in the Senate Committee on Post Office and Civil Service.

Mr. PROXMIRE. It is my understanding that no hearings have been scheduled; there is no indication that this sum is likely to be authorized in the near future.

Mr. MONTOYA. I understand that the Senate Post Office and Civil Service Committee has been holding extensive hearings on the postal reform bill. That is why it has not yet had time to consider this matter.

Mr. PROXMIRE. Let me go down some of the items on the list that seem troublesome. One is unanticipated needs, and the amount provided in the bill, I understand, is $1 million. The stated purpose of that appropriation is to furnish the President with funds necessary to meet unanticipated needs for emergencies affecting the national interest, security, or defense and to pay related administra-

tive expenses. First, is there any accounting for funds expended in that category?

Mr. MONTOYA. Yes, we have held extensive hearings on this very item each year and have asked the White House to give us a report on how this money has been spent. They have given us a very good accounting of this activity in previous years.

Mr. PROXMIRE. Can the GAO audit these funds?

Mr. MONTOYA. These funds are available for audit by the General Accounting Office. Also, they are expended solely on the personal certification of the President.

Mr. PROXMIRE. I understand that the President, after all, has great responsibilities. I feel that he should have considerable discretion. But these particular funds are related to national interest, security, or defense and related administrative expenses. Why are these funds not subject to a General Accounting Office audit, in view of the fact that they are not funds that are directed at any personal needs of the President?

Mr. MONTOYA. One of the principal purposes for which these funds are used is to provide the President with the capability to meet unanticipated needs for emergencies or new activities which are in the national interest. On occasion, the fund has been utilized for this purpose.

Mr. PROXMIRE. How much of the appropriation in past years has actually been expended?

Mr. MONTOYA. The appropriation for fiscal year 1975 was $500,000, and the expended amount was $476,000. It is anticipated that out of the million dollars to be provided for the next year, nearly $1 million will actually be spent. That is what is anticipated.

Mr. PROXMIRE. Why was there this 100-percent increase in the appropriation in 1976–75, and continuing in this year?

Mr. MONTOYA. When officials of the Office of Management and Budget came before our subcommittee, we asked this question of them. It was their belief that they did anticipate an expenditure of nearly $1 million because of possible requests for new activities created by statute but not yet funded.

Mr. PROXMIRE. Can the manager give us some examples of how these funds have been expended?

Mr. MONTOYA. One of the examples is the Clemency Board. A few years ago, I recall that the Federal Energy Office was funded initially when Governor Love was appointed to head it. The Commission on Federal Paperwork was funded out of this appropriation at a level of $200,000. The Privacy Protection Study Commission amount was $131,000, and the National Study Commission on Records and Documents of Federal Officials received $110,000 out of this unanticipated needs fund.

Mr. PROXMIRE. May I ask the Senator whether virtually all of the $1 million—say 90 percent of it—is accounted for by funding this kind of activity? As I understand it, these are agencies created rather quickly and needing funds that it is difficult to get through the regular appropriation process, needing them on an emergency basis. Is it a fact that, say, $900,000 of the $1 million is expended for these purposes, of the kind the Senator has listed—clemency, energy, paperwork, privacy, and so on?

Mr. MONTOYA. It may be, and at times it may not be. The point I have always made clear when I have held these hearings is that the words "unanticipated needs" should have definite criteria that must be adhered to and that they should most certainly not be discretionary funds for the President to expend as he wishes.

Rather, the funds should be expended for an objective that clearly comes within the framework of unanticipated needs. I have always insisted on that.

Mr. PROXMIRE. Is the Senator satisfied that the White House has complied with that standard? I think it is an excellent standard.

Mr. MONTOYA. Yes, I am satisfied. Each year I request an accounting as to precisely how this fund has been used because I do not want another fiasco in the Domestic Council as we witnessed a few years ago in the White House.

Mr. PROXMIRE. Another item was $16 million for the White House office. That is an increase, not over last year, but the year before, perhaps. But over the past 15 years that has increased at a tremendously rapid rate; is that not correct?

Mr. MONTOYA. This request represents a decrease of $233,000.

Mr. PROXMIRE. I understand that. That is over last year. But it is an increase over the past, say, 5 or 6 or 8 years ago; is that correct?

Mr. MONTOYA. That is correct, but we have had to allow for pay raises, increases in health and retirement benefits and the like which stem primarily from the inflationary pressures of recent years.

Mr. PROXMIRE. Could the Senator give the Senate an understanding of how much of an increase there has been, say, in the last 10 years? The reason I ask is because there have been complaints—maybe unfounded—that the White House—and I am not criticizing President Ford because, as the Senator points out, there was not an increase, in fact there was a reduction over last year—but I think we ought to have an understanding as to the White House generally over the administrations of President Johnson, President Nixon, and President Ford in general.

Mr. MONTOYA. We do have that information. I developed it during the hearings, but we do not happen to have it here with us this morning. I can, however, give the Senator the pertinent figures.

In 1975 for this item, the appropriation was $15,398,000; in 1976 it was $16,763,000; and for the fiscal year 1977, in this bill, it is $16,530,000, which is a reduction from last year.

Mr. PROXMIRE. Another item is the Executive residence, operating expenses. Now, is this for the White House, operating the White House?

Mr. MONTOYA. Yes; it is for the White House and the grounds.

Mr. PROXMIRE. Two million, one hundred thousand dollars seems like a high amount even with a residence as important and as significant for our country as the White House. What is the reason for that very large expenditure, $2.1 million to operate the President's home for a year?

Mr. MONTOYA. We pay 86 employees from this appropriation. The appropriation for 1975 was $1.744 million; for 1976 it was $1.826 million, a very slight increase; and for 1977 we are recommending $2.095 million.

Mr. PROXMIRE. There is one other item that bothers me particularly, and that is the official residence of the Vice President. Two and a half years ago, or 3 years ago, the Senate approved converting a House that had been used by a top naval officer for the Vice President's use, and we were told that the cost of refurbishing and furnishing that would be something like $15,000. In fact, the Senator from Virginia (Mr. HARRY F. BYRD, Jr.) assured me, when I asked him on the floor, that the cost would not exceed $15,000.

Now, approximately how much was appropriated to date in rehabilitating and refurbishing the Vice President's residence?

Mr. MONTOYA. For 1975 we appropriated $315,000.

Mr. PROXMIRE. How much?

Mr. MONTOYA. $315,000; for 1976 we appropriated $274,000; and for 1977 the figure has come down to $61,000. So the previous years represent high expenditures because we were really trying to get the newly acquired official residence of the Vice President in shape. We had to have new carpeting, and the residence was badly in need of painting and required some other repairs to the residence. In the past year we provided quite a sum for central air conditioning which has replaced the individual window air conditioners at the residence.

Mr. PROXMIRE. Well now, this is an expenditure that is very hard for this Senator to understand. As I say, we were told the cost would be $15,000. The cost now appears to be about 40 times that. Furthermore, I talked to the Vice President about this. He told me he does not even live there, does not use it. I realize that this may be a good residence perhaps for a future Vice President at some time, but for us to provide a house that was already constructed, grounds are already in good order, a place that was used by a top naval official, for the Vice President, and then to just spend over $600,000 to fix it up, and $61,000 this year for maintenance of this temporary residence seems to me to be rather extravagant.

Mr. MONTOYA. We were not merely renovating the residence for the present Vice President. We were certainly aware of the fact that he has an ample, private residence available to him in the Washington vicinity, and I understand that is where he has been staying. We were, however, providing for a future Vice President who cannot personally afford the fine living quarters the present Vice President can afford. Furthermore, we had anticipated we would eventually

replace the air conditioning units, which were antiquated, and most of the expenditures during the course of the last year are represented by this kind of need.

Mr. PROXMIRE. Why the enormous difference between the $15,000 we were assured would be necessary for refurbishing when the Vice President's house was agreed to, and the $600,000 that we find as the cost?

Mr. MONTOYA. I might say when we conducted the hearings I remember some of those figures, and we were told in the subcommittee that only certain expenditures would have to be made, but as soon as they moved into the residence, an inventory was taken of what was needed. It was found, for instance, that the electrical wiring was very defective, and the residence, in fact, required complete rewiring. Many other situations like that were brought to light. That had not been anticipated when the original project came before Congress. It is now an undertaking that requires additional expenditures, and we must spend a certain sum just to make the residence habitable and to avoid additional, higher expenditures in the future.

Mr. PROXMIRE. Let me ask the Senator one final question—I may raise a point of order on this particular item. I understand, as I say, this has not been authorized. But if the $61,000 is not made available at this time, what will be the consequences?

Mr. MONTOYA. We shall then have to send somebody over there to board up the windows and leave the residence to the mercies of the elements.

Mr. PROXMIRE. After spending $600,000 you will have to board up the windows if they do not get another $61,000 on top of that? This is, theoretically at least, a home for one family. It is awfully hard, it seems to me, for the American people to understand why they need $61,000 a year to provide housing even for the Vice President of the United States—not the Prsidnt, the Vice President.

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

Mr. President, I do not believe it is quite accurate to refer to this official residence of the Vice President as a home for one family. This residence is the site of a great many official functions. It is a site that was chosen partially because it is less expensive there to provide the security that is necessary to be provided for the individual who might on very short notice be called upon to become the President of the country. I think it is totally inaccurate, and a little unfair, to refer to this as the home for one family. This is much more than that, and it is very different. Particularly under the present circumstances we are justified in trying to get this dwelling in shape to do the job that Congress had in mind when it designated this as the official residence of the Vice President.

Mr. PROXMIRE. I appreciate the observation of the Senator from Oklahoma. He undoubtedly makes a good point.

I point out, however, the fact is that we have had no official home for the Vice President until now. We have been able to proceed for 200 years without it. Vice Presidents have gotten along very well.

All of a sudden, to provide something which supposedly would cost $15,000 to fix up but cost $600,000, and more to refurbish when, as I say, they have fared well, we have met all our ceremonial responsibilities, it seems hard to justify.

Mr. BELLMON. I suggest that argument should have been made before the decision to acquire the residence.

Mr. PROXMIRE. I made that argument and I was assured—assured—the cost would be no more than $15,000 for the entire refurbishing.

Mr. BELLMON. The subcommittee is operating under the responsibility that we have to see that this residence is adequate. We were not the ones who made the decision to add the residence, but we do feel it is our responsibility that it is suitable for this purpose.

Mr. PROXMIRE. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

Mr. PROXMIRE. I make the point of order that the appropriation, on page 8, line 19, through page 9, line 2, is not in order because the appropriated sum has not been previously authorized.

Mr. MONTOYA. Will the Senator defer making the point of order temporarily?

Mr. PROXMIRE. I am happy to do so.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. MONTOYA. I wish the Senator would not make this point of order. I recognize his concern about these matters, and the committee has truly been trying to reduce the expenditures for the official residence of the Vice President.

We have had very thorough hearings, and raising a point of order is going to force the committee to remark up the bill. It is going to cause quite a bit of hardship to the members of the committee, and we are eventually going to come back with the same thing.

I wish the Senator would reconsider making his point of order. We assure him that we shall continue to monitor the expenditures for the Vice President's official residence.

We would further invite him to come before our committee to give us the benefit of his wisdom as to what we should do, and I can promise my good friend from Wisconsin that we would give his views our very thorough consideration.

Mr. PROXMIRE. May I say to the Senator from New Mexico that a point of order was made against every single one of these provisions in the House. It was sustained in the House. These were knocked out in the House.

I make the point of order that the amendment is legislation.

Mr. MONTOYA. Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. MONTOYA. I raise the question of germaneness.

The PRESIDING OFFICER. Under rule XVI, the Chair submits to the Senate the question, Is the amendment germane (putting the question).

The nays appear to have it.

Mr. MONTOYA. 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 yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Idaho (Mr. CHURCH), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

The yeas and nays resulted—yeas 65, nays 26, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—65

Baker	Hartke	Pastore
Bartlett	Haskell	Pearson
Bayh	Hatfield	Pell
Belmon	Hathaway	Randolph
Bentsen	Hollings	Ribicoff
Brooke	Hruska	Scott, Hugh
Bumpers	Huddleston	Scott,
Cannon	Humphrey	William L.
Case	Jackson	Sparkman
Chiles	Javits	Stafford
Curtis	Johnston	Stennis
Dole	Leahy	Stevens
Domenici	Long	Stevenson
Eagleton	Mansfield	Stone
Eastland	McGee	Taft
Fannin	McIntyre	Talmadge
Fong	Mondale	Thurmond
Ford	Montoya	Tower
Gravel	Morgan	Tunney
Griffin	Moss	Weicker
Hansen	Nunn	Williams
Hart, Philip A.	Packwood	Young

NAYS—26

Allen	Cranston	Magnuson
Beall	Culver	McClure
Biden	Durkin	McGovern
Brock	Garn	Metcalf
Burdick	Glenn	Muskie
Byrd,	Hart, Gary	Nelson
Harry F., Jr.	Helms	Percy
Byrd, Robert C.	Kennedy	Proxmire
Clark	Laxalt	Roth

NOT VOTING—9

Abourezk	Goldwater	McClellan
Buckley	Inouye	Schweiker
Church	Mathias	Symington

The PRESIDING OFFICER (Mr. HASKELL). The vote on this matter is 65 yeas, 26 nays, and, the Senate, having voted the amendment germane, the point or order will fall.

The Chair, for the information of the Senate, will rule that in accordance with Senate procedure, under rule 16, paragraph 4, if the Senate votes that a provision is relevant or germane, even though it be legislative, the point of order falls.

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 14261, the Treas-

ury, Postal Service, General Government appropriation bill for fiscal year 1977 which provides funds for the Treasury Department, the Postal Service, the Executive Office of the President, and certain other Federal agencies. I take this opportunity to comment on the relationship between this bill and the targets set out in the first concurrent resolution on the budget for fiscal year 1977.

This bill provides $8.3 billion in budget authority and $8 billion in outlays for fiscal year 1977. In addition, outlays arising from prior year appropriations for these programs amount to $0.3 billion so total outlays for these programs are $8.3 billion in fiscal year 1977.

The funds provided in this appropriation bill are within the totals allocated by the Senate Appropriations Committee to the Subcommittee on Treasury, Postal Service, and General Government pursuant to section 302(b) of the Congressional Budget Act of 1974. That allocation is $8.5 billion in budget authority and outlays, and this apropriation bill is thus $0.2 billion in budget authority and outlays below the amounts allocated to the subcommittee.

H.R. 14261 is $0.3 billion in budget authority and outlays above the President's request for these programs. The difference between the President's budget and this bill is principally due to the addition of $307 million in budget authority and outlays for the Postal Service to carry out the provisions of the Postal Reorganization Act.

This bill provides new budget authority and outlays in nine functions of the budget. I ask unanimous consent to insert in the RECORD a table showing the distribution of budget authority and outlays in this bill by function.

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

H.R. 14261, THE TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATION BILL

($ millions) Budget

Senate Reported Bill

Function:	Authority	Outlays
050—National defense	96	54
400—Commerce and transportation	1,771	1,770
500—Education, training, employment, and social services	20	20
550—Health	452	452
600—Income security	—	24
750—Law enforcement and justice	584	534
800—General government	5,374	5,157
850—Revenue sharing and general purpose fiscal assistance	4	4
900—Interest	*	*
Total	8,301	8,015

* Less than $500,000.

SOURCE.—Congressional Budget Office.

Mr. MUSKIE. Mr. President, there are two important potential requirements for funding for fiscal year 1977 not covered by this legislation. First is an additional $500 million in budget authority and outlays which would be authorized by legislation which has passed the House and has been reported in the Senate to help cover the Postal Service deficit. Second is $200 million in budget authority and outlays for claims and judgments expected later in the year. The amounts for claims and judgments can clearly be accommodated by the $200 million allocated by the Appropriations Committee to the Treasury, Postal Service, and General Government Subcommittee but not included in this bill. The Postal Service deficit amount is another matter. Funds for such amounts as might be authorized and appropriated to help cover the Postal Service deficit were considered by the Congress when the first concurrent resolution on the budget was adopted. The Senate's version of the budget resolution included $1 billion for that purpose. The House resolution contained nothing. The House conferees on the budget resolution were adamant in their determination that the budget resolution should not reflect a hypothetical amount attributed to legislation which, they argued, might not be enacted to cover the Postal Service deficit. The decision of the conference was to delete, without prejudice to their inclusion in the second budget resolution, any amounts for the Postal Service deficit. Instead, the conference left to subsequent congressional action the determination of how much, if anything, should be appropriated for that deficit this year.

The Post Office and Civil Service Committee has reported legislation, H.R. 8603, which would authorize the appropriation of $500 million for the Postal Service deficit for fiscal year 1977. If this authorization is enacted, and the amounts are subsequently appropriated, the second resolution will need to reflect that reality, the possibility of which was recognized but not provided for in the first concurrent resolution on the budget.

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Mr. MONTOYA. Mr. President, I am prepared to yield back the remainder of my time and go to third reading.

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

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 amendments and the third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? 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 Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Michigan (Mr. HART) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS) and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY), is absent due to illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), would vote "nay."

The result was announced—yeas 82, nays 10, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—82

Abourezk	Garn	Montoya
Allen	Glenn	Morgan
Baker	Gravel	Moss
Bartlett	Griffin	Muskie
Bayh	Hansen	Nelson
Beall	Hart, Gary	Nunn
Bellmon	Hartke	Packwood
Bentsen	Haskell	Pastore
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Hollings	Percy
Burdick	Hruska	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Humphrey	Scott, Hugh
Case	Jackson	Sparkman
Chiles	Javits	Stafford
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stone
Curtis	Long	Taft
Dole	Magnuson	Talmadge
Domenici	Mansfield	Tunney
Durkin	McGee	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
Fong	Metcalf	
Ford	Mondale	

NAYS—10

Brock	Helms	Scott, William L.
Byrd, Harry F., Jr.	McClure	Thurmond
Fannin	Proxmire	Tower
	Roth	

NOT VOTING—8

Buckley	Inouye	Schweiker
Goldwater	Mathias	Symington
Hart, Philip A.	McClellan	

So the bill (H.R. 14261), as amended, was passed.

Mr. MONTOYA. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MONTOYA. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

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

Mr. MONTOYA. Mr. President, I move that the Senate insist upon its amendments, request a conference with the House of Representatives later on, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. MONTOYA, Mr. BAYH, Mr. EAGLETON, Mr. MCCLELLAN, Mr. MCGEE, Mr. BELLMON, Mr. HATFIELD,

Mr. YOUNG, and Mr. STEVENS conferees on the part of the Senate.

ORDER FOR RECESS FROM 12 NOON TO 1:30 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess from 12 noon to 1:30 p.m. today, for a special purpose.

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

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1977

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 14239, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14239) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

The Senate proceeded to consider the bill, which had been reported by the Committee on Appropriations with amendments.

The PRESIDING OFFICER. Time for debate is limited to 1 hour, to be equally divided between and controlled by the Senator from Rhode Island (Mr. PASTORE) and the Senator from Nebraska (Mr. HRUSKA), with 30 minutes on any amendment and with 20 minutes on any debatable motion, appeal, or point of order.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on final passage.

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

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, H.R. 14239, the State, Justice, Commerce, the judiciary and related agencies appropriation bill, as reported to the Senate, contains recommendations totaling $6,878,691,453 in new budget authority. This recommendation is $389,041,453 over the appropriation for last year; $337,563,453 over the House allowance; and $565,821,000 over the budget estimates. The bill, as reported, is $121 million below the committee allocation to our subcommittee for the first concurrent resolution for 1977.

The increase of $565 million over the budget request consists of the following eight major changes.

First, the Senate committee identified about $60 million worth of House reductions below the budget request. The committee is recommending that the Senate accept these reductions.

Second, the House added $150 million over the budget for the Small Business Administration. A survey of the SBA regional offices indicated that there are a sufficient number of quality loan applications from small businessmen to justify the higher amount. Consequently, the committee is recommending that the Senate concur in that increase.

Third, the House added $27 million to restore the proposed reduction in the FBI budget, and the committee agrees with that.

Fourth, the House added $12 million to the budget of the Immigration and Naturalization Service. This would restore the proposed reduction in the budget and add 400 additional positions to deal with the illegal alien problem. Many of these aliens take jobs from our citizens. The committee agrees with the House on this item.

Fifth, the House partially restored the LEAA program to last year's level of $810 million. The budget proposed a cutback to $708 million. The House added $30 million for a total of $738 million. The Senate committee recommendation adds an additional $72 million to fully restore the program to last year's level, while providing increased emphasis on the new and innovative programs authorized by the Juvenile Justice and Delinquency Prevention Act.

Sixth, the House partially restored the EDA program to last year's level of $360 million. The budget proposed a cutback to $223 million. The House added $77 million to get the program up to $300 million. In the Senate, we are recommending $453.5 million, which is the same amount that was passed by the Senate in last year's bill. This brings the Senate recommendation $230 million above the budget estimate which had proposed such a drastic reduction—and for the life of me, I cannot understand why.

Mr. President, nearly 11 years ago, Congress passed the Public Works and Economic Development Act. The purpose was to assist regions, counties, and communities suffering from substantial and persistent unemployment which have lagged behind the rest of the Nation.

That mission has not changed. Regions, counties, and communities in America continue to experience distress. The programs funded by this act have helped many areas achieve lasting improvements. But over the years, other areas have slipped from the security of America's economic mainstream. Many of our cities, for example, have in recent years become distressed and need the long-term rehabilitation of an economic development program. Thus, while gains have been made in some places, employment and low income have begun to undermine the economic stability of other areas such as Rhode Island, which has been adversely affected by the departure of the destroyer fleet and the removal of 85 percent, in toto, of our naval installations in the State of Rhode Island, which constitutes one-half of the entire installations throughout the entire country, with less than 1 percent of the entire population of the country.

The administration recognizes the need for this program. On the one hand, the President's own bill would extend the authorization for 3 more years at an annual authorization level of $845 million. Despite this expression of support, the budget request was reduced by 40 percent below last year—to the lowest level in years. The committee disagrees with this cutback and has added the additional funds which will provide increased job opportunities while constructing facilities of lasting value to the community.

Seventh, the committee is recommending much the same treatment for the Regional Action Planning Commissions authorized by title V of the EDA Act. Last year, Congress appropriated $64 million. For fiscal year 1977, the budget request is only $42 million, a 33-percent cut. The committee is recommending an increase of $42 million for a total of $84 million, which is the same amount included in the Senate passed bill last year.

Eighth, the committee has included $22 million over the budget for the programs of the National Oceanic and Atmospheric Administration, including increased funding for the sea grant program, and NOAA's responsibilities under the 200-mile limit legislation.

In closing, Mr. President, I want to thank my distinguished colleague and counterpart, the Senator from Nebraska (Mr. HRUSKA), the ranking Republican on the subcommittee, for his cooperation and support, especially in the area of the programs under the Justice Department.

Because of Senator HRUSKA's long experience on the Judiciary Committee, he is especially helpful to our appropriation subcommittee in our deliberations on the programs of the Justice Department. Our subcommittee will miss his wise counsel when he retires next year. I will miss his friendship. Surely, he will be missed by those at the Justice Department who have benefitted from his very effective advocacy in support of a proper level of funding for priority Justice Department programs.

I am very happy now to yield to my colleague (Mr. HRUSKA) and to say at this juncture that, for him and for me, this will be the last year that we will be presenting this budget to the Senate of the United States, since we are both retiring at the end of the year. I do want to repeat: It has been a great, great, great blessing to me to have known this great man, Mr. HRUSKA. I appreciate his friendship and I only hope the good Lord spares to him and all his loved ones many, many years of good health and happiness.

Mr. HRUSKA. I thank the chairman of the subcommittee for his kindly thoughts and his mention of the fact that this is our legislative swan song insofar as this bill is the product of the Subcommittee on State, Commerce, Justice, and the Judiciary.

With his leadership, Mr. President, we have worked together for a long time, closely and harmoniously. I want to thank him publicly for his many courtesies and his cordiality. I associate myself generally with the remarks which he has made about the bill.

This legislation now before the Senate is a product of persevering efforts put forth not only by the chairman but also the other members of the subcommittee.

Unfortunately, this bill is considerably above the House bill and a half a billion

over the budget estimate. The primary increases in this bill are tied to the Law Enforcement Assistance Administration, the Economic Development Administration, the National Oceanic and Atmospheric Administration, and the Legal Services Corporation.

With respect to LEAA, the committee recommended an appropriation of $890 million which was the same amount as the 1976 appropriation. This is $100 million over the House allowance but I believe it is money well invested. Out of the total appropriation, we will provide $40 million for the law enforcement education program and $100 million for programs authorized by the Juvenile, Justice, and Delinquent Act. Our committee heard overwhelming and convincing testimony to the effect that LEAA and programs funded under it are having a substantial and beneficial impact on all aspects of the criminal justice system. Naturally, in a program as extensive as this, there are bound to be minor and minuscule errors. Nevertheless, when all the evidence was received, not only by our Appropriations Subcommittee but also the House and Senate Judiciary Committees, the strength of the LEAA program was manifest. It should be noted that the committee recommendation does not take into account several new program activities which would be authorized by the Judiciary Committee's reauthorization bill (S. 2212), such as the funding of State judicial planning committees, and a grant program for high crime areas. Moreover, the part E funding is probably not sufficient to meet the increasing demands for correctional modernization at the State and local levels.

With regard to the Economic Development Administration, the committee recommended an appropriation of $453 million which is an increase of $93 million over the 1976 appropriation, and $230 million over the budget estimate. Very candidly, I believe that these appropriations are swollen and should be substantially reduced. Since March 1975, employment has increased by 3.3 million. As a matter of fact, from December 31, 1975, until May 31, 1976, employment has increased by 2.3 million. The real gross national product has increased by over 7 percent from the first quarter of 1975 to the first quarter of 1976. These are encouraging economic indicators and I believe most observers agree that our economic horizon is bright. My basic argument against these swollen EDA appropriations is that less than 10 percent of the funds in this bill will be spent in the year for which they are appropriated. As a matter of fact, the "spend out" normally extends over a 5-year period. Therefore, while this appropriation increasing the EDA budget request by over a quarter of a billion dollars will pass the Senate today, the real effect will only be a payout of some $25 million in 1977. The majority of the funds will not be spent until after 1977 when the economy will be in dramatically less need of more economic stimulus.

We have provided the Legal Services Corporation with $130 million, which should be sufficient to provide economical and effective legal service to individuals who would not otherwise be able to afford adequate legal counsel. The committee expects the Corporation to extend its legal services to areas of the country where the poor are now without legal assistance.

Section 208 of the bill causes me concern, Mr. President. By statute, the Department of Justice was given the lead agency role in the management and operation of the U.S. terminal of Interpol. That is the International Police Organization.

About 18 years ago former Attorney General Rogers designated the Department of the Treasury to represent the United States in Interpol. The statute vests in the Department of Justice, however, the responsibility for it, for its delegation or for its retention.

Recently the Department of Justice decided to take back Interpol operations and withdraw Treasury's operations of the National Central Bureau. At some future date Congress should determine which Department should most properly assume operational functions for the U.S. participation in Interpol.

Meanwhile, the committee has been assured by the Department of the Treasury that active participation of all Justice Department agencies in the operational function of Interpol will be enthusiastically encouraged and continued.

As the basic statute now reads, Mr. President, that authority and that responsibility does rest in the Department of Justice. The Department of Justice has indicated they intend to reclaim and restructure the administration of our representation in Interpol.

In section 208——

Mr. STONE. Mr. President, will the Senator yield at that point?

Mr. HRUSKA. I would be happy to yield.

Mr. STONE. Does the Department of Justice plan to analyze not only American representation in our own structuring about Interpol, but also the questions that have been raised about information about private American citizens being sent to Communist countries and other countries through Interpol?

Mr. HRUSKA. Interpol is not a law enforcement agency. It is an information-collection agency and it arranges for the communication of various types of selected information within one country to be transmitted to the other member countries of the organization upon request.

Mr. STONE. That is precisely the point the Senator from Florida is raising. The question has been raised about information on American citizens being sent to the Interpol headquarters and arriving in countries behind the Iron Curtain which conceivably could be used for intelligence purposes by our adversaries.

The Senator from Florida is simply asking whether the Department of Justice is going to be looking into that as well as what the Senator has already stated, as well as the American management of our own participation.

Mr. HRUSKA. Of course, those points have already been covered in the hearings that were conducted on this subject before the Committee on Appropriations.

I do not quite get your other point.

Mr. STONE. The Senator from Florida is not a member of the Appropriations Committee and he wished to know whether the committee has any judgment, recommendation or opinion on that question which has been raised.

Mr. HRUSKA. Is the point of the Senator's objection that there has been a leak of information, an improper use of information, or that there is apt to be?

Mr. STONE. There have been assertions that there are. There have been assertions that the information that is sent, that is exchanged with Interpol's headquarters, often and in a routine fashion reaches the Iron Curtain countries, some of whom are members of Interpol.

Mr. HRUSKA. If it is in the nature of criminal history, if it is in the nature of documents that relate to the substance that is covered by the compact which results in Interpol, what harm is there in it, what damage is there in it?

Mr. STONE. What damage is there in it? The assertion has been made and raised, and again the Senator from Florida does not have a determination on whether these charges have been borne out, but obviously if information on criminal or alleged criminal activities within the United States of citizens here reached an adversary Communist nation, it could be used for intelligence purposes, having very little if anything to do with criminal activity behind those Iron Curtain countries.

Mr. HRUSKA. There have been charges to that effect. As far as I know, the hearings that we have had do not indicate the charges are substantiated, and if they should be, it would be in violation, and they would be carefully monitored and prevented. But as far as the hearings are concerned, I do not recall that any of those charges you mention have been substantiated in the hearings that were held.

Mr. STONE. The Senator from Florida thanks the Senator from Nebraska.

Mr. HRUSKA. Mr. President, there are two changes that have occurred in this field in the past 18 years. One change is this: The Director of the FBI, who did not care to participate in Interpol operations and activities and who brought about the assignment to the Treasury Department, is no longer there. J. Edgar Hoover is no longer Director of the FBI.

The present Director is kindly disposed to streamline and restructure the functions to a point where the assignment should remain in the Department of Justice rather than being maintained in the Department of Treasury.

The second major change that has occurred is this: that 18 years ago the illegal drug and illicit drug traffic and the enforcement of laws against the same had been in the Treasury Department. That is no longer true. Now there was a transfer some years ago, some 3 or 4 years ago, of those drug functions into

the Drug Enforcement Administration which is in the Department of Justice.

Between the Drug Enforcement Administration figures, and the figures in the Immigration and Naturalization Service, we find the greatest bulk and volume of activities and items of activity in the Interpol jurisdiction being carried out by the Department of Justice. It is submitted, and it is the contention of the Department of Justice, that by reason of that fact and the surrounding circumstances there should be that transfer.

Now, fortunately, it was agreed that the nonallowance of funds to implement any of these transfers will be limited to this bill, Mr. President, and, I take it, that in the ensuing months and before the next major appropriation bill is taken up there will be an inquiry into this, inviting witnesses from the Treasury Department and the Department of Justice to assert their respective plans for that purpose.

Then, if Congress decides that the substantive law should be changed so as to transfer the present authority and responsibility for Interpol from the Department of Justice to some other department that would be fine. But, it seems to me, except as a temporary expedient, section 208 is not well-advised. I shall not make a point of it now, because it would be idle to do so, and that can be taken care of in due time.

Mr. President, I am pleased to report to the Senate that this bill contains $2 million to provide for a new travel document and issuance system for the U.S. Passport Office. The American traveling public will shortly be receiving and enjoying more efficient and convenient passport service. With more of our citizens traveling abroad, I am sure that all will welcome this new TDIS operation.

I am also pleased to report to the Senate that this bill contains an appropriation of $40 million as the United States' share of the cost of the United Nations peacekeeping forces in the Middle East. All of us are aware of the recent problems in the Sinai. Today, however, with funds supplied in part in the State-Justice bill passed last year, we have the U.N. Emergency Force in place. The Egyptian and Israeli armies are separated and peace has come to an area that has known only war over the past decades. This is a small amount compared to what we would have had to appropriate if the conflict between Israel and Egypt had continued. It is refreshing to report to my colleagues that this appropriation is largely responsible for tanks and artillery shells in the Sinai being replaced by bulldozers and construction equipment and the machinery of peace and progress.

When I look at the broad area of Government overregulation, at Government agency excess, at Government disregard for costs and benefits, two programs stand out. Both programs emanate from the Federal Trade Commission. Both programs owe their existence not to their merits but to backdoor circumventions of due process and the intent of Congress.

The two FTC programs—the corporate patterns program—and the line-of-business program are being contested in the courts by some 380 U.S. corporations on grounds that the FTC is circumventing Congress' amendment of the Census Act of 1962. This amendment provided statutory immunity and confidential status for information submitted by American business to the Census Bureau.

The Bureau, as we all know, is held in high regard as an agency of integrity devoted to the collection of data on the U.S. economy. The Bureau's success in collecting this data is due to the voluntary cooperation it has earned from the business community.

Now this voluntary compliance is being jeopardized by FTC efforts to pluck the very same data from company file copies of confidential census data. It is as if the FBI decided—for some no doubt noble reason—it wanted the confidential income tax returns of all Members of Congress, the executive branch, and even of every citizen. Following this FTC precedent, all the FBI would have to do is set up an identical IRS form, get it approved by the Government Accounting Office, and send it out. Needless to say there would be mighty objection on civil libertarian and privacy grounds, and also on the transparent circumvention of the intent of Congress.

As a matter of fact, the Office of Management and Budget and the Census Bureau have objected to the FTC corporate patterns program. They predict that FTC's planned public disclosure of individual company census data will result in the reluctance to continue the historical cooperation and confidence that has existed between the business community and the Census Bureau.

I have been in contact with the Department of Commerce on this matter and ask unanimous consent that a letter to me from John Thomas Smith, Acting Secretary of Commerce, be printed at this point in the RECORD. As my colleagues will note, Mr. Smith is of the opinion that the Census Bureau should more properly administer the line-of-business and corporate patterns report. I also ask unanimous consent that the questions I directed to Vincent B. Barabba, Director of the Bureau of the Census, be printed at this point in the RECORD. These questions and answers corroborate the fact that the LOB and CB programs should be transferred to the Bureau of the Census. Finally, Mr. President, I ask unanimous consent that a copy of my letter to James T. Lynn, Director, Office of Management and Budget, be printed in the RECORD at this point. OMB is in a unique position to mediate an end to this unfortunate imbroglio.

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

THE SECRETARY OF COMMERCE,
Washington, D.C., June 2, 1976.

Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: I have read with interest the testimony on April 27 by members of the Federal Trade Commission before the Subcommittee of the Committee on Appropriations and the specific questions that you directed to Mr. Barabba, Director of the Bureau of the Census, to answer relating to the Federal Trade Commission's Corporate Patterns Report and the Line of Business Surveys. I believe you have now received Mr. Barabba's answers to your questions.

Consideration of this matter leads me to call to your attention the extent to which the FTC statistical program may be duplicative of information now being compiled and published by the Bureau of the Census. This is particularly true of the data for the Corporate Patterns Report.

As the Federal Government's primary general purpose statistical agency, Census is uniquely qualified to assume responsibility for surveys such as these and meet the needs of all data users. Census now has a large, well-rounded statistical program in the economic areas, compiling data on both an establishment and company basis. The inclusion of these additional surveys would complement the data already being produced by Census and enhance the usefulness and accuracy of both the financial and operational data, since both sets of data would be obtained from a single framework and thus be fully comparable. This, for example, would be extremely useful in improving the inventory data included in the gross national products accounts.

The Bureau is, and is perceived as, a general purpose statistical agency not identified with specific programs or policy orientation. Because of the Bureau's position it is able to concentrate all of its resources and energies to the collection and compilation of statistical data in an independent, objective, unbiased manner. It has an extremely competent group of survey and mathematical statisticians which provides the flexibility and expertise necessary for the conduct of such operations and for the continual improvement of statistical methodology.

Because of the recent installation of the Standard Statistical Establishment List (formerly referred to as the Industrial Directory), the Census Bureau has the only continuous, complete, and annually updated list of all business firms and their constituent establishments (locations).

The Bureau of the Census was selected as the single Federal statistical agency to set up and maintain this business list by the Office of Management and Budget, because of its responsibilities for economic censuses and surveys, its capabilities to amass and control such large-scale files, its expertise in selecting samples and in survey work, and its legal access to pertinent administrative records located elsewhere in the Federal Government.

Known as the SSEL and designed to provide the master frame for economic censuses and surveys, this file gives the Bureau a unique ability to assure completeness and accuracy in its survey work, to select the most efficient samples and to produce data fully comparable with censuses and correctly classified according to the Federal Government's Standard Industrial Classification System. No other agency possesses all these attributes for business surveys.

The scale of statistical operations at the Census Bureau is large and the Bureau, therefore, maintains a very sizable online computer capacity. Its data collection capabilities are unmatched, as is its reputation for response, timing, and accuracy.

Moreover, the confidentiality provisions of title 13, under which the Census Bureau operates, have proven to be an invaluable asset in the conduct of statistical surveys. The business community has recognized the independent nature of the Census Bureau and has great trust in its demonstrated ability to maintain the confidentiality of data reported

under all circumstances. Court decisions including the recent IBM case have reinforced this trust. In some instances, in order to obtain valid statistical series, companies must supply estimates for items which are not regularly maintained in their records. A good example is the valuation of interplant transfers which are not normally maintained in financial accounting records of companies. Nevertheless, companies are willing to estimate these values for Census since they know that the information will be used only in statistical series, and that the individual figures will not be used for purposes of regulation or investigation or disclosed in any manner. I feel sure that many companies are reluctant to report such figures to a regulatory agency. While title 13 of the Census law does prohibit the release of individual company data, Census is willing and able to provide special tabulations and should meet virtually all of the statistical needs of the Federal Trade Commission.

One of the benefits of greater involvement of the Census Bureau in the existing FTC statistical program would be the additional analyses that could be performed with data collected from the Line of Business Survey and economic programs now conducted by Census. Although Census does not have mandatory authority to collect data quarterly, the surveys would be conducted by Census on a voluntary basis with a mandatory anaual report used wherever necessary. The close cooperation that has existed over the years between Census and industry has permitted their successful conduct of many key economic surveys on a voluntary basis. In-depth studies resulting from cross-tabulation and statistical regressions utilizing information collected in the Census Bureau's Annual Survey of Manufactures, the 5-year economic censuses, and other current surveys could enhance the analytical efforts of the Federal Trade Commission.

As you know, the President has asked that every effort be made to reduce the number of public use forms and the resulting response burden being imposed on American industry. As I have indicated, the FTC Corporate Patterns Report is duplicative of the information already being collected by the Census Bureau in its economic censuses and Annual Survey of Manufactures reports. The Department of Commerce strongly objected to this survey, pointing out the serious negative impact it could have on the Federal statistical system.

If there is additional information that you would be interested in, please let me know.

Sincerely,

JOHN THOMAS SMITH II,
Acting Secretary of Commerce.

OFFICE OF THE DIRECTOR,
Washington, D.C., May 4, 1976.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee of the Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached pages contain responses to questions directed to me in the hearings of April 27, 1976, on the appropriations for the Federal Trade Commission. I shall be pleased to furnish any additional information that you may require.

Sincerely,

VINCENT P. BARABBA,
Director, Bureau of the Census.

Attachment.

Question 1: Could you describe the type of information which the Bureau of the Census collects which is the same data as the FTC is now attempting to collect?

Answer: Information on company organization and affiliation collected annually as part of our Company Organization Survey is similar to that requested from Questions 1–4 on company structure and Question 8 on mergers and acquisitions of the CPR form. Value of shipments from domestic manufacturing establishments by product class, Question 5 of the CPR form, aggregates at the company level information identical to that requested by establishments in the Annual Survey of Manufactures. Domestic nonmanufacturing activity as requested by CPR Question 6 is available from our 5-year Economic Census program. Information for net sales and total assets, Question 7 of the CPR form, is collected for the total domestic activity of the company as part of the 5-year Economic Censuses and for manufacturing activity in the Annual Survey of Manufactures.

Question 2: Do companies generally maintain such data in the ordinary course of their businesses or do they specially prepare it for Census?

Answer: This varies by company. When the company has integrated operations, the establishment information may be prepared from information that is not always available in the company files, and therefore, the information is prepared especially for Census purposes. In the absence of book values, it is indicated to the company that carefully prepared estimates are acceptable for the statistical purposes of the survey.

Question 3: Why is it that Census data are not normally available right out of reporting companies' main accounting records?

Answer: Each company has its own accounting system. More complex, diversified companies maintain different types of records at different levels of management control. Since Census basically seeks operating levels (establishment data), many companies have to go to divisional or other records in order to obtain information that can be used to estimate the establishment data. This is particularly the case when shipments occur between plants of the same company for further fabrication.

Question 4: When faced with the FTC's identical request for Census data, would you expect companies especially to compile the data all over again or simply to use their file copies of Census reports and report that data to the FTC?

Answer: Since this is a report that is prepared for a regulatory agency and not for statistical purposes, many companies may want to reexamine the basis for some of their estimates to see if these estimates are satisfactory for regulatory inquiries.

Question 5: Are you aware of the FTC's letter of February 13, 1976 to respondents to the Corporate Patterns Program advising that they may comply with the program's request for 1972 value of shipments data by copying the data for 1972 which were preprinted for the respondents by the Census Bureau on the forms sent out under its 1973 Annual Survey of Manufactures?

Answer: I was not, but I have now obtained a copy of the letter (copy attached). We are very concerned on learning of this direct reference to the Annual Survey of Manufactures. The many years spent in developing the relationship which exists between Census and the private sector is in our opinion threatened by action of this type. The rationale for our position on this has been made very clear to FTC over the years.

Question 6: In your testimony last year, you also stated that "Census is in a position to provide every special tabulation that FTC can expect to make from the Corporate Patterns results with one exception—we will not prepare any special tabulations which will disclose the operations of individual companies." Is that not correct?

Answer: Yes, it is, sir. We will be glad to discuss with FTC at any time the cost associated with developing special tabulations of data reported on Census forms.

Question 7: Are we to understand from this that FTC plans disclosure of that very same Census data which was specially compiled from the Bureau of the Census and which the Census Act unequivocally provides may never be disclosed by Census?

Answer: On July 29, 1975, in a statement released by FTC, it stated, "The Commission will not publish earlier than January 1, 1978 any individual company data submitted pursuant to CPR–1972." I note, however, that in recent testimony before your Committee (April 28, 1976) Mr. Scherer indicated that the Commission has not reached a final judgment on the question of disclosing data after the passage of 5 years. Individual company information collected as part of the 1950 CPR program has been released. When the 1972 FTC data are released, they will duplicate information that had been previously collected by the Bureau of the Census.

Question 8: What effect will this FTC program of disclosure of confidential Census data have on the accuracy of responses to the Census Bureau's information programs, and on the Bureau's ability to continue to obtain the cooperation of respondents which it counts on and which it has received in the past?

Answer: Its effect, Mr. Chairman, is expected to be serious. Companies may be unwilling to provide data on an estimated basis or may refuse to submit such estimates when they anticipate that the same information will be requested by a regulatory agency and that the data will be made publicly available. Information if furnished may therefore be subject to additional validation by the company prior to submittal which would seriously impact on the timeliness associated with our statistical programs.

Question 9: Could you identify some of the uses to which the various agencies of the Federal Government put the data you publish in aggregate form relating to value of shipments, employment, production costs, and the like? etc. How is it used by the Bureau of Economic Analysis in relation to GNP computations, and so on?

Answer: The Census of Manufactures is the major benchmark publication used by a number of Government agencies in validating their statistical programs. The information regarding product shipments and materials consumed by industry are important elements in the periodic updating of the input-output tables. These tables are then used to revise the estimates of Gross National Product. The Census data are also used in establishing benchmark levels for the Federal Reserve Board's Index of Industrial Production and in determining value added and value of shipments weights to be used in the regular monthly publication of that index.

The Census of Manufactures data, particularly the shipments and value added data, are also used by the Bureau of Labor Statistics in setting their Wholesale Price Index weights and in the development of special-purpose industry indexes. BLS also uses the Census data for productivity and other special studies. The Bureau of Mines uses much of the materials consumed data as benchmarks for their more frequent monthly and annual surveys.

In addition to these regular uses by the statistical system, the detailed Census of Manufactures data are widely used by other Government agencies such as the Council of Economic Advisors, Bureau of Domestic Commerce, the Federal Energy Administration, and Treasury in analytic studies of specific industries, products, materials, or fuels consumed. The Federal Trade Commission and the Justice Department use the Measures of Concentration (share of each industry and product class accounted for by the 4, 8, 20 and 50 largest companies) in connection with their investigations under the antitrust laws.

In recent years added emphasis has been given to the shipments of commodity data

due to the increase in import activity and the need to have greater currency in our industrial performance at the domestic level. The Trade Act of 1974 seeks statistical comparability of domestic production with data from imports and exports.

The Census Bureau also publishes a wide range of other data from the quinquennial Economic Censuses program and from the large number of monthly, quarterly and annual surveys conducted by the Bureau. These are also widely used by many Government agencies in evaluating current business conditions and in forecasting future trends.

Question 10: Are you saying that the FTC's Corporate Patterns Program could undermine the continued reliability of our GNP forecasts and of other economic indexes and research which are employed for economic decision-making purposes by the President and Congress?

Answer: Yes, I am, Mr. Chairman. We are now involved in finalizing our plans for the 1977 Census of Manufactures. The extent to which the Corporate Patterns Survey erodes the close relationship between Census and industry could seriously threaten this basic benchmark program. The Bureau of the Census is also dependent on the voluntary cooperation of American industry in the conduct of numerous current surveys that are important economic indicators including such surveys as the important monthly Manufacturers' Shipments, Inventories, and Orders Survey, the weekly and monthly Retail Sales Surveys, and the numerous monthly and quarterly Current Industrial Reports. As a result of FTC's regulatory programs and the resulting reporting burden, we anticipate an erosion of cooperation to many of our important statistical programs that are collected on a voluntary basis. This is borne out by our recent experience when we called 12 very large manufacturing companies that had discontinued reporting in the monthly manufactures survey mentioned above. More than half of the companies cited the Government's expanded mandatory reporting in the Census survey.

Question 11: Please describe how the Census Bureau could satisfy each and every FTC need for special statistical tabulations of Census data?

Answer: The kinds of special tabulations that could be developed for FTC are not limited to value of shipments and merger and acquisition data for the largest 1,200 companies every 5 years. Rather the Bureau's many economic surveys provide a more extensive data base that can provide results with a high degree of reliability. For example, the Bureau's Annual Survey of Manufactures can provide concentration tabulations similar to those published at 5-year intervals as part of the Census of Manufactures. The Bureau's technical staff is frequently called on to develop analytical ratios of industrial activity and for calculation of regression or cross-tabulation of selected data on a reimbursable basis. In fact, all that is necessary is for the FTC to specify its requirements and a cost and time estimate will be provided. Although it is not certain that we could provide every FTC need for special tabulations because of the need for preventing the disclosure of individual company data, every effort will be made to maximize the amount of data that can be provided. Of course, the tabulations would be limited to the data included on the Census report forms.

Question 12: Isn't it true that the FTC's Corporate Patterns Program is a quinquennial program, and that, since the Census Bureau conducts a survey annually, Census could provide FTC with special tabulations every year, thus greatly increasing the amount of such data FTC would receive?

Answer: Although it is my understanding no final determination has been made by the FTC Commissioners on the frequency of the survey, consideration is being given to conducting the CPR on a 5-year basis. We have indicated we could supply special tabulations on a reimbursable basis to FTC, and annually if so requested.

Question 13: What actions have you taken to oppose the FTC's "subterfuge" of the Census law?

Answer: At a meeting held on February 21, 1975, at OMB with representatives of the General Accounting Office and FTC, we were joined by the Bureau of Economic Analysis in opposing the survey. On February 28, 1975, I sent a letter to Elmer B. Staats, Comptroller General of the United States, citing our opposition to the proposed survey. We had been supported in our opposition to the survey by a letter of March 9, 1975 from Dr. Joseph Duncan, Deputy Associate Director for Statistical Policy of the Office of Management and Budget to Mr. Monte Canfield, Director of the Office of Special Programs of the General Accounting Office. Former Secretary of Commerce Rogers C. B. Morton sent letters on September 26 to Chairman David N. Henderson of the House Committee on Post Office and Civil Service and to Chairman Gale W. McGee of the Senate Committee on Post Office and Civil Service. These letters identify the compromise of Census confidentiality resulting from the proposed survey. I believe that we have done everything short of legal action in opposing the FTC.

Mr. Chairman, I would like to add that we at Census do not question the right of FTC to seek information that is needed to carry out its identified responsibilities. We do question the need for FTC to engage in a broad statistical survey of the size and scope that so closely replicates information already collected by another government agency.

Question 14: Are you familiar with the FTC's Line of Business Report Program and, in particular, with FTC Form LB? (Exhibit 9)

Answer: Yes, I am. Census participated in a hearing called by GAO on April 19, 1974 to review the proposed Line of Business Survey.

Question 15: Are you aware that under the LB Program, in Schedule II of Form LB, it is proposed to require corporations to report annually to the FTC the shipments data by 5-digit Census Bureau product codes which such corporations specially compile solely for purposes of reporting to the Census Bureau?

Answer: Yes, I am, Mr. Chairman, and although we have not officially opposed the FTC's Line of Business Survey, I feel it possible for Census to develop comparable estimates more efficiently. In fact, at the hearings at GAO on April 19, 1974, proposals were made by representatives of the private sector that the survey would be more acceptable to industry if conducted by Census.

Question 16: Are you aware that the FTC has issued "Question and Answer" sheets (Exhibit 10) which advise companies that, for purposes of responding to various questions in Form LB, including Schedule II, line 3, and Schedule III(c), lines 32, 35, 36 and 37, they might utilize the data reported to the Census Bureau on census forms? Indeed, does not the FTC in these Question and Answer sheets urge respondents to write to the Bureau of the Census to obtain copies of Census forms and instructions which the FTC states "should be followed" in complying with Form LB?

Answer: Yes, I have recently seen the copies of the Question and Answer sheets which refer companies to Census forms and that urge respondents to write to the Bureau to obtain copies of forms and instructions. We object to this identity to Census programs by FTC. The Bureau does not desire to have its statistical reporting relationship with industry, which is confidential under the law, referred to in any way by FTC. To do so could impair, to an unpredictable degree, the effectiveness of our statistical program at Census.

Question 17: Has the Bureau of the Census ever discussed with the FTC the problem of FTC "Piggy-backing" on Census forms and definitions? If so, please state the substance of such discussion.

Answer: Yes, Mr. Chairman, we have. In the early stages of the development of the 1950 CPR Survey, we had objected to the specific reference by FTC to the Census statistical reporting relationship with industry. We proposed in a letter of May 10, 1951 to Mr. Walter Ryan of the Bureau of the Budget, which was the agency responsible at that time for the clearance of the CPR, some specific recommendations in the treatment of definitions and concepts. The CPR form and instructions were subsequently modified by FTC to delete most of the references to Census programs. At all meetings held with FTC, we have reiterated our interests in avoiding specific reference to Bureau of the Census surveys. The proposed report form and instructions for completing the 1967 CPR and the copy we subsequently received for the 1972 Survey did not carry any specific reference to Census surveys. We were not consulted regarding the preparation of the Questions and Answers associated with the 1974 LB Survey which was just recently called to our attention. We strongly object to references of this type.

Question 18: Do you see any reason why the Bureau of the Census could not conduct a line of business reporting program as an annual survey, which would be covered by the special individual company data confidentiality protections set forth in the Census Act?

Answer: No, I do not, Mr. Chairman. To be successful, this would have to be conducted on a mandatory basis under Title 13.

Question 19: And you could publish aggregates of individual company LB data, and could provide FTC with any and all special statistical tabulations it may want of aggregate data?

Answer: Yes, Mr. Chairman, to the extent that special tabulations would not directly or indirectly disclose operations of an individual company.

Question 20: Is it your view that it coul. be economical and in the public interest to consolidate the LB and CPR statistical programs with the Census Bureau's statistical surveys with which they substantially overlap?

Answer: Yes, I do. Not only would it avoid redundancies at the Federal level with resulting savings in public funds, but it woud substantially reduce the response burden imposed on the many companies selected for reporting in these surveys and where such response burden is currently of concern to both the public and private sectors. Given appropriate funding, the Bureau of the Census could conduct this program.

FEDERAL TRADE COMMISSION,
Washington, D.C., February 13, 1976.

Re: CPR–1972 Survey.

To Whom This May Concern:

On December 19, 1975, the Commission denied various motions to quash orders requiring companies to file Corporate Patterns Report forms, for the reasons set forth in a Statement of the Commission dated December 19, 1975. Some confusion appears to have developed concerning footnote 12 of that Statement (p. 13), which reads as follows:

"[12] While the Commission believes that it would not be unduly burdensome for the companies to complete the CPR forms from their records, nevertheless we understand that many companies have found it convenient to rely upon the data appearing on

their 1973 Form MA-100. If a company desires to follow this procedure as to essentially eliminate all burden, it may do so."

The 1973 Form MA-100, referred to in the footnote, contains for many companies preprinted 1972 data which, based upon the 1972 data submitted by the companies in the 1972 Census of Manufactures, were recast by the Census Bureau in terms of the revised code classifications adopted by the Census for the year 1973. The footnote was intended to indicate that a company might be in a position, as some have chosen to do, to refer to its 1973 Form MA-100 as a source of data concerning 1972. It was not intended to indicate that a company could respond to a CPR form by using data for 1973.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 15, 1976.

Hon. JAMES T. LYNN,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. LYNN: In the course of consideration by this Subcommittee of the budgeted appropriations for the Federal Trade Commission's Line of Business Report Program and the Corporate Patterns Report Program, facts have come to light which lead me to call upon you to consider the growing duplication of effort by the FTC in regard to statistical reporting functions expressly assigned by law to the Bureau of the Census. Specifically, I am writing to ask that consideration be given in next year's budget to appropriating funds to the Census Bureau for these functions in lieu of the FTC.

The enclosed answers by Vincent P. Barabba, Director of the Census Bureau, to questions propounded by the Subcommittee, and John T. Smith, Jr.'s letter of June 2, 1976 on behalf of the Commerce Department, quite clearly lay out the duplication problems raised by the FTC's "LB" and "CPR" Programs. Additionally, as Mr. Smith cogently remarks in his letter, the Census Bureau is, and is generally perceived as being, a neutral and objective data collector with unparalleled expertise in the statistical field. As a result of the unequivocal and absolute protections of confidentiality provided for in its organic act (13 U.S.C. 8, 9), the Census Bureau has over the years developed a relationship of trust and cooperation with all of its constituencies which the Bureau has found essential for purposes of obtaining timely and accurate reporting by respondents.

In contrast, because the FTC is principally a law enforcement agency, its recent attempts to conduct ostensibly objective statistical series, such as LB and CPR, have failed to win respondent cooperation. Inevitably, the question of conflict of interest is raised in respect of the FTC acting as prosecutor on the one hand and "neutral" collector of competitively sensitive business data on the other hand. This is especially the case when the FTC launches statistical programs which collect data similar to that collected by the Census Bureau but whose confidentiality cannot be similarly protected.

It is no secret that hundreds of corporate respondents to the LB and CPR Programs have been involved in litigation with the FTC since January 1975, challenging the legality of these programs as usurpations of Census Bureau's exclusive functions, as unduly burdensome, as an improper exercise of rule-making, and on numerous other grounds. The FTC has been unable to publish any LB data because of the insufficient number of responses pending the outcome of the litigations; on the other hand, the end of these suits is not yet in sight and a favorable outcome for the FTC is far from assured.[1]

To note what appear to me to be the most compelling reasons for considering appropriating funds for the Census Bureau to assume total responsibility for these functions:

The Census Bureau's singular expertise in regard to conducting viable and objective statistical series of maximum utility to all components of the Federal government and to the public;

The potentially serious adverse effects on GNP forecasts and on other vital government indexes dependent on continued timely and accurate reporting to the Census Bureau, resulting from FTC conducting the LB and CPR Programs;

The FTC in the CPR Program is asking questions identical to those which the Census Bureau asks; but while the Census Bureau is expressly prohibited by law from disclosing the data it obtains, the FTC has stated its intention to publicly disclose the same data;

The Census Bureau could provide FTC annually with most any statistical tabulations that FTC needed made up of CPR or LB data;

The FTC says that it is only interested in aggregates of reported individual company LB data; but if it is true that the FTC disavows any intention of scrutinizing or disclosing the sensitive individual company data, there is no apparent basis for having FTC collect and aggregate such data when it lacks the statutory wherewithal to guarantee non-disclosure and when the Census Bureau is capable of collecting such individual company data under statutory assurance of confidentiality.

As Mr. Barabba has advised the Subcommittee, transfer of the LB and CPR functions to the Census Bureau:

"Not only would . . . avoid redundance at the Federal level with resulting savings in public funds, but would substantially reduce burden imposed on the many companies selected for reporting in these surveys and where such response burden is currently of concern to both the public and private sectors."

OMB is in a unique position to mediate an end to this unfortunate imbroglio. It has nearly 35 years of experience in administering the Federal Reports Act, which requires eliminating duplication of information collection efforts among Federal agencies, and the collection of information with a minmum burden. It has been authorized to implement a very recent Presidential directive mandating elimination of duplicative or inappropriate Federal reporting programs, and has recently issued guidelines pursuant to that directive.[2] It is generally knowledgeable with respect to these programs, and it retains the authority over both the Census Bureau and FTC under Section 103 of the Budget and Accounting Procedure Act[3] sufficient to bring about a halt to this wasteful intragovernmental feud.

With kind regards,

Sincerely,

ROMAN L. HRUSKA,
U.S. Senator.

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[1] Your agency, for example, has objected strongly to the CPR Program as a circumvention of the Census Act. The Census Bureau and Commerce Department positions, of course, speak for themselves; and in the only ruling on the merits rendered in these cases to date, the court held that in all probability the FTC acted unlawfully in not following the rule-making procedures of the Administrative Procedure Act in adopting the LB Program.

[2] Letter dated March 1, 1976 from the President of Heads of Departments and Agencies; letter dated March 2, 1976 from James T. Lynn to Heads of Deaprtments and Agencies enclosing guidelines for more effective implementation of the Federal Reports Act.

[3] "The President, through the Director of the Office of Management and Budget, is authorized and directed to develop programs and to issue regulations and orders for the improved gathering, compiling, analyzing, publishing, and disseminating of statistical information for any purpose by the varous agencies in the executive branch of the Government. Such regulations and orders shall be adhered to by such agencies." (31 U.S.C. 18b).

Mr. HRUSKA. I ask unanimous consent that a letter from Harold R. Tyler, Jr., Deputy Attorney General, be printed at this point in the RECORD. That is on the subject of the retransfer, of the reclaiming, of INTERPOL for the Department of Justice.

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

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., October 24, 1975.

Hon. STEPHEN S. GARDNER,
Deputy Secretary of the Treasury,
U.S. Department of Treasury,
Washington, D.C.

DEAR MR. GARDNER: Attorney General Rogers in 1958 found it advisable to designate the Department of the Treasury as the United States representative to the International Criminal Police Organization (INTERPOL). We are very grateful that the Department of the Treasury has carried out these responsibilities in such a professional manner.

However, a number of changes in law enforcement responsibilities, particularly with regard to the important international functions involving immigration and narcotics matters, make it advisable and appropriate for the Department of Justice to reassume its principal responsibility (Title 22, Section 263(a)). We intend, therefore, to withdraw the previous designation and have the Department assume responsibility for the liaison and central operational activities related to INTERPOL.

It is very important for the Department of the Treasury to continue to be an active participant in the United States INTERPOL effort. Those matters that are under your jurisdiction will be referred to and coordinated with the appropriate Treasury organizations. If at any time problems should develop, I trust that you will bring them to my personal attention.

I have designated Assistant Attorney General for Administration Glen E. Pommerening, to work with your staff in effecting a timely and orderly transition of this activity. I expect that the transition can be completed as soon as possible, hopefully by the first of February.

Sincerely,

HAROLD R. TYLER, Jr.,
Deputy Attorney General.

Mr. HRUSKA. Mr. President, over the years the chairman of the subcommittee and I have enjoyed a fine working relationship and once again I want to thank him for all of his many courtesies and kindnesses during the course of our labor on the State-Justice appropriations bill.

Mr. PASTORE. Mr. President, I ask

unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill, as thus amended, be regarded for purposes of amendment as original text; provided, that no point of order shall be considered to have been waived by reason of agreement to this order.

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

The amendments agreed to en bloc are as follows:

On page 3, in line 11, strike out "$537,800,000" and insert "$539,800,000".

On page 5, in line 23, strike out "$274,000,000" and insert "$277,545,453".

On page 15, in line 2, after the period, insert: "In additon to funds provided under this Act, unobligated balances from the amount appropriated for the Watergate Special Prosecution Force in 1976 shall remain available until September 30, 1977."

On page 15, in line 16, strike out "$63,565,000" and insert "$64,090,000".

On page 16, in line 7, strike out "$158,850,000" and insert "$161,905,000".

On page 23, in line 2, strike out "$738,000,000" and insert "$809,638,000".

On page 25, beginning with line 17, insert:

SEC. 208. No funds appropriated under the authority of this Act may be expended by or on behalf of the Department of Justice or any of its employees for the withdrawal or modification of the designation of the Department of the Treasury as the United States Representative to the International Criminal Police Organization (INTERPOL) or the INTERPOL National Center Bureau of the United States.

On page 26, in line 8, strike out "$13,595,000" and insert "$14,410,000".

On page 26, in line 17, strike out "$43,245,000" and insert "$43,924,000".

On page 27, in line 10, strike out "$300,000,000" and insert "$453,500,000".

On page 27, in line 15, strike out "$25,426,000" and insert "$28,750,000".

On page 27, in line 22, strike out "$42,200,000" and insert "$84,068,000".

On page 29, in line 1, strike out "$62,280,000" and insert "$63,530,000".

On page 30, in line 6, strike out "$12,220,000" and insert "$16,720,000".

On page 30, in line 7, strike out "$1,500-000" and insert "$2,500,000".

On page 30, in line 15, strike out "388" and insert "400".

On page 30, in line 21, strike out $558,200,000" and insert $574,490,000".

On page 31, beginning with line 15, insert:

CONSTRUCTION

For expenses necessary for the National Oceanic and Atmospheric Administration for planning and construction of facilities, $2,860,000, to remain available until expended.

NATIONAL FIRE PREVENTION AND CONTROL

On page 31, in line 24, strike out "$10,178,000" and insert "$14,300,000".

On page 39, in line 13, strike out "$11,862,000" and insert "$12,341,000".

On page 39, in line 17, strike out "$29,824,000" and insert "$30,201,000".

On page 43, in line 20, strike out "$51,448,000" and insert "$57,945,000".

On page 44, beginning with line 17, insert:

No part of these funds may be used to pay the salary of any employee, including Commissioners, of the Federal Trade Commission who—

(1) makes any publication based on the line-of-business data furnished by individual firms without taking reasonable precautions to prevent disclosure of the line-of-business data furnished by any particular firm; or

(2) permits anyone other than sworn officers and employees of the Federal Trade Commission to examine the line-of-business reports from individual firms; or

(3) uses the information provided in the line-of-business program for any purpose other than statistical purposes. Such information for carrying out specific law enforcement responsibilities of the Federal Trade Commission shall be obtained under existing practices and procedures or as changed by law.

On page 46, in line 8, strike out "$11,300,000" and insert "$11,539,000".

On page 46, in line 25, strike out "$110,000,000" and insert "$130,000,000".

On page 55, beginning with line 16, insert:

SEC. 606. None of the funds appropriated in this Act shall be made available for the collection and preparation of information which will not be available to Committees of Congress in the regular discharge of their duties.

UP AMENDMENT NO. 88

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment No. 88:

On page 27, line 22, strike "$84,068,000", and insert "$85,068,000".

Mr. KENNEDY. Mr. President, first of all I wish to commend the chairman of the subcommittee and the ranking member for the attention the subcommittee has given to the regional commissions. This was a concept that was developed in the middle part of the 1960's. Actually the New England Regional Commission was the second regional commission that was established. I think all of us are very much aware of how limited the funding possibilities have been for thse commissions.

The PRESIDING OFFICER. Will the Senator suspend? Under the previous order, the Senate will stand in recess from the hour of 12 to 1:30.

Mr. KENNEDY. Mr. President, I ask unanimous consent that that be deferred for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PASTORE. Make it 5 minutes.

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

Mr. KENNEDY. I will make it even briefer.

Mr. President, we in New England have a variety of regional economic issues and problems.

The tide, when it goes down across the Nation economically, goes down a little more rapidly in New England, and when it comes in, it comes in a little more slowly.

We have serious economic problems, many of them structural.

We have done a number of things recently, through the New England Regional Commission in energy and transportation that can make an important contribution to the restoration of our economy.

I had been in touch with the subcommittee previously, and I am pleased that they have approved a doubling of the administration request for all of the regional commissions, a total funding of $84 million. This amendment of an additional $1 million responds to special additional requirements of the New England Regional Commission. I am hopeful that it will be adopted and directed at the implementation of the Regional Economic Development Bank, the railroad rehabilitation and energy conservation programs in our region which mean new sources of jobs and economic growth.

The main reason for the amendment is to permit the New England Regional Commission to be able to undertake additional planning in relation to the agreement reached yesterday to institute a Regional Economic Development Bank to stimulate jobs and economic growth in our area.

The reality is that we have seen less economic growth than is required to maintain the economic strength of our region. This new initiative hopefully can play a key role in turning the tide in our direction.

The Commission also has been unique in its response to regional transportation needs. It has programed some $3 million for coordinating work on the rehabilitation of vital branch lines which had to be deleted from the final system plan of ConRail. Although we insured a subsidy for the operations of these branch lines, we need important rehabilitation work to be undertaken. The Commission already has started the planning for this program.

In addition, the Commission has pressed forward on energy conservation activities designed to insulate homes and buildings. And it has pioneered a laser survey technique to demonstrate areas of energy loss and to assure those loopholes are closed by weatherization programs.

The Commission also has demonstrated enormous initiative in finding new ways to assist the fishing industry. On May 14th, the Commission held a conference at the New England Aquarium in Boston, Mass., to gather together those most expert on the industry, the fishermen themselves, and representatives of business, banking, and government that have an opportunity to assist in the growth and expansion of the fishing industry in New England.

I would like to insert in the RECORD at this point, the introductory remarks of the Federal Cochairman Russell Merriman.

INTRODUCTORY REMARKS

(By Cochairman Russell Merriman)

As Federal Cochairman, on behalf of the New England Regional Commission I would like to welcome you all today. The Commission was organized in 1967 under the Public Works Act of 1965 and is a unique partnership of the Federal Government and the six New England states. It is mandated to work towards possible solutions for the many economic problems facing the region. Our current program areas include transportation, energy, commercial and industrial development.

We have invited you here today for the purpose of helping the Commission to evaluate the economic impact of the 200 mile limit upon the regional fisheries industry and

hopefully identify a role we might assume in gearing up to meet the changes we anticipate because of the recently enacted legislation.

There are along the New England coast many local economies which depend on the fishing industry for their employment and income. However, fishing which was once a major industry in New England has been in a state of decline for over 15 years. A decade or two ago traditional techniques were adequate. Now the combination of resource scarcity, foreign competition and rising operating costs have created an unfavorable economic condition in the industry. As a result the fishing industry has been unable to generate or attract sufficient funds to maintain itself let alone adjust and recover.

In recent years the Commission has funded a number of programs designed to strengthen the fishing industry's institutional structure through the New England Fisheries Steering Committee. We have attempted to help, to improve the industry's capability for future development and growth. We have worked on the need to help diversify product lines to alternate species. Furthermore the Commission has been actively helping the shellfish industry through demonstration programs through management and to reduce the effect of paralytic shellfish poisoning.

The Commission has also been aware of other things that the fishing industry faces. There is the competition coming between the fishing industry and the petroleum industry. To help mitigate the problem the Commission is undertaking a study to identify the geographical areas of potential interaction, and perhaps most importantly the need to avoid or resolve the potential conflict between the two industries.

In March of this year the Commission adopted a resolution to organize and chair a regional group including related geographical and state agencies, sea grant institutions, all interests from the fishing industry and the banking and financial community, to assess the impact of the 200 mile law and prepare recommendations for Commission action. There are a number of issues which bear on the 200 mile limit law and will be focused on here today in the panel discussions. We hope that all of you here in the audience today will feel free to participate and give us the benefit of your knowledge as the Commission attempts to identify program areas where it might be of assistance to the fishing industry.

I hope the chairman will take this amendment to conference. I will be glad to submit additional information to support of this particular proposition.

Mr. PASTORE. Mr. President, the budget request for this item was $42 million. We doubled it and made it $84 million. This is an amendment to make it $85 million.

I quite agree with the Senator from Massachusetts. We do have very unique problems in our part of the country, in the New England area.

I am perfectly willing to take it to conference and I hope my counterpart will agree to that.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HRUSKA. I concur with the chairman's views on it. I think that would be in order.

Mr. PASTORE. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that Bob Downen and Ken Benjamin be granted privilege of the floor during the debate on H.R. 14239.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Peter Hughes of my staff be granted privilege of the floor.

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

U.S. AMENDMENT NO. 89

Mr. PASTORE. Mr. President, I understand we have 2 minutes more.

An amendment was sent up by the White House in the amount of $381,000. It relates to a late budget request that reached the committee late yesterday.

The funds are required to implement the provisions of the recently enacted Parole Commission and Reorganization Act—Public Law 94–233, March 15, 1976—which created the U.S. Parole Commission out of the old Board of Parole.

The new Parole Commission has been given expanded responsibilities. The funds in this amendment are required to enable the Commission meet the increased workload.

Mr. President, I hope that the amendment can be adopted.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PASTORE) proposes an unprinted amendment No. 89:

On page 15, line 2, strike "$20,100,000" and insert in lieu thereof "$20,481,000".

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PASTORE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

RECESS UNTIL 1:30 P.M.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now stand in recess until the hour of 1:30 p.m.

The Senate, at 12:04 p.m., recessed until 1:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14239) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. PASTORE. Under a unanimous-consent agreement that it be taken out of neither side's time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. 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. PASTORE. I hope that Senators who have amendments will present them.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 90

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 90:

On page 5, line 23, strike the figure "$277,545,453." and insert in lieu thereof the following: "$270,545,453, no more than $20,005,000 of which shall be used as a contribution to the Organization of American States."

Mr. DOLE. Mr. President, I am offering this amendment to reduce by exactly $7 million the amount designated for "contributions to international organizations." This entire amount is to be taken from the allocation for the Organization of American States, as specified by the language of this amendment.

Although the OAS figure is not contained within the bill itself, the amount of $27,005,000 is cited on page 10 of the committee report. My amendment would specify that no more than $20,005,000 of the total amount in this category shall be used as a contribution to the Organization of American States.

I am offering this amendment to draw attention to the fact that the United States continues to annually contribute two-thirds of the amount of the entire OAS budget, which covers the administrative and managerial activities of that body. I have a copy of a breakdown of the OAS budget for last year, and ask unanimous consent that it be inserted in the RECORD at this point to document the substance of their annual budget.

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

Organization of American States

(Budget for fiscal year 1976)

Chapter:	
General Assembly and Permanent Council	$1,476,120
General secretariat	1,246,271
Management	8,169,149
Technical cooperation and administration	3,728,030
Legal affairs	627,405
Information and public affairs	1,781,606
Economic and social council	924,510
Economic and social activities	6,856,566
CIPE	0
Education, Science and Culture council	537,076
Education, science and culture activities	4,142,563
General expenditures	3,297,064
Replenishment of working capital	641,226
Contributions to other agencies	1,976,412
Undistributed reserve (Cuba) [1]	337,830
Subtotal	35,741,828

Footnotes at end of table

Organization of American States—Continued

Reimbursement for overhead costs from special funds (15% of each fund)	—$3,871,028
Assessment budget	31,870,800

[1] Represents Cuba's assessment added to the total for purposes of establishing the overall assessment for all countries including Cuba.

Mr. DOLE. Mr. President, it is my understanding that the 24 member nations of the OAS are annually assessed an amount which is considered to be their "fair share," based on a formula worked out some time ago by the general assembly of that organization. That assessment formula is based primarily on the relative gross national product of each nation and, according to that formula, the U.S. "share" amounts to roughly 78 percent.

A settlement was reached some time ago, however, among the member nations to set the U.S. share at 66 percent. I would only suggest that this sum is clearly the "lion's share" of the financial burden of OAS and grossly disproportionate to the amounts contributed by the other 23 members.

Recently, on June 11 of this year, Secretary of State Henry Kissinger submitted a proposal to the sixth general assembly OAS meeting in Santiago, Chile. It included, among other things, a proposal to restructure the assessment formula so that there will be less financial dependence upon the United States for simply maintaining the normal operating machinery of the OAS.

The Secretary's point in that proposal was not that the United States is paying too much in terms of our relative ability to pay, but rather that it is "wrong and damaging for an organization of two dozen sovereign states * * * to be so heavily dependent on the contributions of a single member." The Secretary maintained that such a heavy dependence on the U.S. contribution "places the organization in a vulnerable position, and projects a false image of the OAS."

I certainly agree with the Secretary's perspective and his proposal to restructure the assessment formula. Whether or not the 66 percent contribution that we have been paying all along is, in fact, a fair share or not is debatable, and I would only comment that in an organization such as the OAS—where all member nations are actively seeking to promote their views and air their grievances—an equitable and substantial share of the financial burden should be borne by each member who desires to see the work of that organization continue.

By reducing the U.S. contribution for fiscal year 1977 to $20,005,000, we will be lowering the U.S. share to roughly 50 percent of the OAS budget for this year. This is still, I think, a very fair proportion of the OAS budget for our Government to carry, and although the technique for the reduction may not be wholly acceptable to the State Department, I imagine that the amount will be.

At any rate, this unilateral action by the U.S. Congress will serve to put the General Assembly of the OAS on notice that the U.S. intends to reduce its annual contribution to a more reasonable and equitable amount. This would be consistent with our allowing and even encouraging the other member states to play a greater policy role in the organization.

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

Mr. DOLE. I yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. Generally I would agree with the distinguished Senator from Kansas. However, I understand that he has a backup amendment which is in the form of an expression of the sense of Congress, which would bring about, I think, the same spirit that he tries to achieve through the pending amendment.

The thing that bothers me about the pending amendment is that our obligation is by way of treaty, and I do not think we ought to unilaterally and precipitately seek to change it in this way. But I do sympathize with the position taken by Senator DOLE.

As I say, he also has a sense of the Senate resolution. I wonder if he would be willing to withdraw his pending amendment and offer that. If so, we would be happy to take it to conference.

Mr. DOLE. I will be happy to do that.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 91

Mr. DOLE. I send another unprinted amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment No. 91, as follows:

On page 14, after line 15, insert the following:

SEC. 105. The Congress, taking cognizance that:

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.

Mr. DOLE's amendment is as follows:

On page 14, after line 15, insert the following:

"SEC. 105. The Congress, taking cognizance that:

(1) The Secretary of State on June 11 submitted a multipoint proposal to the Sixth General Assembly of the Organization of American States designed to restructure the membership qualifications, the policymaking organs, and the financial assessments for the members of that body, and

(2) The United States Government has been regularly contributing approximately two-thirds of the annual OAS budget, and

(3) The bureaucratic structure of the OAS has, according to the Secretary of State, assumed a "ponderous" and "cumbersome" nature, preempting some of the policymaking responsibilities of the General Assembly, and

(4) The several member-states of the OAS have sought a more active role for the organization in formulating common policy positions on such hemispheric issues as recognition of the Cuban Government, renegotiation of the Panama Canal Treaty, and protection of human rights in Chile, and

(5) The responsive structure and financial strength of the OAS will determine the relevance of that organization for meeting the challenges of the future,

therefore expresses its support for the proposal presented to the Organization of American States' General Assembly on June 11 by Secretary of State Henry A. Kissinger and urges the General Assembly to favorably consider and adopt the U.S. proposal at an early date.

Mr. DOLE. Mr. President, this is the so-called "backup amendment" referred to by the distinguished manager of the bill. It would put Congress on record in support of the proposal offered by Secretary Kissinger to the Organization of American States on June 11 of this year. Again, that was the occasion of the Secretary's appearing before the General Assembly of the OAS meeting in Santiago, Chile, and offering the aforementioned plan to restructure and reform the administrative organization and the financial basis of that body.

I ask unanimous consent that the statement which Mr. Kissinger presented to that body, entitled "Reform of the OAS," be printed in the RECORD at this point.

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

STATEMENT SUBMITTED BY U.S. DELEGATION TO VI GENERAL ASSEMBLY OF THE OAS, SANTIAGO, CHILE, ON JUNE 11, 1976

REFORM OF THE OAS

The Organization of American States is the cornerstone of the Inter-American System, the oldest institution of regional cooperation in the world. Its member states have exceptional ties of respect and a common heritage, a considerable stake in maintaining those ties for the future.

The Inter-American system pioneered the principles of non-intervention and collective security among cooperating sovereign states. Because the Americas also have enormous vitality and achievement, we have a major opportunity and obligation to continue to provide an example and impetus to the global search for better ways to mediate the common destiny of mankind.

Many ask, why think of OAS reform? Why, some wonder, does our Secretary General refer to an "identity crisis" in his latest annual report?

I believe the answer lies in the fact that the pace and complexity of the international and domestic changes of the recent past have made the organization as it is presently constituted less effective as an instrument of our respective foreign policies, and less significant to the real issues of the new inter-American agenda than our minimum efforts deserve.

This hemisphere is unique; there is no other grouping like it in the world, we have indeed a special relationship. The fundamental purpose of the OAS must be to continue to nurture and strengthen our fundamental, shared values. We must have an organization that reflects our permanent and irrevocable engagement to work together and maintain our continent as a hemisphere of peace, cooperation and development.

The United States is committed to the OAS. We have pledged to make it a continually more effective instrument for action in pursuit of the common goals of prosperity and human dignity.

It was to that end that the member states agreed three years ago to an effort to reform, restructure and modernize the OAS. The results of that effort are disappointing. A pro-

posed new draft of the charter of the OAS has emerged from the permanent council. I regret to say that it is one that our government could neither sign nor recommend that our Senate ratify. It includes prescriptive and hortatory statements of general principle which are as poorly defined as they are ominous. No effort is made in the new charter draft to come to grips with the need to modernize or improve the structure of the organization. We believe the real shortcomings of the OAS have yet to be adequately addressed.

We propose a new effort to reform, modernize and restructure the Organization. We think that effort should concentrate, not on words but on three major substantive issues: structure, membership and finance.

A. As to structure, the United States would like to advance five points as possible guidelines for the future effort, in the interest of modernization of the Organization.

1. The purpose of the Organization should be stated simply and clearly in the New Charter.

Those purposes shoud be: The promotion of cooperation for development; the maintenance of the peace and security of our region; and the preservation of our common tradition of respect for human dignity and the rights of the individual.

2. The structure of the organization serving these goals should be flexible.

We should write a constitutive document for the organization which will serve us well into the future. That an organization finds it necessary to rewrite its charter every five to ten years does not speak well for that organization's sense of its role or function. We are now in an age of great change. Our efforts in the coming years to achieve the three basic goals of the organization will take place under rapidly changing circumstances. Thus, flexibility and adaptability must be the key considerations guiding the reform effort. We should not hamstring ourselves with a charter brim full of the details of the day, with procedural minutiae or with regulatory prescriptions hindering our ability to meet contingencies.

3. The governance of the organization should be in the hands of the ministers. Over the years, the proliferation of functions assigned haphazardly to the OAS has produced an overelaborated organization that is ponderous and unresponsive. Instead of closer and more frequent contact between foreign ministers in ways that truly reflect our foreign policies as we are attempting to manage them from our respective capitals, we find ourselves insulated from each other by a plethora of councils and committees with conflicting mandates and a cumbersome permanent bureaucracy.

To strengthen communication, we must cut through the existing organizational underbrush and replace it with a structure capable of responding to the authentic foreign policies of our governments, as expressed directly by foreign ministers, and of relating concretely to our institutions and the needs of our peoples. Particularly, the three council system has not fulfilled the hopes which led to its adoption in 1967.

The General Assembly, as the Central pillar of the inter-American system might, well be convened more frequently, perhaps twice a year, with special additional sessions to consider our common concerns, particularly the great challenges of cooperation for development. As contacts at the ministerial level intensify, the need for an elaborate structure of councils will disappear. Our encounters at the general assembly will offer sufficient opportunities to set organizational policy.

This is all of the superstructure we really need. A leaner more responsive organization would be serviced by a smaller expert secretariat responsive to the guidelines established by the General Assembly and the functional committees the General Assembly may create.

5. We should improve the OMB mechanisms for promoting respect for human rights in the Americas. The OAS Human Rights Commission should be strengthened.

B. As to membership, to ensure that the OAS represents all of the peoples of our region, we should open up the organization to the newly independent states and those which may become independents both on the continent and in the Caribbean. Although these questions of membership require further study, we believe Article 8 of the present charter, which automatically excludes certain states, is an anachronism and should be removed.

C. As to financing: A serious effort to reform the organization of American states should include a review of present provisions for its financing. You are all aware of the critical attention the Congress of the United States has focused on the proportion of the organization's cost the U.S. is now bearing. Obviously, this has been a fact in recent U.S. budget cuts affecting the OAS.

We do not claim the U.S. is paying too much, or more than its fair share of the cost in terms of our relative ability to pay. It is only that it is wrong and damaging for an organization of two dozen—soon to be 25—sovereign states, whose purpose is to advance the interests of each, to be so heavily dependent on the contributions of a single member. It places the organization in a vulnerable position, and projects a false image of the OAS.

It is important to find some basis for OAS financing that will, over time, reduce the U.S. share of the assessed costs while ensuring that the activities of the OAS in the vital development assistance field are not weakened.

The United States is committed to the Organization of American States. We know that it provides an institutional base which will continue to be vital to our common progress. In these years of great change the nations of the world have seen fresh proof of an old truth—that most durable and responsive institutions are those which bear a lighter burden of bureaucratic machinery and whose procedures permit the flexibility required for swift and imaginative actions. We believe our proposals can help bring the drawn-out reform debate to a successful conclusion over the course of the next year. And we believe this is the kind of organization we can and must have if we in the Americas are to fulfill our promise and our responsibility to advance international cooperation in an era of interdependence.

Mr. DOLE. Mr. President, in essence the Kissinger proposal calls for a strengthening of the authority of the general assembly of foreign ministers at the expense of the bureaucratically top-heavy permanent councils of the OAS. His proposal would also restructure OAS finances so that the United States would no longer pay two-thirds of the OAS annual budget.

Finally, it proposes to open the doors of the organization to more nations located in the Western Hemisphere, some of which have been previously excluded on the basis of boundary disputes. I certainly cannot agree enough with the Secretary's feeling that the bureaucracy of this international organization should be reduced, and that there should be a more equitable distribution of operational expenses among all 24 member States.

The amendment I am offering takes cognizance of the fact that the U.S. Government regularly contributes two-thirds toward the annual OAS budget; that the bureaucratic structure of the OAS has become cumbersome; that other member states are insisting upon a greater role in policy decisions of the organization; and that ultimately the durability of that organization will depend upon its financial strength and its ability to be responsive to future challenges.

Multinational bureaucracies, like those of individual governments, demonstrate strong tendencies toward self-generated expansion and rigid institutionalization, if not properly controlled. They can also grow to exert disproportionate influence over the vital policy decisions that determine both the purpose and the responsiveness of the institution itself.

The administration's proposals to streamline the OAS bureaucracy and to concentrate policy discussions within the General Assembly, are, I believe, positive efforts to improve the responsiveness of that organization to the needs of the Americas. In addition, efforts to encourage a more equitable share of financial participation by other member nations are commendable and should be sustained.

The United States has been regularly financing approximately two-thirds of the OAS annual budget, which approaches $40 million for the coming year. It is both inequitable and counterproductive to OAS purposes to have one nation among 24 bear such an overwhelming share of the organization's budget. At this time, when other member-nations are insisting upon a greater voice in OAS policy decisions relating to Cuba, the Panama Canal, and human rights on the South American continent, it is only fair that they share a proportionately greater responsibility for the body's financial situation.

I do believe that we have reached a critical point in the life of OAS. As the Western Hemisphere undergoes significant social and political transitions, the resources and capabilities of this organization will be repeatedly challenged. Both the policymaking structure and the financial strength of OAS will determine that body's responsiveness to those challenges, and thus its relevance for the future.

The proposal which the Secretary of State has presented on behalf of the United States should definitely enhance the role of the organization of American States. Accordingly, a public endorsement of that proposal by this Congress will, I believe, strengthen the probability that the General Assembly will see fit to expeditiously and favorably consider the proposal submitted on behalf of our Government.

For these reasons, Mr. President, I urge my colleagues to join me in supporting this "sense of the Senate" resolution as an amendment to the State Department appropriation bill which we have before us at this time.

Mr. PASTORE. I thank the Senator.

Mr. President, I think for the purpose of the RECORD we ought to read the concluding portion of the amendment:

therefore expresses its support for the proposal presented to the Organization of American States' General Assembly on June

11 by Secretary of State Henry A. Kissinger and urges the General Assembly to favorably consider and adopt the U.S. proposal at an early date.

I think that is acceptable and agreeable, and I am perfectly willing, as I said before, to accept it and take it to conference.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. PASTORE. I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was agreed to.

UP AMENDMENT NO. 92

Mr. CASE. Mr. President, I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. CASE) proposes unprinted amendment No. 92:

On page 42, line 23, delete "$300,000 to remain available until expended" and insert in lieu thereof "$375,000 for the period beginning July 1, 1976, and to remain available until expended."

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, I yield myself such time as I may require.

Mr. President, I am offering an amendment to enable the Commission to monitor compliance with the Helsinki Accords to begin work as soon as possible.

The original funding provision as added on the House floor for $300,000 would not provide funds until October 1.

This amendment, Mr. President, is cosponsored by the Senator from New York (Mr. BUCKLEY) with me. It would provide funding for the transition quarter for the Helsinki Commission at the annual rate of $75,000, which is one-quarter of the appropriation figure of $300,000.

Because of the task of dealing with the large amounts of data, especially on alleged human rights violations, it is important that the 15-member commission can begin its work as soon as possible. It is hoped that preliminary reports can be prepared in advance of meetings of the Accord's signatory nations next year in Belgrade.

I understand this is satisfactory to the chairman of the subcommittee.

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

Mr. CASE. I am very glad to yield.

Mr. PASTORE. The money now contained in the bill is to start on October 1. This is for the transitional period in order to allow the Helsinki Commission to get going immediately.

Mr. CASE. It is precisely that.

Mr. PASTORE. I am willing to take it to conference.

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

Mr. PASTORE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, is time controlled on this bill?

The PRESIDING OFFICER. It is.

Mr. JAVITS. Will the Senator yield me 2 minutes?

Mr. CASE. I yield 2 minutes to the Senator.

Mr. JAVITS. Mr. President, I rise to deal with the provision for the Legal Service Corporation. The Corporation requested $140 million. The Senate committee gave it $130 million as contrasted with the House's figure of $110 million.

Obviously, we are not going to move on so narrow a base as that. But I do express to the manager of the bill and through him to the committee and those who will be the conferees that the Corporation is functioning well. Of all the services rendered in respect to poverty, this one has proved to be the best morale builder, because it has an amazing impact on the poor because a poor man, also, can have a lawyer.

Having eliminated some of the bugs in the whole situation through the organization of the Corporation, I express the hope that the Senate conferees will do their utmost to stand by their figure in the conference.

Mr. PASTORE. I thank the Senator from New York.

We shall do precisely that. I hope that we render ourselves victorious.

Mr. JAVITS. I thank the Senator.

Mr. President, I ask unanimous consent that Charles Warren of my office be accorded the privilege of the floor during this debate.

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

The bill is open to further amendment.

Mr. PASTORE. Mr. President, I understand there is a busing amendment that is going to be submitted. If it is, what are we waiting for?

AMENDMENT NO. 1942, AS MODIFIED

Mr. DOLE. Mr. President, I call up amendment No. 1942, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself and Mr. Biden proposes amendment No. 1942, as modified.

The amendment is as follows:

On page 25, after line 24, insert the following new section:

SEC. 209. No part of the funds contained in this title may be used to institute against any school or school district, or, except on that school or school district's behalf, intervene in or provide assistance for, any proceeding which has as a stated objective a desegregation remedy or order which would require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home and which offers the courses of study pursued by such student.

Mr. DOLE. Mr. President, the modification referred to is the dropping of the final phrase of the printed amendment, "in order to comply with—" and that should have been—"title IV of the Civil Rights Act of 1964." This change has been made in order to have the contemplated restriction be of general applicability.

The PRESIDING OFFICER. Does the Chair understand that the Senator from Kansas further modifies the amendment?

Mr. DOLE. No. That is the extent of the modification. I am only explaining what it is.

The PRESIDING OFFICER. I thank the Senator.

Mr. DOLE. I might just note also that the original wording was proposed in an effort to parallel the so-called antibusing amendment enacted as part of the 1976 Labor-HEW appropriation bill. Unfortunately, however, it is not possible to do that and still achieve the objective which we are seeking.

Mr. President, when we debated this issue at some length in the Senate last fall, we ultimately adopted a series of amendments that were designed to "put HEW out of the busing business." The amendment which the distinguished Senator from Delaware (Mr. BIDEN) and myself are offering today is intended to do precisely the same thing with respect to HEW's sister Federal agency, the Department of Justice.

The idea here, of course, is one of consistency. That is, it make no sense to limit the remedies which HEW can seek on the one hand, while on the other, allowing the Department of Justice to go on unimpeded in its quest for busing solutions to the integration problems.

I believe it is wrong to permit such conflicting practices—at least as they involve Federal departments and agencies—and consider it advisable to place on the Department of Justice policy restrictions similar to those now in effect for HEW. Otherwise, we will find ourselves in the position of allowing the Attorney General to engage in activity which is contrary to congressional intent—as expressed in the form of the limitations on spending I have already mentioned by the Department of Health, Education, and Welfare.

Most of our colleagues have been provided with a factsheet setting out the intended efforts of the Dole-Biden amendment, Mr. President, so there will be no misunderstanding, I want to point out again that its purpose is to insure that the Justice Department does not use federally appropriated funds to promote busing as a solution to racial imbalance problems. It would accomplish this by precluding the Attorney General's involvement in cases which—either directly or indirectly—seek busing orders as a part of the relief for any constitutional or statutory violation.

In more basic terms, we would—with the adoption of this amendment—simply be going back to the original 1964 Civil Rights Act and clarifying again that busing is neither an appropriate nor a desirable remedy. The relevant language

from section 407(a) of that act stated that the Attorney General was empowered to sue for "such relief as may be appropriate," except that no order should be sought "requiring the transportation of pupils or students from one school to another to achieve—racial balance."

In substance, then, the amendment we are proposing would prohibit the Justice Department from instituting, intervening in, or continuing with any desegregation action in which busing is articulated among the relief being sought. Since it pertains only to busing itself—and not to any other desegregation alternative—it is strictly a question of policy.

With this type of measure, it is perhaps equally important to outline what would not be affected. Foremost among the "Nonresults," of course, is that the language would in no way interfere with the Attorney General's pursuit of desegregation orders themselves or the active enforcement of the 5th and 14th amendment rights.

Other factors to consider are that private parties could still litigate busing-oriented suits; school districts could still choose to devise their own busing plans for desegregation purposes; and the courts themselves would still be free to initiate orders which include busing as a last resort remedy. In order to take no more of the Senate's time than necessary on this, Mr. President, I ask unanimous consent that the factsheet be printed in the RECORD at this point.

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

FACTSHEET ON DOLE-BIDEN BUSING AMENDMENT No. 1942

The Amendment would:

Compel the Justice Department to withdraw from, or at least suspend its commitment of FY 1977 resources to, active cases in which busing is being sought unless the relief prayed for is modified to exclude that remedy.

Preclude the Justice Department from joining and supporting a proceeding brought against school districts by private parties proposing forced busing action.

Prevent the Justice Department from itself initiating against any school district a desegregation suit that seeks an order requiring, directly or indirectly, the transportation of a student away from his neighborhood school.

Still allow the Attorney General, at his discretion, to enter any busing action on behalf of a school or school district.

The Amendment would not:

Affect existing finalized orders.

Preclude the Justice Department from involvement in actions which have as their purpose only the determination on the merits of Constitutional violations.

Interfere with the pursuit by the Department of desegregation orders per se or the general enforcement of the 5th and 14th Amendments.

Eliminate the Justice Department from participation in proceedings which have as a declared objective the implementation of a desegregation plan or remedy that stipulates other than busing as part of the desired relief.

Prohibits parties other than the Justice Department from instituting civil suits which specify busing as a solution to racial imbalance.

In any way infringe on the right of courts themselves to develop a plan which may include busing as a remedy.

Have any bearing on the prerogative of school districts to voluntarily decide upon and implement—in response to an order to desegregate—a plan that includes busing.

Mr. DOLE. Mr. President, in summary, I would just reiterate that the principal need for this amendment is that of establishing some degree of consistency in our approach to desegregation problems. That is, where we have indicated on repeated occasions in the past that we do not condone busing as a preferred means of carrying out integration goals, we should make that policy apply evenly throughout all departments and agencies.

In order to accomplish that, we must not allow the Department of Justice to continue its pursuit of policies which we have already said should not be allowed by HEW. If we do, we would only be inviting greater criticism of our lack of a uniform and planned approach to solving national problems.

Mr. President, we have only a few minutes on this proposal, but before yielding to my colleague from Delaware (Mr. BIDEN) who has joined me in offering this amendment.

I ask unanimous consent that the distinguished Senator from North Carolina (Mr. HELMS) and the distinguished Senator from Texas (Mr. TOWER) be added as cosponsors of the amendment.

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

Mr. DOLE. Mr. President, with that I yield to the distinguished Senator from Delaware (Mr. BIDEN).

Mr. BIDEN. Mr. President, I rise to speak in support of the amendment offered by the Senator from Kansas and myself.

This amendment is quite simple. It will prevent the Department of Justice from using resources to aid those who judicially seek desegregation orders which include busing. The amendment does not prevent the Justice Department from actively pursuing other desegregation remedies, nor does it prevent the department from enforcing past and future busing orders that the court has decided on.

This amendment is very similar to the one that I sponsored last year to the HEW appropriation bill which caused quite a furor. That amendment provided that HEW should not use and could not use busing as a desegregation remedy.

What we are saying here is consistent with that approach, namely, that the Department of Justice should also not seek busing orders.

Mr. President, I oppose busing, and to the chagrin of my liberal colleagues, with whom I usually vote, I think it is basically an unworkable solution. It hurts more than it helps, but that is really not the issue here.

The issue here is whether or not an agency, other than the court, should in fact be pursuing and pushing a busing remedy to a desegregation case. I think the evidence is mounting and I think the evidence is becoming overwhelming that busing is not a viable remedy for the segregated situations that exist and do exist within our school systems and in other areas of life in America.

One thing I would like to be very clear about is that this amendment, unfortunately, it does not go far enough, in my opinion. This does not affect the courts. I am working diligently and fervently, to the chagrin of some, to get at the remedial jurisdiction of the courts. I know of no handle we can use to do that now, especially through this legislation.

What the amendment really says is that one more branch of the executive department of the Federal Government will be forced to refrain from initiating the remedy of forced busing by precluding it from insisting that remedy upon the court.

Frankly, I am not sure how much impact it is going to have on future busing orders by the court; but the fact is that any place we can, this body should go on record, when it is constitutionally consistent to do so, to say that, as a Nation, we do not see busing as a viable remedy.

As I said, it is not really a very dramatic amendment. I wish it could, in fact, be more; I wish it were designed to accomplish more. It merely says that the Justice Department cannot go in and say, "Let's bus them, fellows. That's what we should be doing here." Individuals still can bring such an action. The court, on its own, can without the advice of the Justice Department, or even the individual bringing suit can, in fact, bring about a busing order. None of that is affected. But it does affect the Justice Department's saying, "We want you to bus. We think busing is a good remedy."

I yield back the remainder of my time.

Mr. PASTORE. Mr. President, we went through this last year and the vote sustained the tabling motion; and I suppose we could go through that procedure again now. This amendment is subject to a point of order.

In consultation with the Justice Department, through the staff, we were told that this kind of amendment would be disastrous, for the simple reason that it is telling the Justice Department, which is the law enforcing agency of the U.S. Government, that it cannot enforce the laws on the statute books nor the Constitution of the United States. Under those circumstances, Mr. President, I am constrained——

Mr. JAVITS. Mr. President, will the Senator withhold that and yield to me for 1 minute?

Mr. PASTORE. I yield for 1 minute.

Mr. JAVITS. Mr. President, the Senate should have a piece of information on the matter which is immediately before us. The President, this very day, has sent to us a plan to deal with this busing problem. One of the elements of that plan is regulating the question of intervention by the Attorney General in suits.

What the authors of the amendment do not seem to realize is that often the Attorney General has a very important influence on what kind of decree a court will draft, even if the court wishes to order busing as a last resort.

Therefore, it seems to me that with a

considered program by the President before us, it would hardly be an appropriate place to do this—and there is no dearth of places. We have a higher education bill which is on the "must" calendar which the leadership has passed out. Under that, we often have debated busing questions in the education context.

So I concur with the Senator.

Mr. PASTORE. There is another point, also. There is a certain universality to this amendment which touches every branch of every agency under the aegis of the Justice Department. One of them is the Community Relations Service. They are working very assiduously, very effectively, in Boston, trying to keep tempers down, trying to keep violence away. I am afraid that this amendment would have to compel them to come home, and it would have a disastrous effect.

I hope that the proponents of this amendment, inasmuch as the President is sending up a message today on this matter, will——

Mr. JAVITS. It is up here.

Mr. PASTORE. Why do we not meet that situation and that problem head-on?

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

Mr. PASTORE. I yield.

Mr. BIDEN. Mr. President, I should like to clear up two points.

No. 1, if the Justice Department said that this would not enable them to enforce the laws on the books and the Constitution, they are flat out wrong—absolutely, categorically wrong.

No. 2, this amendment would have absolutely no affect on those who are trying to keep tempers down. It specifically says that the Justice Department is able to be and should be the enforcement arm of the court after they have ordered busing. We are not saying that once the court issues a busing order, the Justice Department should not fully enforce that order. We believe that the Justice Department has the obligation to do what the court says.

What the amendment merely says, in line with the statement of the Senator from New York—and he is absolutely correct in saying that the Justice Department does have considerable influence over the remedies which the court ultimately fashions—is that we want to prohibit the Justice Department from suggesting that busing be part of a remedy. We take cognizance of the fact that the Justice Department does have considerable influence in fashioning a remedy. We are asking the Justice Department, just as we ask HEW, to stay out of the business of fashioning the remedy with regard to busing. But if the court orders busing, the Justice Department in no way is constrained from enforcing that order. As a matter of fact, they have an absolute obligation to enforce that order.

One last thing, and I will yield: The distinguished manager of this bill points out that we went up this hill last year; but with all due respect, we went up this hill last year before we passed the amendment for the first time on the HEW bill. Hopefully, some of our colleagues will realize the similarity, and some of those who traditionally have voted against antibusing amendments, who supported the Biden and Byrd proposals last time, also will see fit to support this amendment.

Mr. PASTORE. Mr. President, I can read English, too:

SEC. 209. No part of the funds contained in this title may be used to institute against any school or school district, or, except on that school or school district's behalf—

These are the important words:

intervene in or provide assistance for—

That might be the modification of a bus order in order to avoid violence. Why does that not touch the Community Relations Service? That is what their job is—to intervene and give assistance in order to avoid violence.

This happens to be the wrong time and the wrong place. This matter is going to be debated on the floor of the Senate. The President's message will be considered by the Senate, and I think that is the time we should open up this whole problem.

I can understand how the Senator feels, but this matter has been adjudicated once before by the Senate. All I am saying is that we did consult with the Justice Department. The Senator from Delaware says that it does not tie their hands. Perhaps he is right. They say it does tie their hands. Perhaps they are right. What would the Senator do if he were in my position?

Mr. BIDEN. I would support the Dole-Biden amendment.

Mr. PASTORE. No chance.

As a matter of fact, the Biden provision is subject to a point of order. It does not belong in this bill. When the time is yielded back, I am going to raise the point of order. I will have to do so.

Mr. BIDEN. I wish the Senator would complete reading the sentence. It reads:

except on that school or school district's behalf, intervene in or provide assistance for, any proceeding which has as a stated objective—

It refers to initiating a proceeding.

Mr. PASTORE. That is right.

Mr. BIDEN. There is no proceeding when a court has ordered busing.

Mr. PASTORE. The court absolutely intervened in Boston.

Mr. BIDEN. The Senator is suggesting that this, in some way, would have a debilitating effect upon the Justice Department aiding in a situation where, in fact, the busing order already has been handed down by the Federal court, as in the Boston case. That is simply not the case.

I see the Senator from Masachusetts on his feet. I am anxious to hear what he has to say.

Mr. BROOKE. Will the Senator yield for just a moment?

Mr. PASTORE. I yield.

Mr. BROOKE. I cannot understand, Mr. President, how the Senator from Delaware and the Senator from Kansas, who feel that the judiciary has gone too far, now would take away from the executive branch—namely, the Department of Justice—the right to help fashion desegregation remedies. I have just received a copy, as I am sure the Senator from Kansas has, of President Ford's bill, which he sent to Congress for its consideration. I want to read section 109(a) and (b) of title I of that bill, entitled "Intervention."

SEC. 109. Intervention.

(a) The court shall notify the Attorney General of any proceeding to which the United States is not a party in which the relief sought includes that covered by Section 105 of this Title, and shall in addition advise the Attorney General whenever it believes that an order or an extension of an order requiring transportation of students may be necessary.

(b) The Attorney General may, in his discretion, intervene as a party in such proceeding on behalf of the United States, or appear in such proceeding for such special purpose as he may deem necessary and appropriate to facilitate enforcement of this Title, including the submission of recommendations (1) for the appointment of a mediator to assist the court, the parties, and the affected community, and (2) for the formation of a committee of community leaders to develop, for the court's consideration in framing any order under Section 105 of this Title, a five-year desegregation plan, including such elements as relocation of schools, with specific dates and goals, which would enable required transportation of students to be avoided or minimized during such five-year period and to be terminated at the end thereof.

Obviously the President, in his proposed legislation, intends for the Department of Justice to assist and to take an active part in the fashioning of a remedy. One reason for the President's inclusion of this section is that he feels that the courts have gone too far, as do the distinguished Senator from Delaware and the distinguished Senator from Kansas. But unlike the President's bills, the amendments which they have proposed today would deprive the Department of Justice of that right to take any action to help fashion a remedy.

They cannot have it both ways. If they think the courts have gone too far and that the courts should have outside assistance, which would have to include the Department of Justice, as, apparently, the President of the United States believes in the bill he has submitted (and let me say at this time I do not necessarily agree with all the provisions in the President's bill), they cannot now turn around and say the Department of Justice also will be estopped from fashioning a remedy. Which do they want?

Mr. BIDEN. The Senator speaks as if the President's proposal is already law. Second, the President may have made copies of his proposal available to others, but he did not make any available to the Senator from Delaware, so I was unaware of that provision.

One last point, then I shall let the Senator from Kansas handle it from here. The Senator from Massachusetts has the floor.

On the point raised by the Senator from Massachusetts that this would tie the Justice Department's hands in fashioning a remedy, it would not. It would just say that any remedy they fashion could not have busing as an element. We have heard, time and again, on this floor how many alternatives there are and that busing is only one of them. Once again, I would like to take away from

Justice and everyone else that one remedy, busing.

Mr. DOLE addressed the Chair.

Mr. BROOKE. Let me answer the Senator, if I may.

Take the Boston school situation. In the Boston school situation, the Department of Justice wanted less busing and wanted to moderate the Federal district court judge's order and try to reduce busing and incorporate something else. Under the amendment offered by the Senator from Kansas and the Senator from Delaware, the Department of Justice could not even intercede to moderate the busing order to bring about less busing.

Is that not correct?

Mr. BIDEN. It is not, because in that instance, there was already a court order that was handed down.

Mr. BROOKE. I am talking about before. When the court was trying to formulate its order, the Department of Justice wanted to use its influence for less busing than the court ultimately came up with. Under the Senators' amendment, the Justice Department could not. Is that not correct? It would appear to me that such an amendment would be self-defeating.

Mr. DOLE addressed the Chair.

Mr. JAVITS. Mr. President, does the Senator from Massachusetts have the floor?

Mr. BROOKE. I would like an answer, if I may, if the Senator from Delaware has an answer to that.

Mr. BIDEN. On line 3 of the amendment before the Senator, it says "except on that school or school district's behalf"—assuming that the school district supported the proposal of the Department of Justice, which in fact required less busing, they would be able to do that.

Mr. JAVITS. Will the Senator yield to me?

Mr. BROOKE. Yes, I yield.

Mr. JAVITS. The whole point of the President's message to us is that he wants the Department to intervene in any suit by any party that seeks—the language of the amendment is very interesting on that, because it cuts off any possibility of departmental intervention. It says any proceeding which has as a stated objective a desegregation remedy or order which would require such transportation. So we do not even know at that point whether busing will or will not be granted, because every one of these desegregation suits could include that as one of the remedies, either imposed by the court or asked for by the party. We absolutely bar the Department of Justice in any such suit except one in which a school district is the party. That is a restraint on the courts which they will not accept. They are going to take suits from people who are not school districts. But it is a restraint on the Attorney General, whose duty in the executive department is to advise the courts. So we have one part, but not the other. I cannot see how this can work.

Mr. BROOKE. I thank the Senator from New York.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER (Mr. STEVENSON). The time is under the control of the Senator from Kansas and the Senator from Rhode Island.

Mr. BROOKE. I had been given the time by the Senator from Rhode Island, Mr. President. I believe that I had the floor.

Mr. PASTORE. That is correct, Mr. President. I yielded time to the Senator from Massachusetts.

How much time is remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes remaining. The Senator from Kansas has 5.

Mr. PASTORE. I give the 3 minutes to the Senator from Massachusetts.

Mr. BROOKE. I thank my colleague.

Mr. President, we have discussed the legal ramifications of this amendment.

Mr. PASTORE. Will the Senator yield for a moment?

Mr. BROOKE. Yes.

Mr. PASTORE. Leave me a half-minute to raise a point of order. So the Senator has 2½ minutes.

Mr. BROOKE. I thank the Senator.

We have discussed the legal ramifications of this amendment. I believe, as the distinguished floor manager of this bill has pointed out, that this is an amendment which certainly should not be on this appropriations bill. It constitutes legislating on an appropriations bill, and I think that at the appropriate time, we shall make the proper motion to table this amendment.

But, Mr. President, let us not make this a political issue. Equal education opportunity for all our children, black and white, is just too important to make a political issue.

We have discussed the busing issue time and time again. It will come up again on the education bill and probably every other conceivable vehicle that will be before us. But this is not the appropriate time to debate busing. The President has submitted in this election year a busing bill, rushed up to Congress for us to consider. We will consider it. It is a very emotional issue. It has political appeal. But I, by God, appeal again to this Senate not to make this a political issue because it is far too important to the education of our children. And it certainly does not belong on this bill. When the time comes, apparently, on an education bill, let us look at busing again and see what it is doing and what it is not doing.

We all want good education for black and white children, but we have to see that they have an equal educational opportunity. That is our constitutional responsibility. The Supreme Court has said that, time and time again. No matter what we say here will alter that important fact. Indeed, just recently the Supreme Court of the United States denied certiorari to all the busing appeals before it. The court has reaffirmed its position that the Constitution requires equal educational opportunity for all children in the United States, and that busing is one legitimate tool to insure that constitutional right. I do not think that the U.S. Senate, in this Bicentennial Year, or in any other year, wants to change that.

I yield the remainder of my time back to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I note that the Senator from Rhode Island may make a point of order. Although I find it very curious that we debated the exact same language giving rise to that appeal for 5 full days last September without a similar point being raised against it, in the interest of time I will further modify my amendment to eliminate any such problem. I do so by striking out on lines 5 and 6 the phrase "which would require, directly or indirectly" and substituting for that the word "requiring" after the word "order" on line 5.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 25, after line 24, insert the following new section:

SEC. 209. No part of the funds contained in this title may be used to institute against any school or school district, or, except on that school or school district's behalf, intervene in or provide assistance for, any proceeding which has as a stated objective a desegregation remedy or order requiring the transportation of any student to a school other than the school which is nearest the student's home and which offers the courses of study pursued by such student.

Mr. DOLE. Mr. President, while I can appreciate the fact that the President of the United States has sent a message, along with legislation, to the Senate with reference to busing, I would just suggest that that has about as much chance of being passed this year as Harold Stassen has of getting the Republican nomination. I do not mean that in a critical sense with respect to the substance of the proposal, but we all know the likelihood of something as politically appealing as an antibusing measure—if indeed it is that, and I have not seen it either—being enacted by this Congress at President Ford's initiative.

Since the Senator from New York has mentioned the higher education bill as an appropriate place to take this matter up, perhaps he will want to assume the lead on the administration's new plan at that time. With our amendment now, however, we are seeking more immediate relief for school districts being pressured by the Justice Department—even if that relief applies only temporarily in the form of limitations on fiscal year 1977 fund expenditures.

It pains me to be on the other side of this issue from the distinguished Senator from Massachusetts, for I know of his total commitment in this area. I do not quarrel with that. I just suggest there are about 276 cases where the Justice Department, rightly or wrongly, has in some way become involved and promoted busing.

To carry out the order of the Court and to enforce the protections of the 5th and 14th amendments, of course, the Attorney General has that right and that obligation. But where his involvement in cases specifically seeking busing orders is discretionary, we are saying he should—as a matter of policy—stay out

unless choosing to enter on behalf of the target school district.

We set forth in the fact sheet a number of instances, Mr. President, in which our amendment would not apply. If Senators will refer to that, I believe they will have a clear understanding that this proposal hardly does all the things it is accused of being able to.

It just seems to me when it comes to promoting something as controversial and of such questionable value as busing, it should not be the prerogative of HEW as we indicated last year with passage of the so-called Biden and Byrd amendments—and neither should it be up to the Justice Department—the very thing we are trying to establish by this amendment.

So with the further modification I have made, Mr. President, our language will not be subject to a point of order, and I trust my colleagues will support it as appropriate and desirable for inclusion in this bill.

If I have any time left, I want to yield to the distinguished senior Senator from Delaware (Mr. ROTH) who has a question.

Mr. ROTH. I would like to ask either my distinguished colleague from Delaware or the Senator from Kansas as to this language which says "except on that school or school district's behalf," I am not quite certain what that means.

About 1 month ago the two Senators from Delaware, as well as the Governor and the State Attorney General, asked the U.S. Attorney General to intervene. As far as I know, we were not technically acting on behalf of any school or school district. So I wonder if this language might not rule out the Attorney General, and whether the language should not be modified.

Mr. BIDEN. Mr. President, if the Senator will yield, he will recall we were not asking the Attorney General to intervene to promote busing, so clearly the Attorney General will be able to intervene. If we had gone down to ask him to intervene and ask him to promote a busing order it would be excluded. But we were not going down to ask him to intervene.

Mr. ROTH. I am not clear on the language, I have not had a chance to study it carefully. But it says "intervene in any proceeding," and I think even if you are intervening to try to avoid busing this language may apply.

Mr. BIDEN. No. Clearly, it would not, if the Senator will yield. It says "in any proceeding which has as a stated objective a desegregation remedy or order which would require the transportation."

The Senator, I know, has not had a chance to look at it, but when he reads the whole sentence he will understand it.

Mr. ROTH. I still think it raises a serious question, and if it should be adopted it ought to be made very clear that while the two Senators from Delaware were not asking the Attorney General to intervene for busing purposes, of course, part of the reason of the appeal—and it will be fought by the other side to try to enforce the busing remedy—all I am suggesting is it seems to me very important that the language be very clear if it is adopted that it would not prevent others beyond the school or school district in asking for intervention such as was the case in the case of Delaware.

Mr. BIDEN. I do not see how we can make it any clearer by saying on line 5 "as a stated objective."

Mr. DOLE. I think if there is any question it has been clarified that our intent is to allow the Attorney General to intervene on behalf of any party—whether a school, school district, or even a State—which is defending an action in which the plaintiff or petitioner is seeking to have a busing order imposed. That is an important point, in any event, and I very much appreciate the contribution of the senior Senator from Delaware.

Mr. THURMOND. Mr. President, I rise in support of the amendment of Senators DOLE and BIDEN to prohibit the use of Federal moneys for busing. I have long opposed busing to achieve racial balance. I do not think this practice is in the best interest of our Nation, and recent polls have shown that our citizens, both black and white, do not want it.

Children should be permitted to attend their neighborhood schools rather than being bused for miles and placed in a strange environment. Busing as a means of desegregating schools has never been a sensible approach and it is not one now. On numerous occasions I have urged my colleagues in the Senate to adopt measures which would end forced busing to achieve racial balance.

I hope the Senate will support Senators DOLE and BIDEN in their endeavor to put an end to forced busing once and for all.

In addition to the reasons I have stated against forced busing, it is a waste of fuel in a time when this Nation faces an energy crisis. Also it does not take a Solomon to deduce that forced busing is also a waste of public funds.

Mr. PEARSON. Mr. President, I rise to offer a brief comment regarding amendment No. 1942 which has just been offered by my distinguished colleagues, Senators DOLE and BIDEN. First, I would like to say that I share many of the concerns expressed by my colleagues.

The transportation of students was initially intended to rectify unjust policies of racial isolation without unnecessary additional injury to the public welfare. Unfortunately, many of our cities have demonstrated the painful evidence that busing does not always have a solely palliative effect. There is some evidence that busing stimulates the flight of white students to private schools or to suburbs outside the economic reach of most blacks. The evidence shows no measurable improvement in the quality of education available to our children. On the whole, the busing experience shows little contribution to racial harmony, and, in fact, may have produced additional strains and divisions within our communities.

So I understand the concerns which prompted my colleagues to offer this amendment to the pending appropriations bill. But I cannot support their amendment. Let me explain why I cannot.

Racial busing is a judicial tool. It is employed by the courts, which are very much constrained by the lack of resources available to them, to carry out the constitutional mandate of equal access to quality education.

For entirely too long, we have focused our legislative attention on busing rather than the problem it was designed to solve. Busing should be thought of as nothing more than a means for attaining an end. But busing has overshadowed, in this Chamber, the real issue; assuring equal access to educational resources.

So, while I agree with my colleagues that busing is not the final answer, I cannot agree with again engaging in a legislative battle over busing per se.

Busing is not the issue. Desegregation is the issue. What Congress must do is readdress the real problem rather than its symbol. For that reason, last month I introduced S. 3469, a bill to provide for affording equal educational opportunities. I will not take any more of the Senate's time in explaining that proposal, but I would note this. My bill and its House counterpart, will begin to correct the unlying reality to which the courts have been reacting and ordering busing. By making available resources to assure equal access to educational facilities, I believe that it will be unnecessary for people to resort to the courts and further unnecessary for the courts to resort to busing.

Mr. TAFT. Mr. President, since the busing controversy first arose I have said that the busing of students was not the way to achieve the goals of racial integration in the schools and quality education for all. For the same time I have stated that I would not support measures that attempt to prohibit busing by prohibiting courts or law enforcement authorities from acting against transportation plans being used to promote segregatio nor to perpetuate it. Accordingly I cannot support the Dole-Biden amend ment and I shall vote to table it.

Mr. DOLE. I yield back the remainder of my time.

Mr. PASTORE. Mr. President, I move to lay on the table the amendment of the Senator from Kansas, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Rhode Island. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. MCCLELLAN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—55

Abourezk	Hatfield	Nelson
Bayh	Hathaway	Packwood
Bellmon	Hruska	Pastore
Brooke	Humphrey	Pearson
Bumpers	Jackson	Pell
Burdick	Javits	Ribicoff
Case	Kennedy	Schweiker
Church	Leahy	Scott, Hugh
Clark	Magnuson	Stafford
Cranston	Mathias	Stevens
Culver	McGee	Stevenson
Durkin	McGovern	Symington
Eagleton	McIntyre	Taft
Fong	Metcalf	Tunney
Glenn	Mondale	Weicker
Gravel	Montoya	Williams
Hart, Gary	Morgan	Young
Hart, Philip A.	Moss	
Haskell	Muskie	

NAYS—39

Allen	Domenici	Mansfield
Baker	Eastland	Nunn
Bartlett	Fannin	Proxmire
Beall	Ford	Randolph
Bentsen	Garn	Roth
Biden	Griffin	Scott, William L.
Brock	Hansen	Sparkman
Byrd, Harry F., Jr.	Hartke	Stennis
Byrd, Robert C.	Helms	Stone
Cannon	Hollings	Talmadge
Chiles	Huddleston	Thurmond
Curtis	Johnston	Tower
Dole	Laxalt	
	Long	

NOT VOTING—6

Buckley	Inouye	McClure
Goldwater	McClellan	Percy

So the motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BROOKE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. If my colleagues will pay attention, I believe we are ready to go to third reading.

The PRESIDING OFFICER. If there are no further amendments, we are ready for third reading.

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

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

SIMON SIMPLY WRONG

Mr. PACKWOOD. Mr. President, an editorial in the Oregonian, Oregon's largest daily, has clearly and cogently stated what is wrong with the Arab's boycott and what is wrong with the administration's position in saying that the Arab boycott is not so bad and we should not try to pass legislation to remedy the adverse effects of it.

I ask unanimous consent that the editorial from the Oregonian be printed in the RECORD.

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

SIMON SIMPLY WRONG

Treasury Secretary William Simon was wrong in principle and perhaps in fact when he testified June 9 before the House International Relations Committee against legislation that would curtail conditions under which U.S. companies would legally acquiesce in Arab trade boycotts against Israel.

The Treasury boss stated that Arab nations have eased their anti-Israel boycott and that tough U.S. legislation "could alter these favorable developments regarding enforcement practices."

Simon appears to be correct that Arab nations have begun to ignore their own blacklist of more than 1,500 U.S. corporations if failure to deal with specific companies for particular products patently is not in their self-interest. In such instances, examples abound to show that the temptation to make a deal overwhelms ideological allergies.

However, that is only a small part of the story. The Cabinet member failed to mention that tabulations released last month by a House Commerce subcommittee indicate that more than half of the 637 firms asked to comply with the boycott between January, 1974, and December, 1975, have confirmed that they did so. These companies transacted $352.9 million of business, 54.45 per cent of that conducted by all the firms with Arab countries during the two-year period.

As to Simon's contention that the boycott is easing, the Commerce subcommittee reported that in the last three months of 1975 more than 90 per cent of U.S. companies doing business with the Arabs acquiesced in requests to boycott Israel.

The Treasury secretary also has been trapped far off base on principles which apply to the boycott issue. Arab states, of course, are entitled to refuse to trade with their enemies. They should not be entitled, in effect, to shape both U.S. foreign and domestic affairs by dictating that companies that deal with them cannot deal with blacklisted companies—firms owned by or employing Jews or trading with Israel.

Simon said the Arab nations consider their economic boycott against Israel no different from past U.S. boycotts against Cuba, Rhodesia, North Korea and Vietnam "so they cannot accept the argument that they are not entitled to do the same." As the secretary should know, there is a profound difference, which, incidentally, is also strongly articulated in U.S. labor law. It is the principle that parties secondary to a dispute should not be held hostage to the antagonists' differences. Thus, secondary strikes are illegal domestically, and U.S. boycotts on the international scene have adhered to comparable standards.

The Arab demands on U.S. companies violate our standards because they amount not only to secondary boycotts but also to tertiary boycotts. Legislation that finally is produced by the Congress should make it national policy to oppose such economic arm-twisting rather than leave the burden on a discretionary basis to companies, which, as the House Commerce subcommittee's study suggests, are unwilling or unable to resist without an infusion of legal muscle.

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

The PRESIDING OFFICER (Mr. NUNN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1977

The Senate continued with the consideration of the bill (H.R. 14239) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1977, and for other purposes.

Mr. PASTORE. 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. PASTORE. Mr. President, I yield 2 minutes to the Senator from North Carolina.

Mr. MORGAN. Mr. President, for the record, I wish to make a statement in regard to the motion to table the Biden amendment.

Mr. PASTORE. May we have order, Mr. President?

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order?

Mr. MORGAN. As one might suspect, my vote to table the motion to restrict the future activities of the Justice Department to bring about busing for the purpose of achieving racial balance may appear contrary to my long-time position on busing. It is generally known that I oppose busing for the purpose of achieving racial balance, but I recognize that we are not going to return to the neighborhood or community school concept in America until such time as we provide for the children who live in any neighborhood or in any community an education that is equal to that provided for children in other neighborhoods.

We are not going to do that in America as long as we perpetuate a double standard with regard to the schools of this country.

The busing question in the South, and certainly that in North Carolina, was ordered by the courts many years ago. We are getting along fairly well in North Carolina under the circumstances.

That is not to say there is not dissatisfaction among the whites and blacks. But, nevertheless, we have complied with the court order.

The last amendment, as well as all of the other amendments which have been offered in the Senate since I have been here, to the best of my recollection, would not in any way alleviate the discontent or the problems that exist in North Carolina which have been brought about by court ordered busing. It would just tend to perpetuate the systems that now prevail throughout the North, the West, and the Southwest of this country, and leave us in North Carolina still busing.

If that system is perpetuated, then Senators from the North and West are not going to be willing to sit down around the conference table and work out a system of quality education that would enable us to return to the neighborhood school concept in North Carolina.

I think what we need to do in this country is to join together in a unified effort. We are not going to do that as long as we have different kinds of systems in existence. That is why I voted to table the last motion.

Mr. BUMPERS. Will the Senator yield?

Mr. MORGAN. I yield.

Mr. BUMPERS. I would like to associate myself with the remarks of the distinguished Senator from North Carolina. I say that I voted to table the last amendment with a great deal of deliberation. I did so for a number of reasons. I will not bore this body with all the pros and cons of this very volatile issue.

I regret that we continue to vote on this and other emotional issues for what I believe are essentially political purposes. If there is anything that the last Presidential campaign has demonstrated to me, it is that the building of people's expectations only to see them dashed time and time again is one of the very basic reasons the credibility of Congress is as low as it is with people of this country.

As the Senator from North Carolina has just said, we have twice as much integration in the South as there is in the rest of the country. We have long since turned loose many of the traditions that held the South back for so long, not the least of which was trying to keep black people subjugated.

I have always championed what I thought were the most noble instincts of the people of my State regarding race, and I will always encourage my people to take pride in the fact that they now accept civil rights, the rights of all people as a basic right. But I will also always tell them that neither the executive branch nor this body has attempted to come to a realistic grip with this problem, which, incidentally, is not going to go away. I, for one, do not intend to prostitute myself politically on issues on which I know the people of this country can be terribly misled.

So, Mr. President, I say this because I know I will get the normal amount of mail I always get when I vote as I just did, but I feel very strongly, and the Senator from North Carolina has already said it more eloquently than I could.

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

Mr. BUMPERS. I yield.

Mr. BROOKE. Mr. President, I just cannot resist the temptation to say to the distinguished Senator from North Carolina and the distinguished Senator from Arkansas how heartened I am to hear them say what they have said on the Senate floor today. It was courageous, it was wise, and I hope it will be listened to by all the Members of the Senate.

I know that this does not represent a change on either of those Senators' parts in so far as court-ordered busing is concerned. They still oppose court-ordered busing. But they also oppose amendments which would do nothing but raise false hopes and expectations. And they also realize that the law applies to all sections of the country. And that my friends, is what the Senate of the United States is all about. We represent this Nation; we do not represent any one section. We do not support any issue, such as we have been debating time and time again on this floor, which would deny equal educational opportunity to our schoolchildren.

If the South has the leaders on these difficult and controversial issues, so be it that the South leads this Union. I am heartened and encouraged by the statements that have been made by these two distinguished and courageous Senators, and I just could not sit here without commending them for saying what they had to say.

I hope that the people of North Carolina, the people of Arkansas, and the people all over this Nation will listen to the wise words of these two distinguished Senators; and I hope it will help solve some of the problems we have had which have divided this Nation for far too long.

I thank my distinguished friend for yielding.

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

Mr. MORGAN. I yield.

Mr. RIBICOFF. Mr. President, I want to take this opportunity to express my appreciation to the Senator from Arkansas and the Senator from North Carolina. Frankly, they have shown more courage than any Senators from the Northern States. Time after time on this floor I have pointed to the basic hypocrisy of Senators from the North who talk about these problems and try to solve the problems of race 1,500 miles from their own homes, but are unwilling to help solve the problems of race in their own backyards.

Time after time we have had an opportunity, when we have been faced with proposals to have uniform treatment in the 50 States when it comes to the problem of integration, and time after time I have seen the hypocrisy of northern Senators.

So it is not enough to praise these two Senators from the South for speaking their minds, because time and time again we have pointed out that the South would solve its problems of integration before the North, and the study that was made public by the distinguished Senator from Massachusetts and the distinguished Senator from New York so indicates. It is too bad that some of the Senators who now praise the Senator from North Carolina and the Senator from Arkansas were not as forthcoming at an earlier period when an issue like this was before the U.S. Senate. If they had been forthcoming then, we would not have had the problem in the North that we now have.

Mr. WILLIAM L. SCOTT. Mr. President, I have listened to the remarks of the distinguished Senator from Massachusetts and other Senators with regard to quality education and integration.

You know, that is not what we are talking about when we talk about——

The PRESIDING OFFICER. Who is yielding time to the Senator from Virginia?

Mr. WILLIAM L. SCOTT. Is the time controlled?

The PRESIDING OFFICER. Yes, it is.

Mr. PASTORE. Mr. President, I yield the Senator 3 minutes.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the distinguished Senator from Rhode Island allocating some time to me. But, you know, Mr. President, I believe we are talking about using the children of the country as pawns to bring about social reform rather than quality education.

There is not a Member of this body who is not for quality education throughout our country. The Senator from Massachusetts (Mr. BROOKE) spoke of having courage to stand up and say what we believe. I hope every Senator, every Member of this body, has the courage to stand up and state what he believes in. I believe in the neighborhood schools, that children who play together should go to school together. In my opinion they do not have the emotional problems when they attend area schools that may develop from being bussed away from their parents and friends.

There are other ways we can achieve integration in our schools in lieu of busing. One is by changes in the housing field. There are many ways. But because we do not want our children bused out of their neighborhoods into some strange area, some area that may lead to conflicts, emotional as well as physical, does not mean that we are not in favor of quality education. It does not mean we are not reconciled to the concept of integrating our schools. In my opinion a vast majority of Americans are opposed to busing, as against the best interest of all children.

I do not want any child in this country to be deprived of quality education, and I am unalterably opposed to the racial busing of children and have no hesitancy in saying so.

Mr. PASTORE. Mr. President, I merely wish to say that by comparison with what has happened in the Senate over the last 6 to 7 days, this is the Senate's finest hour.

I now yield to the Senator from Michigan; I understand he has a statement for the RECORD. And then I am prepared for third reading.

MARITIME STUDENT ALLOWANCE

Mr. GRIFFIN. I would like to make an inquiry to the Senator from Rhode Island (Mr. PASTORE) regarding the funding in this bill for the Maritime Administration. I am particularly interested in the funds provided to MARAD for operating expenses and for the State and Federal schools. Last week when the Maritime Administration authorization bill was before the Senate, I joined Senator MUSKIE and Senator HATHAWAY in offering an amendment to increase the State maritime school cadet allowance. The amendment was modified and accepted by the floor managers of that bill. It would increase the allowance from the 1958 level of $600 per year to $900 per year, with the additional $300 to help defray the cost of books, uniforms, and training at sea.

Of course, the authorization bill still must go to conference with the House, and it appears that this appropriation for fiscal year 1977 will be passed by the Senate prior to final action on the authorization bill. It is my understanding, however, that there should be no immediate problem with the funding for the 1976–77 school year if this increase in the cadet stipend included in the Senate

authorization bill is finally passed, as I hope that it will be. This $300 increase amounts approximately to an overall increase of $600,000 for the entire year, obviously a very small part of the overall $48 million provided MARAD for these activities. I would just like to ask the floor manager of this appropriations bill if this understanding agrees with his, that MARAD should have no difficulty in implementing the increase in the cadet subsidy under the funds provided in this appropriation bill for the coming school year.

Mr. PASTORE. Yes, that is my understanding as well. Though funds have not specifically been provided for this increase, which as the Senator from Michigan has pointed out was just passed last week by the Senate, MARAD has indicated that there would be no immediate funding difficulty presented by final adoption of such an increase. Should it become necessary, of course, a supplemental could be considered at some later date for the $600,000 or whatever part of the amount might be needed.

Mr. MUSKIE. Mr. President, I take this opportunity to comment on H.R. 14239, which is the fiscal year 1977 appropriations bill for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies.

I wish to speak to the relationship between this bill and the targets set out in the first concurrent resolution on the budget for fiscal year 1977.

H.R. 14239 provides budget authority in fiscal 1977 of $6.9 billion and outlays that are estimated at $5 billion. In addition, there will be outlays of $2.2 billion resulting from previous years' appropriations. Total outlays for the year will be $7.2 billion.

The funds provided in this appropriation bill are within the total allocation which was made by the Senate Appropriations Committee to the subcommittee in accord with 302(b) of the Budget Act. That allocation was $7 billion in budget authority and $7.4 billion in outlays, and this appropriation bill is thus $0.1 billion in budget authority and $0.2 billion in outlays below the amounts allocated to the subcommittee.

This bill provides new budget authority in seven functions of the budget. I ask unanimous consent to insert in the RECORD a table showing the distribution of budget authority and outlays in this bill by function.

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

H.R. 14239. Departments of State, Justice, and Commerce, the Judiciary, and related agencies appropriation bill fiscal year 1977

[In millions of dollars]

	Budget authority	*Outlays*
Function:		
050—National defense	3	6
150—International affairs	1,372	1,305
300—Natural resources, environment and energy	616	574
400—Commerce and transportation	1,333	1,716
450—Community and regional development	671	454
500—Education, training, and employment and social services	-----	222
750—Law enforcement and justice	2,878	2,939
800—General government	3	3
Total	6,879	7,219

SOURCE.—Congressional Budget Office.

Mr. MUSKIE. Mr. President, this bill is consistent with the policy framework of the first budget resolution and, as I have noted, it is below the allocation made to the subcommittee by the full Appropriations Committee. I therefore support the bill. I would point out, however, that this bill and the Treasury/Postal Service Appropriation bill which has also been reported, cover the bulk of the requirements in function 750, law enforcement and justice, and that the amounts reported in the two bills are likely to put the budget authority and outlay levels for function 750 about $100 million over the first budget resolution targets. However, since the amounts reported in both of these bills are within the Appropriations Committee's first budget resolution allocation, I assume that any overage in function 750 will ultimately be offset by savings in other functions which will appear as the remaining appropriation bills are reported.

I commend the distinguished chairman of the subcommittee, Senator PASTORE, and the distinguished chairman of the Appropriations Committee, Senator MCCLELLAN, for their dedicated efforts in bringing this bill to the floor.

Mr. KENNEDY. Mr. President, I rise in support of the proposed Senate Appropriation of $809 million for LEAA, the same amount as the current level of funding. I note with concern the House LEAA appropriation of only $738 million, a cut of some $71 million. I hope that the House-Senate conferees will follow the recommendations of the Senate and will restore the House cuts.

For many years I and others have been vocal critics of the LEAA program, expressing our concern that LEAA was simply not confronting the problem of crime in America. This year, however, many of the reforms I have long advocated—direct aid to our cities, special aid to our beleaguered court systems, assisting our elderly in their struggle against crime, improved evaluation and monitoring of LEAA programs, new congressional oversight and regulatory provisions have been accepted in toto by the administration.

I therefore support the Senate appropriation in the hope that, at long last, LEAA may begin to fight an effective war on crime.

Mr. WEICKER. Mr. President, H.R. 14239 making appropriations for Department of State, Justice, Commerce, and the Judiciary for fiscal year 1977 included $1.5 million in the NOAA budget for an undersea oceanlab program initiated by Congressman ALEXANDER. The Senate subcommittee on State, Justice, Commerce, and the Judiciary chaired by Senator PASTORE retained the oceanlab program in the NOAA budget despite opposition by the Commerce Department and the administration. I want to thank Senator PASTORE for this thoughtful consideration of this important issue.

I have supported the oceanlab concept ever since I realized that the United States has no real national undersea program and often has restored to leasing foreign equipment for undersea research. The proposed oceanlab program will support a wide range of scientific diving projects utilizing a mobile manned habitat system which will allow scientists to probe the depths of the oceans. It will also focus on important physiological studies necessary to allow man to safely and effectively reach his maximum capabilities in undersea research.

The oceanlab program is an important part of a new national effort in the oceans. Clearly the future growth and security of this Nation is largely dependent on our research and development of the vast resources of the oceans.

Just as we must develop new techniques to mine offshore minerals, to drill for oil and gas, and to harvest the living resources of the sea, man must also develop his capabilities to work and live within the boundaries of an environment which in many ways is more hostile than the surface of the Moon. Only with a national commitment can we achieve the proficiency we need in this area.

This national commitment requires the adoption and implementation of a strong national ocean policy which encompasses all aspects of ocean affairs. The United States now lacks a coherent policy to address its ocean problems, at a time when we face an approaching crisis: Our land-based sources of oil are drying up; our fishing stocks are being depleted by mismanaged fisheries; the near-shore oceans and estuaries are being badly polluted, killing or rending many species of marine life unfit for human consumption; our merchant and naval fleets are old and inefficient.

Even though there are many in Congress who seek to address these problems, and even though a sizable budget is allocated each year for ocean and ocean-related programs, we do not pull it all together. Our legislative efforts lack direction and fail to give thought to overall objectives. This unsatisfactory process will no doubt continue until we take action to define our goals and exercise leadership in ocean research and development.

The United States must now develop a national ocean policy to guide our destiny in the oceans. Not to do so relegates our country to second-rate status as a force in and on the oceans.

Mr. President, I would like to again call attention to my colleagues a report I drafted entitled "America's Future in the Sea—Thoughts on a National Ocean Policy" submitted to the Senate Commerce Committee last March and reprinted in the CONGRESSIONAL RECORD April 9, 1976.

This represented my first serious look at ocean affairs in the United States and you may be sure that I will continue to push for expanded oversight and a new policy coordinating ocean programs in the United States.

Mr. KENNEDY. Mr. President, I wish to pose a brief question related to the Federal Communications Commission appropriations.

I am concerned that the Commission has failed thus far to treat Puerto Rico

in the same manner that it treated Hawaii and Alaska with respect to the integration of telephone service between Puerto Rico and the mainland into the domestic rate structure.

I know the chairman has been concerned about this matter as well, and I simply wanted to alert him that as of this date, the company involved—ITT—has declined to reach any agreement with the Puerto Rico Telephone Co. to facilitate this integration.

Since this relates to an order of the FCC stemming from a 1972 decision and since the Senate has previously approved Senate Resolution 318 declaring its desire that integration be speeded, I would hope that some expression of concern might be made by the conference report on this subject. The FCC responded to the resolution as it relates to Hawaii and Alaska by ordering negotiations to conclusion within a 30-day period but they have not so acted with regard to Puerto Rico and it appears that the delay will be interminable unless some further action by the Commission takes place.

This means that people in Puerto Rico and those in the States calling Puerto Rico are having to pay some three times the rate they otherwise would pay if integration had occurred.

I ask unanimous consent to have printed in the RECORD, a copy of Senate Resolution 318, and a copy of the letter from the Governor of Puerto Rico to the distinguished chairman.

Mr. PASTORE. I am well aware of this matter and I have written to the Commission urging their intervention to speed integration and I will raise the matter with the conferees and seek an expression of their concern as well.

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

S. RES. 318

Resolution expressing the sense of the Senate with respect to authorizing domestic satellites pursuant to the Communications Act of 1934

Whereas the Communications Act of 1934, as amended, directs the Federal Communications Commission to regulate communications by wire and radio so as "to make available, so far as possible, to all of the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges . . .": and

Whereas in its Second Report and Order (docket numbered 16495 (1972)) establishing the Nation's basic domestic communications satellite policy, the Federal Communications Commission stated that "With the availability of domestic satellites for communications between the mainland and Alaska, Hawaii, and Puerto Rico, distance should dramatically diminish as an excuse or justification for the historic high-rate treatment that has been accorded to these services"; and

Whereas in the same report and order the Federal Communications Commission found that, "with the inauguration of satellite systems to serve the domestic communications requirements of all of the United States, there will be justification for integrating Alaska, Hawaii, and Puerto Rico into the established rate scheme for communications service applicable to the mainland"; and

Whereas in that report and order the Federal Communications Commission determined that it would be its policy to condition grant of an application for a domestic communications satellite system which would include service to Alaska, Hawaii, and Puerto Rico upon integration of these three points into the established rate scheme for communications applicable to the contiguous forty-eight States, and that no later than six months from the issuance of the authorization for such service, the authorized carrier must submit a specific proposal for revised rates for review and approval of the Commission prior to authorization for the commencement of service; and

Whereas in its Memorandum Opinion and Order (docket numbered 16495) reaffirming the above enunciated policy determination the Federal Communications Commission again stated that "the advent of domestic satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern"; and

Whereas the said applicant have not filed proposed tariffs reflecting the rates and regulations governing service to Hawaii, statements of how those rates and regulations comply with the Commission's policies, and economic data supporting such rates and regulations: Now, therefore, be it

Resolved, That it is the sense of the Senate that in accordance with such previously announced policies the Federal Communications Commission should take such action pursuant to law as is necessary in order to provide that the advent of domestic communications satellite service will be accompanied by the integration of all interstate services between the mainland and Alaska, Hawaii, and Puerto Rico into an enlarged domestic rate pattern.

THE GOVERNOR OF THE
COMMONWEALTH OF PUERTO RICO,
June 21, 1976.

Hon. JOHN O. PASTORE,
Senator, U.S. Senate,
Washington, D.C.

DEAR SENATOR PASTORE: I am writing to seek your assistance in a matter of vital importance to the people of Puerto Rico and their friends, family members and business contacts on the mainland. The problem is telephone communications.

While United States citizens living on the mainland have enjoyed the best telephone service in the world, the people of Puerto Rico were in the past served by a telephone company which was unable to provide service of the scope or quality of that on the mainland.

The problems faced by the Puerto Rico Telephone Company (PRTC) flow from past ownership of PRTC by International Telephone and Telegraph Corporation (ITT). Under ITT control, PRTC provided 60 years of deficient telephone service to the people of Puerto Rico. Under ITT ownership, PRTC's local telephone rates to customers rose to a level higher than those of any comparable telephone company in the United States. In 1974, orders for new service which had been placed as far back as 1969 remained unfilled; repairs for out of service telephones regularly required weeks and sometimes even months; and much of the telephone plant was improperly or inadequately installed and maintained, making it easily susceptible to damage from weather and other forces.

Confronted with this level of service and ITT's insistence, that it needed a further rate increase of over 50 percent, the Commonwealth attempted to find a purchaser of the telephone system with the ability and resources to provide quality telephone service for the people of Puerto Rico. Unable to find such a purchaser, the Commonwealth took the drastic and unique action of forming a public authority, Puerto Rico Telephone Authority, to acquire PRTC from ITT. After lengthy negotiations with ITT, the purchase was completed in 1974, and the Authority now owns all of the stock of PRTC.

Under its new ownership, PRTC began an extensive capital program and obtained the services of the best telephone experts available in its attempt to upgrade the level of telephone service. Although great progress has been made, much remains to be done.

In addition to the problems of upgrading local intraisland telephone service, it is essential that the rates charged for interstate communications services between the mainland and Puerto Rico be equitable and reasonable. A large number of Puerto Ricans living throughout the mainland retain strong ties with families and friends in Puerto Rico largely by means of the telephone. In addition, proper toll rates are essential to Puerto Rico's economic development. Being an island, our businesses are heavily dependent upon the mainland for raw materials, supplies and for markets. To attract new business and broaden our island's economic base, the cost of mainland/Puerto Rico telephone service must be reasonable.

Because of the importance of the rates for this service, I welcomed the 1972 Order of the Federal Communications Commission that rates for calls to and from Alaska, Hawaii and Puerto Rico be integrated into the same rate structure that applies on the mainland. This "rate integration" will eliminate the now unjustified disparity in rates whereby a telephone call to or from these offshore points costs several times what a call of similar distance would cost on the mainland.

As you know, in order to achieve this rate integration, it is necessary that the companies involved in providing telephone service and facilities alter their respective shares in the revenue derived from Puerto Rico/mainland calls so that PRTC, the local telephone company, is not injured. To alleviate the problems which would be caused by retaining the present division of revenues, and to achieve rapid rate integration in compliance with the 1972 FCC Order, PRTC initiated negotiations with AT&T and ITT. Four meetings have been held to date. At these meetings, AT&T expressed at least some willingness to reduce its share in the Puerto Rico/mainland toll revenues in the same way it has done in Hawaii. ITT, which is a co-owner of all the communications facilities connecting Puerto Rico and the mainland, is willing to accept a share of the revenues given up by AT&T, but it is unwilling to readjust its revenue share with PRTC. ITT's posture in these negotiations has been that of a silent observer.

I find this intransigence of ITT unconscionable. Calculations made by PRTC personnel using public reports filed by ITT show that it is earning a rate of return on the facilities serving Puerto Rico of between 30 and 33 percent, despite the fact that its rate of return is presumably regulated by the FCC. AT&T is permitted by the FCC to earn no more than 9.5 percent on its interstate facilities. This 9.5 percent limitation on interstate earnings also applies to every Bell operating company and the 1600 independent telephone companies. Moreover, it appears that ITT is earning this excessive rate of return because it may have manipulated among its various subsidiaries operating in the Caribbean in order to maximize profits for some of its companies while loading costs on PRTC and others, thereby reducing their revenues. ITT's position is hurting not only PRTC, but all telephone users on the mainland and in Puerto Rico.

Because of the ITT position and the lack of progress in the rate integration negotiations, PRTC asked the FCC to intervene. On May 21, 1975, the Chief of the Commission's Common Carrier Bureau wrote the parties involved and required them to negotiate in

good faith and to report their progress to him by July 1, 1976.

While I welcome this assistance, I believe that more must be done. First, I believe that an interim equitable rate integration agreement must be imposed upon the parties immediately. The telephone users of the United States and Puerto Rico should not be held hostage while ITT delays. PRTC has already proposed the terms for such an interim agreement. Once this interim step is made, a more permanent agreement could then be worked out among the parties and implemented on an appropriate timetable. Given ITT's present position, no rate integration proposal can be negotiated without aggressive intervention by the FCC.

In addition, while the Commission has commenced a long overdue investigation of rates and rates of return of international common carriers, including ITT companies operating in the Caribbean, this investigation will not focus on the immediate need for rate integration for Puerto Rico. Therefore, there is need for immediate congressional concern for an investigation of the rate of return being earned by the ITT Companies in the Caribbean. Special study should be given to the interlocking character of the several ITT companies which have virtually complete control over communications traffic into and out of Puerto Rico and the Virgin Islands. More attention must be focused on to what extent and for what reason ITT has been so unregulated for so long in this important area.

I urge you to take an interest in this matter and to offer whatever assistance you can. The time has come for the people of Puerto Rico to enjoy the benefits of reasonably priced, high quality telephone service that their fellow citizens on the mainland have enjoyed for decades.

I am directing Mr. Salvador Rodriguez-Aponte, President of PRTC, to send you copies of all correspondence he has had with the FCC on this subject.

Sincerely,

RAFAEL HERNANDEZ-COLON,
Governor.

Mr. HUDDLESTON. Mr. President, I want to commend the distinguished chairman of the subcommittee and the ranking minority member for the manner in which they have handled this bill. There are a number of important programs funded in this legislation, many of which were not adequately provided for in the budget request and I believe both our Subcommittee on State, Justice, Commerce and the full committee, under the leadership of the chairman and ranking member of the subcommittee and the chairman of the full committee, have sought to give these programs the attention which they deserve.

Since its enactment in 1965, the Economic Development Administration—EDA—has time and time again proven its value in assisting those areas of our Nation which are economically depressed. Not only does the program encourage the construction of facilities needed for expansion of business and industrial activities, and area economic development but it also results in immediate employment as the various programs and projects are carried out. While our economy is improving, there are a number of areas in our country which still lag behind, and unemployment, at least in my opinion, remains much too high. As a result, I am pleased that the Senate figure for this year is the same that the Senate recommended last year and took to conference.

In providing such appropriations, I think it is important to note that the Senate amount includes funding for the section 304 program. There was no budget request for this program, which provides States with grant moneys to foster economic development through selective development projects that will have a lasting impact on the State's economy.

Several different criticisms have been made of the program. One is that the amounts available have been so small that they have not been worth the administrative work required in connection with them. On the other hand, another is that the States have not been spending the funds. It is, however, my understanding that the States desire to follow through with this program, that additional funding in fiscal 1977 would encourage them to do so and that the principal reason that little money has been spent to date is that there has been so much delay in getting the funds to the States. Section 302 which involves State planning is now going into its second year.

Thus, States are just approaching the time when they can utilize the 304 funds within a comprehensive context. Furthermore, it is my understanding that some States have been allowing these funds to accumulate so that they can undertake larger projects. Thus, to eliminate funds now would be to abandon the program just when it is on the threshhold of proving its value.

In my own State of Kentucky, the EDA 302 and 304 functions are being integrated into the new 2-year Kentucky Economic Development Plan which will involve multi-county industrial development, mass transit, airport development, riverport development, urban flood control and a number of other areas. The State intends to use all the funds which are currently available under 304 and believes it could use additional funding very effectively.

Finally, I would point out that both the House and Senate Public Works Committees, after receiving EDA, recently decided to continue the 304 program at a $75 million authorization level. If their review indicated that such an authorization level was desirable, a $20 million appropriation figure, which is the same as that provided last year, would seem to be a good investment.

Another important area covered in this legislation is the Law Enforcement Assistance Administration—LEAA. While I am well aware of the various criticisms which have been leveled against the program, I do not believe that the answer is to curtail it to the point where it can accomplish little, but instead to work to improve it in order that we may address the many problems which remain in the criminal justice system. From the experiences of my States, I know that funds are getting to the localities and that these funds are contributing to the provision of a more effective and humane criminal justice system.

Within the LEAA program, the subcommittee and committee have recommended the law enforcement education program—LEEP—which not only assists law enforcement personnel in pursuing education, but to develop expanded curricula in the justice and correctional fields.

Another area of extreme importance is that of juvenile justice. Nationally, juveniles account for some 25 percent of arrests and 45 percent of serious crimes. Furthermore, there are indications that many of our past procedures for dealing with juvenile delinquency have failed and that new directions are needed. This program offers a starting place for such new directions.

I have, however, been extremely disturbed by some of the developments within the program. A number of States have experienced difficulty in meeting what they have felt were impossible administrative difficulties, especially in connection with section 223(a)(12) of the Juvenile Justice and Delinquency Prevention Act. The subcommittee was advised that the authorization committee and the Administrator of LEAA were seeking to work out these problems and has included language in the committee report encouraging these efforts. I am certain that we will be following developments in this area closely so that the States can move ahead in providing much needed services.

The committee recommendation of $130 million for the Legal Service Corp. should enable the Corporation to expand its activities. The Corporation provides a necessary service to the Nation's poor. Yet, the present budget is simply not adequate to carry out its congressional mandate "to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances." The funding level remained static during the 1971–76 period, halting the initiation of new legal programs, especially in view of the 30-percent inflation increase over this period.

There is a need to strengthen existing programs as well as initiating new programs where none now exist. In areas where programs already exist, three out of every four legal problems of the poor go unattended. Areas served by existing programs affect about 17.25 million of the Nation's poor. Another 12 million or 40 percent of the Nation's poor receive no assistance because of no programs in their area.

Finally, the National Fire Prevention and Control Administration provides far too important a service to leave its funding as the House and budget proposed. Fire is annually responsible for $11 billion in national waste, 12,000 deaths, and 300,000 injuries. It is time to give this serious problem the attention that it deserves. The NFPCA is at the point of expanding a number of important services and should be encouraged to do so.

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 amendments and the third reading of the bill.

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

The bill was read the third time.

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

The PRESIDING OFFICER. The yeas and nays have already been ordered. Is all remaining time yielded back?

Mr. PASTORE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is, Shall the bill pass? 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 Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Louisiana (Mr. LONG), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 82, nays 10, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—82

Abourezk	Griffin	Moss
Baker	Hansen	Muskie
Bayh	Hart, Gary	Nelson
Beall	Hart, Philip A.	Nunn
Bellmon	Hartke	Packwood
Bentsen	Haskell	Pastore
Biden	Hatfield	Pearson
Brooke	Hathaway	Pell
Bumpers	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Robert C.	Huddleston	Ribicoff
Cannon	Humphrey	Schweiker
Case	Jackson	Scott, Hugh
Chiles	Javits	Sparkman
Church	Johnston	Stafford
Clark	Kennedy	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stone
Dole	Magnuson	Symington
Domenici	Mansfield	Taft
Durkin	Mathias	Talmadge
Eagleton	McGee	Tower
Eastland	McGovern	Tunney
Fannin	McIntyre	Weicker
Fong	Metcalf	Williams
Ford	Mondale	Young
Glenn	Montoya	
Gravel	Morgan	

NAYS—10

Allen	Curtis	Scott, William L.
Bartlett	Garn	Thurmond
Brock	Helms	
Byrd, Harry F., Jr.	Roth	

NOT VOTING—8

Buckley	Long	Percy
Goldwater	McClellan	Stennis
Inouye	McClure	

So the bill (H.R. 14239), as amended, was passed.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PASTORE. Mr. President, I ask unanimous consent that the Secretary of the Senate, in the engrossment of the Senate amendments, be authorized to make any technical and clerical corrections.

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

Mr. PASTORE. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. PASTORE, Mr. MCCLELLAN, Mr. MANSFIELD, Mr. HOLLINGS, Mr. MAGNUSON, Mr. EAGLETON, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. HRUSKA, Mr. FONG, Mr. BROOKE, Mr. HATFIELD, Mr. STEVENS, Mr. YOUNG, and Mr. JAVITS conferees on the part of the Senate.

Mr. PASTORE. Mr. President, I have already complimented the Senator from Nebraska (Mr. HRUSKA) for his cooperation and his friendship. I now should like to say a word in praise of Mr. Terry Sauvain, who is the staff member of the majority, and Mr. Burkett Van Kirk, who is the staff member of the minority. These two men have worked hard and have done a splendid job, and they are a credit to the working force of the U.S. Senate. Mr. Sauvain has been assisted by Mr. Salesses.

Mr. HRUSKA. Mr. President, I subscribe to the sentiments expressed by the Senator from Rhode Island with regard to the staff. They have been loyal and have been assiduous in the prosecution and execution of their duties, and I commend them for it.

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

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

PRIVILEGE OF THE FLOOR—H.R. 10612

Mr. STONE. Mr. President, I ask unanimous consent that Mr. William Pursley and Mr. Marc Golden of my staff be granted privilege of the floor during Senate consideration of H.R. 10612.

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

Mr. MUSKIE. Mr. President, I ask unanimous consent that Jim Davis, of my staff, have the privilege of the floor during the pendency of the tax bill.

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

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state.

The assistant legislative clerk read as follows:

A bill, H.R. 10612, to reform the tax laws of the United States.

COMMITTEE AMENDMENT NO. 13

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to committee amendment No. 13. Committee amendment No. 12 is laid aside temporarily. The Senator from Minnesota (Mr. MONDALE) is recognized to call up an amendment which, by unanimous consent, will be considered to be an amendment in the first degree. The Senator from Minnesota is recognized.

UP AMENDMENT NO. 93

Mr. MONDALE. Mr. President, under the unanimous-consent agreement, I send to the desk an amendment in the nature of a substitute for the pending committee amendment and ask unanimous consent that its reading be dispensed with.

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

Mr. CURTIS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MONDALE. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. May I inquire, Mr. President, is there a time limit on the amendment offered by the distinguished Senator from Minnesota and, if so, how much is it and is there a time limit on amendments to it?

The PRESIDING OFFICER. The only time agreement is that final disposition of committee amendment No. 13 will occur not later than 11 p.m. this evening.

Mr. CURTIS. I thank the Chair.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. MONDALE) for himself, Mr. NELSON, Mr. HOLLINGS, Mr. MATHIAS, Mr. BROOKE, Mr. CLARK, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. KENNEDY, Mr. PROXMIRE, and Mr. TUNNEY proposes an unprinted amendment No. 93.

Unprinted amendment No. 93 to committee amendment 13, is as follows:

In lieu of the language proposed to be inserted by the Committee amendment, insert the following:

MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL. Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences is amended

(a) By amending section 56(a) to read as follows:

"(a) GENERAL RULE.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceed $10,000.".

(b) CONFORMING CHANGES.—

(1) Section 56(b) of such Code (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out "$30,000" in paragraph (1)(B) and inserting in lieu thereof "$10,000", and

(B) by striking out "10 percent" in paragraphs (1) and (2) and inserting in lieu thereof "15 percent".

(2) Section 56(c) (relating to tax carryovers) is repealed.

(c) ADDITIONAL TAX PREFERENCE ITEMS.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, contruct, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COST.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C)."

(B) Section 57(a)(2) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(1) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction provided by section 213,

"(5) the deduction for casualty losses described in section 165(c)(3), and

"(6) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(e), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income."

(3) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—The amount of any item of tax preference taken into account for purposes of section 55 for any taxable year shall be reduced by the amount of any portion of such item which constitutes a deduction which for such taxable year or any prior taxable year was placed in a deferred deduction account under section 466(b)."

(4) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(f) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (12) of subsection (a) and for purposes of section 468(e) (relating to accelerated deductions in the case of LAL oil and gas property)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12) and section 468(e).

(5) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraphs:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1, 1976, and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term 'investment interest expense' does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in section 1250(a)(1)(C) which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was, on or before December 31, 1981, binding on the taxpayer."

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: 'For purposes of this subparagraph, the term 'investment expense' shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a).'"

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application is amended by striking out "$30,000" wherever it appears and inserting in lieu thereof $10,000", and by striking out "$15,000" wherever it appears and inserting in lieu thereof "$5,000".

(e) CONFORMING AMENDMENT.—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975, and in the case of a corporation, the amendment made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code) for taxable years beginning after December 31, 1975.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporation, the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975, and in the case of a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 524), the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before July 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after June 30, 1976.

(3) In the case of a taxpayer which is a bank (as defined in section 581 of the Internal Revenue Code of 1954), the amendments made by this section apply only to taxable years beginning after December 31, 1977.

(4) SPECIAL RULE FOR TAXARLE YEAR 1976 IN THE CASE OF A CORPORATION.—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation the tax imposed by section 56 of such Code for taxable years beginning after December 31, 1975, and before January 1, 1977, is an amount equal to the sum of—

(A) the amount of the tax which would

have been imposed for such taxable year under such section as such section was in effect on the day before the date of enactment of the Tax Reform Act of 1976, and

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

Mr. BROCK. Mr. President, will the Senator permit me to go ahead and offer my amendment now or does he want me to wait?

Mr. MONDALE. As I understand it, the Senator's amendment will be offered as a substitute, and I would like, if the Senator does not mind, to make my opening statement and then the Senator may offer his amendment.

Mr. BROCK. Yes.

Mr. MONDALE. Mr. President, I ask unanimous consent that the Senator from California (Mr. TUNNEY) be added as a cosponsor.

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

Mr. MONDALE. Mr. President, I ask unanimous consent that John Farmer of my staff be granted floor privileges during the consideration of this measure.

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

Mr. MONDALE. Mr. President, this amendment is identical in substance with amendment 1893 now at the desk submitted by Mr. Nelson and others on behalf of myself, except that consideration of the maximum tax provisions of that amendment has been postponed until tomorrow.

Mr. President, I rise to speak in support of the minimum tax amendments contained in the coalition's reform package. These amendments address the driving force of tax reform—a belief that each taxpayer should pay his fair share of the Nation's tax burden. And that force becomes especially compelling in light of the Finance Committee's decision to terminate the personal credits as of June 30, 1977. These minimum tax amendments would raise over $1.7 billion for the Treasury in fiscal year 1977—at least $800 million more than the Finance Committee's minimum tax provisions. Without the revenue generated by these proposed reforms, an annual tax increase of $9.4 billion will have to be borne by middle-income taxpayers. The committee presented the Senate with this choice between tax benefits for the wealthiest Americans and tax relief for average taxpayers; that is the perspective in which our minimum tax and maximum tax amendments should be viewed.

We had quite a debate at the outset of the Senate's consideration of the committee's bill over whether we would extend the present temporary individual tax cuts beyond the time specified in the committee's bill without breaking the budget ceilings incorporated in the first concurrent resolution.

The only significant opportunity that remains for the Senate to add enough revenue to extend those tax cuts without breaking the budget ceilings is through the adoption of this range of amendments affecting the pickup of revenues through the minimum tax.

MINIMUM TAX

Let us consider the minimum tax. In 1969, the public was alarmed to learn that 475 individuals had earned more than $100,000, but had paid no Federal income taxes. The congressional response was a modest one. Little effort was made to eliminate directly various tax preferences that enable some wealthy taxpayers to avoid taxes; Congress chose, instead, to retain such preferences generally but to enact provisions designed to insure that persons with high economic incomes be subject to some tax liability.

The device chosen to effect this objective was the minimum tax, payable by both individuals and corporations. Under present law, the minimum tax is imposed on nine items of tax preference and is added to any regular tax liability.

May I say at this point that our list of tax preferences in the coalition amendment is taken, with only minor exceptions, from the list of preference incomes set forth in the Finance Committee bill.

Current preferences include: Accelerated depreciation on real property; accelerated depreciation on personal property subject to a net lease—not applicable to corporations—in other words, the minimum tax as it applies to corporations would remain the same as it is now. It is only the minimum tax on individuals which is changed and from which additional revenue would be derived under the Finance Committee's proposal: Rapid amortization of pollution control facilities; rapid amortization of railroad rolling stock; stock options; bad debt reserves of financial institutions; percentage depletion; excluded portion of capital gains; and rapid amortization of on-the-job training and child care facilities. In computing the tax, a taxpayer is allowed an exemption for the first $30,000 of preference income and is entitled to deduct all regular taxes paid.

In the Finance Committee bill, the minimum tax rate would be increased from 10 to 15 percent, and the exemption would be lowered from $30,000 to $5,000 or the amount of regular taxes paid, whichever is greater. Also, by the committee decision, excess, investment interest, certain itemized deductions exceeding 60 percent of adjusted gross income, real estate construction period interest, accelerated depreciation on all personal property subject to a lease, and certain intangible drilling costs would be added to the current list of tax preferences. However, these Finance Committee changes would apply only to individuals and not to corporations.

The coalition reform amendment would retain the new minimum tax preference added by the Finance Committee but would make two basic changes in the structure of the committee's minimum tax provision:

First, a $10,000 exemption, with no deduction for regular taxes paid would be substituted for the committee's exemption equal to the greater of $5,000 of the amount of regular taxes.

Second, all minimum tax changes would generally apply to corporations as well as to individuals.

These changes would generally be effective for individuals January 1, 1976, and for corporations as of July 1, 1976. However, there are two exceptions to these general effective dates. In the case of Government-subsidized low- and moderate-income housing, the tax preference for construction period interest would not apply to interest paid or accrued before January 1, 1982, and the tax preference for excess investment interest would not apply to projects subject to a binding construction or financing contact before January 1, 1982.

Moreover, the corporate minimum tax changes would not apply to financial institutions until January 1, 1978. By deferring the effective date for low- and moderate-income housing, we hope to provide impetus for Congress to improve direct housing subsidy programs so that tax incentives will no longer be needed to maintain the viability of this segment of the housing industry. A deferred effective date for financial institutions would maintain the status quo until Congress has had sufficient time to consider the Uniform Tax Treatment of Financial Institutions Act—legislation that would alter substantially the existing tax treatment for commercial banks and savings and loan associations.

ELIMINATE DEDUCTION FOR REGULAR TAXES PAID AND INCREASE EXEMPTION

As orginally conceived by the Senate Finance Committee in 1968, the minimum tax contained no deduction for regular taxes paid. It was thought that a taxpayer with a large amount of taxable earnings should pay at least as much tax on his preference income as a taxpayer with low taxable earnings. Nevertheless, a deduction for regular taxes paid was adopted on the Senate floor in 1969. That 11th hour change has proved to be such a serious impediment to the effective functioning of the minimum tax that it has come to be known as the "executive suite" loophole. It has enabled highly paid executives, professionals, sports personalities and movie stars to avoid payment of the minimum tax on substantial amounts of preference income.

Largely on account of this deduction for regular taxes paid, the effective minimum tax rate is now only 4 percent. Moreover, this special deduction enables 55 percent of taxpayers who would otherwise be subject to the minimum tax to escape its provisions entirely.

In January 1974, the Senate voted to eliminate the regular tax deduction and the House followed suit in its version of the tax reform bill we are now considering. But the Finance Committee had decided to retain the "executive suite" loophole, choosing instead to propose a drastic decrease in the exemption to $5,000. The Finance Committee bill would increase substantially the number of individuals covered by the minimum tax. And the committee proposal would raise some revenue for the Treasury—even though the revenue gain from the committee's minimum tax changes would be $800 million less than the coalition amendment for fiscal year 1977.

What the committee did, in effect, was to take the minimum tax and make it regressive so that we would tax at a much higher rate modest investors and then would bring relief to persons who we might call the big hitters, who have high earnings from both earned income or taxable income and from unearned income.

But I urge the Senate to examine carefully the impact of the committee's changes. Coverage of the minimum tax would be expanded, and revenue would be raised by subjecting vast numbers of middle-class taxpayers to a tax on modest preference income. Under the Finance bill, the executive making $100,000 would still be able to enjoy over $45,000 of tax-free preference income; his "executive suite" loophole has been untouched by the committee. On the other hand, an individual with taxable earnings of only $10,000 could receive a mere $5,000 of preference income without being subjected to the committee's minimum tax.

By eliminating the deduction for regular taxes paid and increasing the committee's exemption, the coalition amendment would remove the highly regressive feature of the committee's minimum tax proposal. Data compiled by the Congressional Budget Office and the staff of the Joint Committee on Internal Revenue Taxation illustrate the stark contrast between the income level distribution of the two minimum tax alternatives we are considering:

First. Under the finance bill, over 40 percent of the individuals affected by the minimum tax would have adjusted gross incomes under $20,000; only 20 percent of those low- and middle-income individuals would be subjected to the minimum tax in the coalition amendment.

Second. Only 6 percent of the taxpayers subject to the committee's minimum tax would have adjusted gross incomes exceeding $100,000, whereas 17 percent of the individuals covered by the reform amendment would fall within this highest income category.

Third. A mere 30 percent of the committee's mimimum tax would be imposed on individuals with earnings over $100,000; 64 percent of the coalition's minimum tax would be paid by these most affluent taxpayers.

Fourth. Under the Finance bill, taxpayers with modest earnings under $25,000 would have to bear 30 percent of the minimum tax burden—the same share as individuals earnings over $100,000; by contrast, such low- and middle-income individuals would pay only 8 percent of the toal minimum tax under the coalition amendment.

What we have done, in effect, with our minimum tax is to try to make it progressive so that the more income we make—the more preference income we receive—the more we would be asked to pay in revenue.

The Finance Committee does it upside down and increases the tax on the modest earner in order to pick up the revenue that is achieved in their bill.

These data expose the tragic flaw in the committee's individual minimum tax provisions; no real effort has been made to impose a meaningful minimum tax on high income taxpayers with substantial preference income, I urge the committee to join with us in resisting the committee's efforts to retain the executive suite loophole at the expense of tax increases for middle-income taxpayers.

APPLY MINIMUM TAX CHANGES TO CORPORATIONS

The committee bill would not only shift the minimum tax burden from high-income to middle-income individuals; it would also shift the burden away from corporations. In fact, corporations would be completely exempted from the minimum tax changes under the committee bill. Our proposal would eliminate this exemption and maintain the equality of the minimum tax treatment between individuals and corporations.

I think the record justifies treating them the same.

Congressman VANIK recently concluded a study of 142 of the largest U.S. corporations. In 1974, eight of these corporations paid no Federal income taxes, and the effective Federal rate on worldwide income of all the corporations in the study was only 22.6 percent, compared with the general statutory rate of 48 percent.

Another recent report, issued by Emil M. Sunley, Jr. of the Brookings Institution, demonstrates that the effective worldwide tax rate for corporations has declined from 40.5 percent in 1960 to 34.1 percent in 1974. This drop in the effective corporate tax rate has resulted in the passing of an ever-increasing share of the Federal tax burden to individuals. Congressman VANIK reports that the individuals' share of Federal taxes has increased from 41.1 percent in 1967 to 44.9 percent in 1974; during that same period, the corporate share has decreased from 22.7 to 14.6 percent.

The Finance Committee bill seeks to impose an even larger share of the tax burden on individuals. Corporate rate reductions of $1.7 billion, a 10 percent investment tax credit costing $8 billion, a special ESOP investment credit worth $200 million now and nearly $1 billion by 1981, a recycling tax credit costing nearly $400 million by 1981, liberalized rules for utilizing net operating losses and other tax breaks for corporate taxpayers have been proposed as permanent features of the tax law while individual tax credits would be cut off in mid-1977. The committee even voted to provide cash refunds to corporations that have used tax preferences to eliminate all tax liability, whereas individuals can obtain refunds only in those areas where the earned income credit applies.

This idea of a tax credit refund is the next generation of "loopholing" because it says to a corporation that may have very high income, "If you are able through credits, preferences, deferrals, and the rest, to end up with no tax at all—in fact, having more loopholes than you can use—we will send you a check in the amount of the unused loophole."

The next generation of creative craftsmanship if permitted, in my opinion, will set a new level of creativity in this field of bringing relief to those who least need it.

The so-called tax reform portions of the Finance bill would raise individual taxes by a total of $4.5 billion over the next 5 years; yet those tax reform provisions would lower corporate taxes by $4.2 billion.

Let me repeat that.

Under the finance bill, we would raise individual taxes by $4.5 billion over the next 5 years and that would pay for the reduction of corporate taxes of about the same amount, even though the figures show that in recent years corporations have been assuming a lower and lower proportion of the total tax bill.

I do not ask that the Senate deny all of these tax benefits to corporations; some are defensible as reasonable incentives for economic growth. What I am requesting is that we not relinquish our commitment to distribute the tax burden more fairly among all taxpayers. Both individuals and corporations should be included in the minimum tax amendment.

Mr. President, tomorrow we will be calling up the maximum tax proposal, which is found for the first time in the Senate Finance Committee bill. The Finance bill would put a ceiling on the maximum rate that high income taxpayers would be asked to pay on unearned income. Today we have a 50 percent ceiling on the rates applied to earned income. This is a new provision which would apply, with certain technicalities, the same tax ceiling on the unearned income. It may bring relief up to $20,000 for the rich taxpayers of America. This tax break is hard to justify, in my opinion, at the same time as we are proposing to terminate $180 of relief for the average moderate income taxpayer in America.

What we are doing is preparing the way for continuing the personal tax cuts—and these personal tax cuts are the most potent investment inducing tax reduction we have.

Virtually every economist who has studied the question of what causes firms to invest in new plant and equipment has concluded that it is the level of aggregate demand—that is—the amount of purchasing power held by the consumer, which determines the rate of investment. Tax incentives play an insignificant role.

And extending the present tax cuts will give the biggest boost to aggregate demand. All major econometric models have found this: Date Resources Incorporated, Wharton Econometric Forecasting, Chase Econometrics, and the Brookings Econometric model. Individual forecasters confirm this as well: Walter Heller, George Perry, Arthur Okun, and Paul Samuelson all forecast on the basis of this knowledge.

We can see it for ourselves by looking at the rate of investment in late 1968. At that time, the economy was operating at its full potential—unemployment was at a modern low—final sales were booming—and fixed investment made up 14½ percent of GNP. That was capital formation with a vengeance! By contrast, at the worst of the 1975 recession, with the unemployment rate at 8.9 percent, and final sales at rock bottom, fixed

investment made up only 10 percent of actual GNP and only 8 percent of our economy's potential output.

These huge swings in the investment rate were clearly not the result of any changes in tax incentives—they were the result of dramatic changes in the ability of the consumer to demand goods and services.

The other point is that it seems ironic that this bill is directed toward bringing greater relief to corporations and less relief to the individual taxpayers while we are in the midst of a profit explosion.

In the first quarter of 1975, corporate profits were $91.5 billion. In the second quarter they grew to $102.3 billion. Third quarter—they rose to $123.3 billion. Fourth quarter—$126.6 billion. And in the first quarter of this year profits increased to $134.4 billion. That's an increase of over 47 percent in just one year.

Yet, this bill brings more relief to the corporations and finances it by reducing relief for the average family.

In addition economic growth is not just a matter of more plants and equipment. To quote William Simon:

> There are a great many different kinds of capital investments. We are used to thinking of the investments in machinery or equipment or buildings as the only kind of investment which is important. But there are other kinds of investments which are equally important. In terms of the benefits it produced, education is one of the most important kinds of investment we have, even though it does not turn up on balance sheets or in the investment statistics.

Similarly, Edward Denison of the Brookings Institution—who has done probably the most authoritative study of the sources of economic growth—has concluded that advances in knowledge, economies of scale, education, and increased employment accounted for 90 percent of U.S. growth between 1929 and 1969 with increased capital inputs contribution only 10 percent.

And, again, this amendment, besides promoting tax equity, makes possible the continuation of the personal tax cuts. This is absolutely essential, particularly if we want to hold with the budget ceiling that we adopted in the first resolution.

The Senate Budget Committee has estimated that without these continued personal cuts, that the Nation's output of goods and services would be reduced by $9.4 billion, that this would raise the unemployment rate by more than a tenth of a point, and that this would mean that 156,000 would go on the unemployment rolls, with 114,000 dropping out of the labor force. All together, then, failure to continue these cuts would mean that 270,000 jobs would be lost in the first year.

I cannot imagine that we have any intention of doing that.

And there is no question that the economy will be anywhere near full employment by the middle of 1977.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a front page article by Edwin L. Dale which points out that the growth in the gross national product is likely to slow substantially in the current quarter to considerably less than 5 percent on an annual basis. The article points out that consumer spending—the most important element in the recent recovery—has not been growing at all. Retail sales in the first quarter of this year stood at $53.2 billion. In April there was virtually no increase, and in May retail sales declined by $600 million. Similarly, housing starts have been stagnant in the second quarter. Inventories have built up.

The unemployment rate remains at 7.3 percent, and capacity utilization is at only 72 percent of our full potential.

All this shows clearly that the great danger we face is that the economic recovery will not be a vigorous and sustained one.

And not extending the personal cuts will put a nail in the coffin of economic recovery.

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

FALL IS INDICATED IN G.N.P. GROWTH

(By Edwin L. Dale, Jr.)

WASHINGTON, June 18.—The growth in the gross national product, the nation's total output of goods and services, is likely to slow substantially in the current quarter to considerably less than 5 percent on an annual basis, Government economists said today.

This assessment, based on figures now available, came as the Commerce Department revised slightly upward the annual rate of G.N.P. growth for the first quarter, from 8.5 percent to 8.7 percent. Corporate profits in the first quarter were also revised upward, to $85.7 billion at an annual rate after taxes.

Almost all economic forecasts have projected a moderation in G.N.P. growth in the second quarter compared with the torrid pace of the first. But now it appears that this slowdown will be much more marked than the consensus forecast implied.

So far, there appears to be no sense of alarm or deep concern in the Government about this prospect. But one official said today, "I can't help feeling just a little uneasy."

Only last week, Alan Greenspan, chairman of the Council of Economic Advisers, told the Congressional Joint Economic Committee that the Administration's forecast for G.N.P. growth for the year as a whole was likely to be revised upward to around 7 percent, compared with a 6.2 percent forecast in January.

The new indications of much slower growth in the second quarter may cause another shift in the forecast for the full year, possibly back toward 6 percent.

The chief reason for the sharp reduction in the nation's growth rate in the current quarter is the recent trend in consumer spending. After growing strongly and leading the economy out of the recession, consumer outlays—as measured by retail sales—flattened in April and declined slightly in May.

This coincided with an upward spurt in the price indexes in April, giving further evidence of the heightened consumer sensitivity to inflation.

Apart from personal consumption, housing construction continues to be sluggish, and the change in business inventories is likely to contribute much less to growth this quarter than in the first quarter

In the first quarter, a swing from inventory liquidation in the previous quarters to a modest inventory buildup contributed $13 billion to the growth in the "real" G.N.P. after adjusting for higher prices. In the current quarter, inventory accumulation may be about the same as in the first quarter, which would mean no additional spur for the G.N.P.

JOB GROWTH WOULD END

While a one-quarter slowdown in the pace of the recovery and expansion of the economy would not be significant, the rapid growth in employment and consequent reduction of unemployment would come to a halt if the slowdown continued.

In another development today, the Labor Department published the first component of what will become a new "employment cost index," designed to be an accurate measure for the first time of the rise of wages and fringe benefits across the economy.

Today's report covered only wages and salaries in the private nonfarm economy, and not fringe benefits. Wages rose by 1.8 percent in the three months ended in December and 1.9 percent more in the three months ended in March. The pace of increase—about 7.5 percent a year—is in line with other measures of wage change.

The new report gives extensive breakdowns by regions of the country, industry and occupational category. It showed, for example, that in the three months ended in March the largest increase in wages was in the West and the smallest in the Northeast.

The upward revision of the G.N.P. for the first quarter, the Commerce Department said, resulted from "additional data on investment income abroad." The figure for the gross domestic product, which excludes this income, was not changed.

Corporate profits were * * *. The new estimates put before-tax profits at an annual rate of $142.8 billion and after-tax profits at $85.7 billion, both well above the fourth-quarter level.

Profits adjusted for the impact of inflation on inventories and on "capital consumption" were at an annual rate of $123.9 billion in the first quarter, a rise of $11.2 billion. Profits by this measure were 57 percent above a year earlier, when they were held down by the recession.

Mr. MONDALE. The minimum and maximum tax provisions contained in the Finance Committee bill will thus, in my opinion, reflect a distorted concept of tax reform. Under the committee bill, middle income taxpayers would lose at least $180 in annual benefits due to the proposed termination of the personal credits in June of next year. At the same time as these cuts are sacrificed, the committee would reduce the average minimum tax on wealthy individuals from $10,000 in the House bill to approximately $2,000. It would exempt corporations from any minimum tax changes, and would grant an additional $20,000 maximum tax windfall to many of the wealthiest investors in America.

Unless these actions by the Finance Committee are reversed on the Senate floor, I do not believe we can expect the American public to regard this bill as a tax reform measure.

Mr. KENNEDY. Will the Senator yield?

Mr. MONDALE. I am glad to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in support of the amendment offered by the Senator from Minnesota, which is an essential part of the overall amendment introduced by the Senator from Wisconsin (Mr. NELSON) and the Senator from South Carolina (Mr. HOLLINGS).

At this point, I would like to review with the Senator from Minnesota some of the very basic differences between the approach that is being taken in this amendment and that which has come

out of the Senate Finance Committee, and to ask the Senator the reasons and the justifications for it. I believe I know what they are, because I am obviously a strong supporter of this proposal, and I believe deeply in the minimum tax.

The massive continuing tax avoidance by wealthy individuals and corporations demonstrates the need for the Senate to face up to its responsibility of enacting an effective minimum tax to end these flagrant abuses of the Nation's tax system.

According to the IRS, there were 244 wealthy individuals in 1974 with adjusted gross incomes of $200,000 or more who paid no income tax. The preliminary tables released by the IRS reveal the following numbers of nontaxpayers according to income groups:

Income group:	*Number of nontaxpayers*
$1 million or more	5
$500,000–$1 million	29
$200,000–$500,000	186
$100,000–$200,000	653
$50,000–$100,000	2,400
Total	3,273

These figures are based on preliminary figures for 1974 showing 220 nontaxpayers with AGI over $200,000. In releasing the figures, the IRS said that the final data would show 244 such individuals.

Thus a total of 3,273 individuals reporting income of $50,000 or more in 1974 paid no tax whatever.

Even these figures are only the tip of the iceberg, however. For every tax avoider who wins the loophole game by reducing his taxes to zero, there are countless more who use the loopholes and tax shelters to slash their taxes to levels close to zero.

The minimum tax is the technique enacted by Congress as part of the Tax Reform Act of 1969, in an effort to insure that all citizens with substantial income would pay at least some tax on their income, thereby ending the gross tax inequity by which thousands of wealthy taxpayers are able to use the loopholes in existing law to avoid large amounts of taxes they ought to pay or even to avoid taxes altogether.

In effect, the minimum tax is supposed to be a "bucket under a sieve." It is designed to impose a modest tax on income that slips otherwise untaxed through the many loopholes and special preferences in the existing Revenue Code. If the minimum tax fulfills its functions, no one with substantial income would be able to avoid paying at least modest taxes on his income.

Under the present minimum tax, a person is taxed at the rate of 10 percent on the sum of his income from tax preferences, which include most, but not all, of the major tax loopholes, less a $30,000 exemption and less the amount of regular income taxes owed.

Despite the enactment of the minimum tax in 1969, thousands of wealthy persons are still finding ways to escape their taxes. According to the IRS figures, only 43 of the 244 nontaxpayers with incomes of $200,000 or more even reported tax preferences subject to the minimum tax. And even these 43 persons were able to avoid actually paying any minimum minimum tax itself which make that tax tax, because of the loopholes in the so ineffective.

Such tax avoidance is especially intolerable in a democratic society whose tax system is supposed to be based on progressive methods of taxation.

The solution to this problem of zero taxpayers is not hard to find. In my view, strengthening of the present minimum tax constitutes the principal means for preventing tax avoidance by high income individuals and corporations.

There are several measures of the slap on the wrist nature of the present minimum tax:

A total of almost $8 billion in tax preferences was reported for 1972, the most recent year for which data are available. But the total minimum tax paid on this preference income was only $216 million. Thus, the effective rate of tax on this preference income was actually only 2.7 percent, although the statutory rate is set at 10 percent.

Of the almost $8 billion in tax preferences reported in 1972, persons with the 0.7 percent highest income in the country—those with income over $50,000—took advantage of $6.8 billion of the preferences, or 85 percent of the total. "Tax preferencing" is obviously a game almost exclusively for the rich.

The present minimum tax does not even touch many reporting substantial tax preference income. In 1972, of the 125,000 returns showing tax preference income, 98,000 or 79 percent paid no minimum tax at all. These nonminimum taxpayers accounted for $3 billion out of the total $8 billion in tax preference income. Thus, 37 percent of the total tax preference income reported in 1972 went completely untouched by the minimum tax.

The original minimum tax was enacted in 1969 in response to Secretary of the Treasury Joseph Barr's startling disclosure—the first of its kind—that 155 persons with adjusted gross incomes over $200,000 had paid no income tax in 1967. An obvious measure of the flaws in the present minimum tax is the fact that the number of wealthy zero taxpayers has now climbed to 244.

With the exception of the percentage depletion allowance for oil, efforts to reform the minimum tax have been the longest continuing tax reform fight in Congress. When the minimum tax first reached the Senate floor in 1969, we tried to prevent the insertion of the "deduction for taxes paid" loophole by Senator Jack Miller, of Iowa, on the Senate floor. Periodically in subsequent years, Senator NELSON and I and others have brought amendments to the Senate floor seeking to strengthen the minimum tax by eliminating its two worst loopholes: the deduction for taxes paid and the $30,000 exemption.

In January 1974, our efforts were temporarily successful, when the Senate accepted my reform amendment by a vote of 47 to 32. Thereupon, Senator LONG, faced at the time with one of his first major defeats on tax reform, succeeded in recommitting the entire bill to the Finance Committee, where the issue has been buried ever since. Now, however, as the strength of our bipartisan coalition indicates, the prospects are good that we shall achieve today the reform we have been seeking for so long.

The reasons why the minimum tax has fallen so far short of Congress expectations are easily identified:

First, the statutory minimum tax rate of 10 percent is too low.

Second, the $30,000 exemption is far too high. It enables wealthy taxpayers to enjoy their first $30,000 in loophole income completely free of the minimum tax.

Third, the deduction allowed for regular taxes and the 7-year carryover allowed for regular taxes in future years are inconsistent with the basic nature of the minimum tax. In practice, this deduction is an "executive suite" loophole, which enables high salaried individuals to use the regular taxes they pay to escape the minimum tax on vast amounts of tax preference income.

Fourth, important tax preference items are not included in the base on which the minimum tax is calculated.

The Senate floor amendment I favor would amend the minimum tax by—

Raising the rate to 15 percent;

Reducing the exemption to $10,000;

Repealing the deduction for regular taxes paid and the deduction for the carryover;

Adding new items of tax preference; and

Applying these changes to corporations, just as the present minimum tax applies to corporations. Corporations, no less than individuals, have an obligation to pay their fair share of taxes. Corporations can abuse tax preferences, just as high income individuals can. Hence, it is essential that the reforms in the minimum tax must apply to corporations and individual taxpayers alike.

The proposals represent responsible and effective measures to insure that the minimum tax fulfills its intended function. Taken together, they will generate revenue gains estimated at $300 million for individuals and $500 million for corporations above the Senate Finance Committee bill. If the Senate is serious about raising the $1 billion needed to meet the recommendations of the budget resolution, the minimum tax is the place to start.

Mr. President, on May 7, 1976, I wrote to Secretary of the Treasury Simon requesting additional information concerning the reasons why 3,273 taxpayers with adjusted gross incomes in excess of $50,000 paid no Federal income tax in 1977.

Specifically, I requested that the Treasury provide me with information in four areas:

First, as you know, adjusted gross income may itself be an artifically low figure that does not necessarily provide a reliable measure of a person's real economic income. Adjusted gross income, for example, does not include such tax preferences as accelerated depreciation, percentage depletion, and the one-half of capital gains that is excluded from tax. Therefore, it is likely that many of the 1974 non-taxpayers actually had even higher real incomes than their adjusted gross income levels would indicate.

In order to obtain a better understanding of the real income of these wealthy individuals and a more accurate assessment of the actual degree of tax avoidance, I would appreciate your requesting the Treasury and IRS staff to provide me with information from a representative sample of the nontaxpayers with adjusted gross income of $50,000 or more, showing the amount of tax preference income on their returns (as defined in Section 57 of the Internal Revenue Code), and also showing their real economic income (that is, their adjusted gross income, plus their tax preference income).

In order to obtain a better understanding of the real income of these wealthy individuals and a more accurate assessment of the actual degree of tax avoidance, I would appreciate your requesting the Treasury and IRS staff to provide me with information from a representative sample of the nontaxpayers with adjusted gross income of $50,000 or more, showing the amount of tax preference income on their returns (as defined in Section 57 of the Internal Revenue Code), and also showing their real economic income (that is, their adjusted gross income, plus their tax preference income).

Second, it would be extremely helpful to know the specific means by which wealthy individuals are able to avoid taxes on such large amounts of adjusted gross income. I hope, therefore, that your staff may provide me with information from representative returns of the 244 individuals with adjusted gross income over $200,000, indicating the principal techniques they used to reduce their taxes to zero.

Third, it would also be most helpful to know the degree to which other taxpayers in this high bracket were able to reduce their adjusted gross income to levels close to zero. I hope that your staff will be able to provide me with an estimate of the number of taxpayers with AGI of $200,000 or more who were able to reduce that income by, say, 90% or more before paying any tax.

Fourth, it is also essential for Congress to know the degree to which the strengthened version of the minimum tax, as passed by the House of Representatives last year and now awaiting action by the Senate, will be effective in converting these non-taxpayers into taxpayers. Therefore, I also request that your staff provide me with a representative sample of the results of applying the House-passed minimum tax in H.R. 10612 to the 244 returns.

I have received a useful analysis prepared by the Office of Tax Analysis of the Treasury Department, which sheds light on the questions I raised.

Of principal importance for the Senate's debate on the minimum tax are the analyses set forth in tables 7 and 8 of the report. At my request the Treasury compared the proposal I submitted to the Finance Committee on March 18, 1976—and this proposal is substantially the same as the tax reform coalition minimum tax proposal offered by 15 Senators as an amendment to the pending bill—to an alternative form of minimum tax, similar to the proposal offered by Senator BROCK. These tables show that the approach I have advocated is the more effective in insuring that zero and low tax paying wealthy individuals will make some significant contribution to the Government.

Table 7 provides information on the number of individuals in the highest income brackets who would experience a tax increase under each of the proposals:

ZERO TAXPAYERS

AGI class:	Kennedy proposal	Alternative tax approach
$50–100,000	1,661	1,512
$100–200,000	281	220
$200,000 or more	144	124
NEARLY ZERO TAXPAYERS		
$50–100,000	2,038	1,680
$100–200,000	603	525
$200,000 or more	487	443

This information, I believe, is highly relevant in assessing the merits of the two approaches. It provides rather convincing evidence that the present additive minimum tax offers a more fruitful approach to solving the inequities created by wealthy individuals paying zero or very low income taxes, than does the alternative minimum tax approach advocated by some.

Mr. President, I ask unanimous consent that my letter to Secretary Simon, dated May 7, 1976, his response dated June 10, 1976, and the Treasury report be included in the RECORD at this point, so that it will be available to all interested in the vital issue of tax reform.

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

U.S. SENATE,
May 7, 1976.

Hon. WILLIAM E. SIMON,
Secretary, Department of the Treasury, Washington, D.C.

DEAR MR. SECRETARY: I am writing to request more detailed information about the announcement of the Internal Revenue Service earlier this week that 244 individuals with adjusted gross incomes of $200,000 or more in 1974 paid no federal income tax. The same IRS study indicated that 3,273 taxpayers with adjusted gross income of $50,000 or more paid no tax.

In order to help the Senate evaluate the effectiveness of pending changes in the tax laws to end this unacceptable tax avoidance, I hope that the Treasury and IRS staff will prepare and provide me with additional information on these returns in four specific areas.

First, as you know, adjusted gross income may itself be an artificially low figure that does not necessarily provide a reliable measure of a person's real economic income. Adjusted gross income, for example, does not include such tax preferences as accelerated depreciation, percentage depletion, and the one-half of capital gains that is excluded from tax. Therefore, it is likely that many of the 1974 non-taxpayers actually had even higher real incomes than their adjusted gross income levels would indicate.

In order to obtain a better understanding of the real income of these wealthy individuals and a more accurate assessment of the actual degree of tax avoidance, I would appreciate your requesting the Treasury and IRS staff to provide me with information from a representative sample of the nontaxpayers with adjusted gross income of $50,000 or more, showing the amount of tax preference income on their returns (as defined in Section 57 of the Internal Revenue Code), and also showing their real economic income (that is, their adjusted gross income, plus their tax preference income).

Second, it would be extremely helpful to know the specific means by which wealthy individuals are able to avoid taxes on such large amounts of adjusted gross income. I hope, therefore, that your staff may provide me with information from representative returns of the 244 individuals with adjusted gross income over $200,000, indicating the principal techniques they used to reduce their taxes to zero.

Third, it would also be most helpful to know the degree to which other taxpayers in this high bracket were able to reduce their adjusted gross income to levels close to zero. I hope that your staff will be able to provide me with an estimate of the number of taxpayers with AGI of $200,000 or more who were able to reduce that income by, say, 90% or more before paying any tax.

Fourth, it is also essential for Congress to know the degree to which the strengthened version of the minimum tax, as passed by the House of Representatives last year and now awaiting action by the Senate, will be effective in converting these non-taxpayers into taxpayers. Therefore, I also request that your staff provide me with a representative sample of the results of applying the House-passed minimum tax in H.R. 10612 to the 244 returns.

This requested information will be extremely useful in enabling Congress to reach a more thorough understanding of the actual level of tax avoidance in the nation and the methods used by many wealthy Americans to avoid paying their fair share of taxes. It will also help us to decide what legislation is needed to end these tax abuses.

In order for the data to be helpful to us in the Senate's forthcoming consideration of the tax reform bill, I hope that the requested material can be provided by June 7, 1976.

I appreciate your cooperation, and I look forward to your assistance.

Sincerely,

/s/ EDWARD M. KENNEDY.

THE SECRETARY OF THE TREASURY,
Washington, D.C., June 10, 1976.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: This letter is in further response to your letter of May 7 requesting specific information from the Treasury about high income taxpayers who paid little or no tax in 1974.

As Secretary Simon indicated in his initial response, 1974 tax returns are not yet in a form in which most of the calculations can be performed in order to fulfill your requests before the tax reform bill reaches the Senate floor. However, most of the information you require can be obtained from a computerized file of 1973 tax returns maintained by the Office of Tax Analysis within the Treasury Department. Three of your four requests have been answered in this manner. Since there were no changes in tax law between 1973 and 1974, the use of 1973 data should not diminish the usefulness of the results. In answer to the second of your four requests, the Internal Revenue Service has provided tabulations based on a fifty percent sample of the 244 non-taxable 1974 returns which had AGI's of $200,000 or over. Please note that all tabulations are based on data from unaudited returns.

I am enclosing a report prepared by the Office of Tax Analysis which answers the four specific questions which you have asked. The report also attempts to put the problems raised by high income returns which have either no tax liability or very little liability into proper perspective. Because we are not certain of the exact uses you may wish to make of our response, we have attempted in the report to provide as much of the basic data as possible so that you may select the material which may be most useful to you. Conceptual problems, definitions, data limitations, and potential problems are spelled out in the report.

Staff members of the Office of Tax Analysis have shown tables from the report to Paul McDaniel of your staff. He has indi-

cated that this material would meet your needs at this time. Please let us know if we may be of further assistance to you.

Sincerely yours,

GEORGE H. DIXON,
Acting Secretary.

Enclosure.

JUNE 8, 1976.

HIGH INCOME NON-TAXABLE AND NEARLY NON-TAXABLE INDIVIDUAL INCOME TAX RETURNS, 1973 AND PRELIMINARY 1974

There is perennial interest in the individual income tax returns of persons who have large amounts of income but who do not pay any tax or who pay only minimal amounts of tax. Each year, there is special interest in the number of non-taxable returns showing Adjusted Gross Incomes of $200,000 or more. This paper summarizes the data on high income non-taxable and nearly non-taxable returns for 1973 and presents the results of some preliminary hand tabulations of 1974 data.

In this paper, data on four separate questions are presented:

1. What is the relationship between Adjusted Gross Income and a broader concept of Expanded Income for persons with high incomes but who pay little or no income tax?

2. What is the relative importance of the various tax preferences, deductions, and credits in lowering or entirely eliminating taxes for high income individuals?

3. Do high income non-taxables and nearly non-taxables differ significantly? Do their numbers vary greatly?

4. What would be the impact of the various proposals to alter the minimum tax on items of tax preference on high income non-taxables and nearly non-taxables?

The first three questions fit together logically, and the data to analyze them have been developed in a single body. The basic data are explained and presented in Appendix I which includes 24 separate tables summarizing for high income tax returns for 1973 the magnitude of tax preferences, deductions, and credits.

A discussion of the final question concerning modifications to the minimum tax is contained in the final section of the paper.

THE BASIC DATA

Only three tables in this paper are based on 1974 data. One table showing the overall relationship between Adjusted Gross Income (AGI) and tax liability is based on the full 1974 Statistics of Income sample of approximately 200,000 returns which are selected and weighted to represent the entire population of over 80 million returns. Another table is based on a manual examination and classification of all 244 1974 nontaxable returns with AGI's of $200,000 or more. The last of the 1974 tables is derived from hand processing of 124 of the 244 nontaxable returns referred to previously.

The remaining data are derived from the Treasury Department's 1973 Tax Model. This is a subsample of approximately 50,000 tax returns from the 1973 Statistics of Income sample. The returns in the Tax Model file are weighted to represent the entire filing population. The Tax Model is used on a regular basis to evaluate various proposals to alter the tax system. Using the Tax Model, the effects of alternative tax systems, provisions, and policies can be simulated and evaluated quantitatively, quickly and at relatively low cost. Because of the sampling criteria and the high sampling rate for high income returns, data derived from the Tax Model for high income returns are generally as good as tabulations of randomly selected high income returns. In 1973, 164 returns were filed showing AGI's of $200,000 or over but no tax liability. Of these 164, 138 appear in the Tax Model subsample of the Statistics of Income sample. Weighting the 138 returns yields a Tax Model figure of 155 returns which are non-taxable under 1973 law.

It should be pointed out that since there were no significant tax law changes between 1973 and 1974, the use of 1973 instead of 1974 data does not diminish the usefulness of the data. The 1973 data which are the latest available in a form which may be processed by machine (at reasonable cost) into detailed tabulations of various relationships can be expected to yield results virtually identical to those for 1974, the latest year for which data have even been collected. Consequently, the fact that most of the tables in this paper are based on 1973 rather than 1974 data is not material.

It should also be noted that all of the data, both for 1973 and for 1974, are from unaudited returns. Auditing may reduce the number of high income, non-taxable returns.

THE PROBLEM IN PERSPECTIVE

In order to place the characteristics of high income, low taxpaying returns into perspective, comparable data on the relationship between AGI and a broader income concept (Expanded Income) and on the relative importance of various deductions and credits for other groups of taxpayers are also shown. Tables are presented for taxpayers with incomes in the $50,000 to $100,000 and $100,000 to $200,000 ranges, for taxpayers other than non-taxables or nearly non-taxables, and based on selection and of taxpayers by Expanded Income as well as by the more commonly used concept of AGI.[1]

THE MAGNITUDE OF THE PROBLEM

The number of high income returns with incomes in excess of $200,000 which are non-taxable is small relative to the total number of income tax returns filed each year—over 80 million. The number also represents less than one percent of returns in the $200,000 and over income class. Between 1970 (when the minimum tax on items of tax preference first became effective) and 1974, the number of such returns in any one year varied from 82 to 244, or between 45 one-hundredth's and 78 one-hundredth's of one percent of the number of returns with AGI's of $200,000 and over (see Table 1).

Table 2 indicates that when nearly non-taxable returns are included only 651 or 2½ percent of high income returns for 1973 are non-taxable or nearly non-taxable. The situation is essentially the same when returns are classified by the more meaningful concept of Expanded Income: 1233 or 3½ percent of returns have eliminated or virtually eliminated taxes. It is interesting to note that even though including the nearly non-taxables does increase the problem by 4- to 14-fold, depending on the income definition, there are, at most, 1233 returns in these categories.

TABLE 1.—NUMBER AND PERCENTAGE OF NONTAXABLE RETURNS WITH ADJUSTED GROSS INCOME OF $200,000 OR OVER

Year	Number of returns	Percent of all returns in income class
1970	111	0.73
1971	82	.45
1972	108	.47
1973	164	.64
1974	244	.78

Source: "Statistics of Income." Office of the Secretary of the Treasury, Office of Tax Analysis, June 8, 1976.

[1] Expanded Income is defined as AGI plus those items of tax preference which are included in the present minimum tax less investment interest to the extent of investment. (Since 100 percent of realized long-term capital gains are included in Expanded Income, 100 percent of such gains are included in investment income.)

Nearly non-taxable returns are those on which some tax liability is shown but on which taxable income, as adjusted for the value of credits (see the text of Appendix I), is 10 percent or less of AGI or Expanded Income, whichever concept is relevant to the particular table.

TABLE 2.—PERCENTAGE OF NONTAXABLE AND NEARLY NONTAXABLE HIGH INCOME RETURNS—1973

	$50,000 and over		$50,000 to $100,000		$100,000 to $200,000		$200,000 and over	
	Number	Percent of total	Number	Percent of total	Number	Percent of total	Number	Percent of total
Returns selected and classified by adjusted gross income:								
Nontaxable returns	3,146	0.43	2,513	0.42	478	0.44	155	0.60
Nearly nontaxable returns [1]	3,573	.49	2,474	.41	603	.55	496	1.93
Subtotal	6,719	.92	4,987	.83	1,081	.99	651	2.54
Other returns	725,492	99.08	592,652	99.17	107,835	99.01	25,004	97.46
Total	732,211	100.00	597,639	100.00	108,916	100.00	25,656	100.00
Returns selected and classified by expanded income: [1]								
Nontaxable returns	2,523	.32	1,784	.28	648	.51	91	.26
Nearly nontaxable returns [1]	6,953	.87	3,719	.58	2,091	1.66	1,142	3.20
Subtotal	9,476	1.19	4,503	.86	2,739	2.17	1,233	3.46
Other returns	788,919	98.81	631,143	99.14	123,370	97.83	34,407	96.54
Total	798,395	100.00	636,645	100.00	126,110	100.00	35,640	100.00

Source: 1973 Treasury Tax Model.

[1] Nearly nontaxable returns are those on which some tax liability is shown but on which taxable income (as adjusted for the value of credits) is 10 percent or less of AGI or expanded income, whichever concept is relevant to the particular table.

[2] Expanded income is defined as adjusted gross income plus the items of tax preference which are included in the present minimum tax less investment interest to the extent of investment income. (Since 100 percent of realized long-term capital gains are included in expanded income 100 percent of such gains are included in investment income.)

Table 3 shows the distribution of returns in 1974 by the the size of AGI and the size of tax liability. Table 3 is useful in demonstrating that, regardless of income level, the vast majority of taxpayers do pay substantial taxes. For example, 29,000 of 31,000 returns with AGI's of $200,000 or over showed tax liabilities of $50,000 or more. Thus, even by this crude measure, over 93 percent of taxpayers in the income class did pay substantial taxes.

The over $200,000 income class does show a higher percentage of fully and nearly non-taxables than do the classes in the $50,000 to $200,000 range. This result holds regardless of the income definition used. However, even if all fully and nearly non-taxable returns with income of over $50,000 are grouped together, they amount to only 9,500 returns, or about one one-hundredth of one percent of all tax returns filed.

AGI VERSUS EXPANDED INCOME

It is generally agreed that Adjusted Gross Income is deficient as a measure of a taxpayer's net income from activities undertaken for the production of income. AGI excludes a myriad of income items such as: interest from tax-exempt state and local bonds the excluded portion of realized long-term capital gains (and all accrued but unrealized capital gains and losses) imputed rental on owner-occupied housing; and taxable income from certain activities may be understated due to allowable deductions. Even though some income may not be "strictly" excluded from AGI, it may be deferred to a later year for income tax purposes ("artificial accounting losses"). This list of exclusions is far from exhaustive.

TABLE 3.—NUMBER OF RETURNS BY SIZE OF ADJUSTED GROSS INCOME AND TOTAL INCOME TAX, 1974

[All figures are estimates based on samples]

Size of adjusted gross income	Total number of returns	Number with no tax	Number of returns by size of total income tax [1]: All returns with tax	$1 under $1,000	$1,000 under $3,000	$3,000 under $4,000	$4,000 under $5,000	$5,000 under $10,000	$10,000 under $25,000	$25,000 under $50,000	$50,000 or more
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
All returns, total	83,340,190	16,005,423	67,334,767	30,896,447	27,457,314	3,964,708	1,801,034	2,197,117	758,664	185,322	74,160
Under $50,000	82,473,226	16,001,790	66,471,436	30,894,695	27,452,580	3,961,806	1,798,551	2,145,698	217,887	151	67
$50,000 under $100,000	700,528	2,667	697,861	1,387	4,201	2,636	2,225	50,103	532,266	105,021	22
$100,000 under $200,000	135,304	722	134,582	282	439	234	201	1,158	8,080	79,055	45,133
Returns $200,000 or more	31,132	244	30,888	83	94	32	57	158	431	1,095	28,938
$200,000 under $500,000	26,842	196	26,646	78	81	25	52	139	395	1,049	24,827
$500,000 under $1,000,000	3,194	36	3,158	5	13	7	5	19	28	39	3,049
$1,000,000 or more [2]	1,096	12	1,084						8	7	1,062

[1] Total income tax is income tax after credits and after imposition of the minimum tax on tax preference items. After both are added together, it is possible for their sum to exceed Adjusted Gross Income.

[2] Data shown in brackets on this line have been combined to avoid disclosing individual records However, this class includes 7 returns with tax $1,000 under $10,000.

Source: Unpublished data from "Statistics of Income—1974, Individual Income Tax Returns."

On the other hand, AGI may overstate economic income because some types of expenses incurred in the generation of income may not be deducted in the computation of AGI; they may only be deducted from AGI when taxable income is calculated. This type of deduction falls mainly into two categories of expenses: expenses attributable to a taxpayer's investments (as opposed to his active operation of a trade or business) including but not limited to investment interest; and employee business expenses.[2] Both of these expenses are likely to be positively correlated with a taxpayer's income level. Also, net realized capital losses may only be deducted in the computation of AGI to the extent of $1,000. Any excess must be carried forward to future years.

Although, in economic terms, investment expenses ought to be deductible "above-the-line," that is, in the computation of AGI, the maximum amount which ought to be deductible is open to question. If all investment income were taxable and taxable currently, it would be appropriate to deduct all investment expenses without limit. Excess deductions would represent net economic losses to taxpayers, roughly akin to net operating losses from a trade or business. However, because money is fungible, because not all investment income is taxable, and because that which is taxable may not be taxable currently (for example, accrued but unrealized capital gains), it may be appropriate to limit investment expense deductions to the amount of investment income actually taxable in the given year. In terms of working with existing tax data, especially data already edited for other purposes, it is particularly difficult to determine investment expenses other than interest because they are lumped into the Miscellaneous Deduction category along with alimony payments, employee business expenses, and various other items. Accordingly, for purposes of approximating which investment expenses are ordinary and which are a tax preference item, the following arbitrary definition has been adopted; investment interest in excess of investment income is the preference item. For this purpose, investment interest is defined as all of a taxpayer's interest deductions other than home mortgage interest.[3] Investment income is defined as dividends (net of $100 exclusion), interest, and the portion of capital gains included in the income concept being used. Thus, when AGI is used, the excluded portion of capital gains is omitted from investment income; when Expanded Income is used, all realized capital gains are included in investment income.

Given these definitions, Expanded Income is defined for purposes of this paper as AGI plus income from those sources which are considered to be tax preferences under the current minimum tax minus investment interest expenses which are not in excess of investment income. The excluded portion of long-term capital gains represents 80 percent to 90 percent of all minimum tax preference income. For high income non-taxables and nearly non-taxables, the only other preference item of major significance is the excess of accelerated over straight line depreciation on real property and on personal property subject to a net lease.

It should be noted that Expanded Income is not a perfect representation of a concept of economic income. Instead, it should be viewed as an approximation to economic income which can be calculated from the data presently reported on tax returns.

The details of the relationship between AGI and Expanded Income for various income classes, for taxables, non-taxables, etc., and under the two income definitions are contained in the first nine lines of each of the tables in Appendix I. The numbers in the eight tables with a capital C in the table number are percentages of AGI or Expanded Income. Thus, comparisons between income classes and taxpaying categories can be made easily.

Table 4 summarizes the data from Appendix I on the relationship between AGI and Expanded Income for four income classes, four taxpaying categories, and for two income concepts. The table indicates that there are some significant differences between returns showing incomes of $200,000 and over and those with incomes of under $200,000. In general, the percentages of tax preference income and of investment interest not in excess of investment income increase with income. Also, regardless of the income level (for incomes of $50,000 and over), the relationship between the two income concepts differs markedly amongst non-taxable returns, and all other taxable returns. The relationship also differs depending on whether tax returns are selected and classified by AGI or by Expanded Income.

Non-taxable returns have smaller Expanded Incomes than AGI's. This is the opposite of what one would normally expect. Expanded Income is smaller than AGI because although these returns show very substantial deductions for investment interest, their preference income is relatively modest. Of course, it is logically necessary for non-taxable returns not to have large amounts of preference income. If they did have large amounts of preference income, they would be subject to the minimum tax, and therefore, would no longer be non-taxable.

[2] Alimony payments are also deductible "below-the-line" even though alimony income is includable in AGI.

[3] In manually editing the date from 194 tax returns for inclusion in Table 6, it was not practical to separate mortgage interest. Consequently, in Table 6 investment interest consists of all interest paid. Since mortgage interest is usually only a small fraction of all interest on high income returns, this approximation to investment interest should not alter the results materially.

TABLE 4.—RELATIONSHIPS BETWEEN ADJUSTED GROSS INCOME AND EXPANDED INCOME FOR HIGH INCOME TAX RETURNS, 1973

[In percent]

	Returns selected and classified by adjusted gross income				Returns selected and classified by expanded income			
	$50,000 and over	$50,000 to $100,000	$100,000 to $200,000	$200,000 and over	$50,000 and over	$50,000 to $100,000	$100,000 to $200,000	$200,000 and over
ALL RETURNS								
Expanded income	109.1	104.5	110.0	126.0	100.0	100.0	100.0	100.0
Investment interest not in excess of investment income	2.7	1.9	3.1	5.0	2.2	1.8	2.4	2.9
Total preferences	−11.8	−6.5	−13.1	−31.1	−12.8	−7.0	−13.0	−28.6
Adjusted gross income	100.0	100.0	100.0	100.0	89.4	94.8	89.4	74.3
NONTAXABLE RETURNS								
Expanded income	70.0	78.3	88.2	35.0	100.0	100.0	100.0	100.0
Investment interest not in excess of investment income	35.3	27.0	18.7	69.0	20.8	12.5	30.8	27.3
Total preferences	−5.3	−5.3	−6.9	−3.9	−14.5	−5.8	−25.0	−20.8
Adjusted gross income	100.0	100.0	100.0	100.0	106.3	106.7	105.7	106.5
NEARLY NONTAXABLE RETURNS								
Expanded income	114.2	133.9	118.5	102.5	100.0	100.0	100.0	100.0
Investment interest not in excess of investment income	29.9	21.2	30.6	34.4	14.2	19.1	10.2	14.0
Total preferences	−44.1	−55.1	−49.1	−37.0	−62.1	−59.4	−64.2	−62.3
Adjusted gross income	100.0	100.0	100.0	100.0	52.1	59.7	46.0	51.7
ALL OTHER TAXABLE RETURNS								
Expanded income	109.2	104.5	110.0	127.6	100.0	100.0	100.0	100.3
Investment interest not in excess of investment income	2.3	1.7	2.9	3.5	1.9	1.6	2.1	2.0
Total preferences	−11.5	−6.2	−12.9	−31.1	−12.0	−6.7	−12.1	−27.1
Adjusted gross income	100.0	100.0	100.0	100.0	89.9	95.0	90.0	75.3

Source: 1973 Treasury Tax Model.

The nearly non-taxable group has large amounts of both tax preference income and investment interest expense; however, tax preferences are the larger of the two, so that Expanded Income exceeds AGI. It is interesting to note that for this group when returns are selected and classified by AGI, the ratio of Expanded Income to AGI is much smaller than when the selection and classification are based on Expanded Income. When selected by AGI, Expanded Income exceeds AGI by from 2 percent to 34 percent. But when returns are selected by Expanded income. Expanded Income is from 168 percent (100%/59.7%) to 217 percent (100%/46.0%) of AGI. This difference is somewhat surprising and not fully explicable without detailed further analysis. However, cross-tabulations (which are not shown here) of numbers of returns by both AGI and Expanded Income, when the returns are selected first by AGI in excess of $50,000 and then by Expanded Income in excess of $50,000, indicate that there are substantially different percentages of overlapping returns depending on which income concept is used to select the returns. This is an interesting and surprising result which warrants further research which is beyond the scope of this paper.

For the category of all other taxable returns, Expanded Income exceeds AGI but by a smaller percentage than for the nearly non-taxables. Also, since the vast majority of returns fall into this category, it makes little difference which income concept is used as the selection criterion. Regardless of the criterion, the groups contain substantially identical returns with the result that the relationship between Expanded Income and AGI is about the same under both income concepts.

AVOIDING INCOME TAXES

Basically, there are three methods by which high income persons may substantially reduce or eliminate their income taxes: (1) tax preference income which is omitted from AGI; (2) deductions from AGI in calculating taxable income; and (3) credits from tax. Since tax preferences are already omitted from AGI, traditional methods for analyzing reasons for non-taxability which are based on AGI do not show the importance of tax preference items.

In the periodic reviews of high income non-taxable returns undertaken since in the late 1960's, the analysis of the reasons for non-taxability has been based on attributing non-taxability to the largest single deduction or credit. This is actually an over-simplification because it is rare for any one deduction or credit to be large enough by itself to eliminate entirely a person's income tax. Ordinarily, non-taxability is produced by a combination of items, none of which taken alonge may be unduly large.

For purposes of comparability with earlier analyses, Table 5 contains a manual tabulation of the largest single category of deduction or credit for all 244 of 1974's high income, non-taxable returns. Table 6 shows the distribution of these various categories of deductions for a sample of 124 of the 244 1974 returns.

TABLE 5.—LARGEST DEDUCTION OR CREDIT ON NONTAXABLE INDIVIDUAL INCOME TAX RETURNS WITH ADJUSTED GROSS INCOME $200,000 OR MORE, 1974 [1]

Largest item	Number of returns	Percent of total
Interest deduction	182	74.6
Miscellaneous deductions	27	11.1
Contributions deduction	14	5.7
Taxes paid deduction	8	3.3
Deduction for net casualty or theft loss	3	1.2
Foreign tax credit	9	3.7
Investment credit	1	.4
Total	244	100.0

[1] On returns with both large itemized deductions and large credits, the largest deduction or credit was determined by omitting the largest deduction, recomputing the tax and comparing the resulting tax to the largest credit.

TABLE 6.—ITEMIZED DEDUCTIONS AS A PERCENTAGE OF ADJUSTED GROSS INCOME FOR A SAMPLE OF 124 NONTAXABLE RETURNS WITH ADJUSTED GROSS INCOME OF $200,000 OR OVER 1974

Type of itemized deduction	Total number of returns	Number of returns with itemized deductions as a percent of adjusted gross income								
		Under 10 percent	10 to under 20 percent	20 to under 30 percent	30 to under 40 percent	40 to under 50 percent	50 to under 60 percent	60 to under 70 percent	70 to under 100 percent	100 percent or more [1]
ALL RETURNS										
Itemized deductions, total	124			5					21	98
Medical deduction	68	64		4						
Taxes paid deduction	119	92	16	4		7				
Contributions deduction	120	74	7	9	13	5	8		4	
Interest deduction	121	12	7		5	5	7	8	40	37
Casualty/theft loss deduction [2]	16		16							
Miscellaneous deductions	112	72	19	6	9			6		
Memo:										
Investment interest: [3]										
Not in excess of investment income	121	13	8	5	10	8	12	13	36	16
In excess of investment income	60	9	9	10	4	8	9	6		5

Source: Selected individual income tax returns for 1974.

[1] Includes returns with total reported deductions equal to or exceeding adjusted gross income.

[2] Data have been combined to avoid disclosing individual records. However, almost all casualty/theft loss deductions were under 10 percent of AGI.

[3] For each return total interest was divided into 2 parts: An amount not in excess of investment income; and the remainder which represents investment interest in excess of investment income.

In order to simplify calculations mortgage interest (which is ordinarily not a large part of interest for these returns) was not subtracted from total interest, and investment interest is defined as the total deduction for interest. Investment income consists of dividends (net of the $100 exclusion) interest, and realized capital gains after deducting the excluded portion of long-term capital gains.

Each line of the table shows the number (of the 124) who used the particular deduction and the distribution of the deduction as a percentage of AGI. Table 6 shows separate distributions for investment interest not in excess of investment income and such interest which is in excess of investment income. However, because of time constraints, the table does not contain a distribution of the deduction equivalent of credits.

The distributions from Table 6 can be used in conjunction with Table 5. The interest deduction was the largest single item on three-fourths of all high income non-taxable returns. Information derived from Table 6 shows that in 30 percent (37/124) of the cases this deduction alone could wipe out taxes and that in an additional 32 percent (40/124) of the cases the interest deduction could reduce taxable income to less than 30 percent of AGI. However, we must recall that the portion of investment interest expense which is not in excess of investment income ordinarily represents a cost incurred in the production of income. Table 6 also shows that only 10 percent of the time is excess investment interest more than 60 percent of AGI.

The miscellaneous deduction was the largest deduction in 11 percent of all cases; however, it exceeded 40 percent of AGI only 5 percent of the time. Furthermore, this deduction is a mixed bag. It includes investment expenses other than interest, alimony, and employee business expenses, all of which could arguably be converted into "above-the-line" deductions. Conversely, even though contributions were the largest single item on only 6 percent of these returns, such deductions exceeded 40 percent of AGI on 14 percent of the returns. In short, the distribution of deductions as a percentage of AGI shows that attributing non-taxability to the largest single deduction or credit may not tell the whole story.

Another method of examining how returns are made nearly or fully non-taxable is to calculate in the aggregate for an income class the portion of total deductions and credits which are attributable to a particular credit or deduction. Except for the first eight lines of each table, all of the tables in Appendix I are devoted to this effort. Since all of these tables are based on computer simulations of the entire tax filing population for 1973, this procedure permits many variations to be run quickly. In this instance, non-taxables and nearly non-taxables have been selected on the the basis of alternative income definitions, AGI and Expanded Income. In order to be comparable to the manually produced data on the 244 non-taxables for 1974, this discussion is restricted to returns with incomes of $200,000 or over. However, the Appendix tables also contain data for other income classes.

RETURNS SELECTED BY ADJUSTED GROSS INCOME

Tables IC2 and IC3 in Appendix I show the patterns of deductions and credits for non-taxables and nearly non-taxables, using AGI as the income concept. For the non-taxables, the interest paid deduction is over 78 percent of AGI, or even slightly more important than was indicated by the largest single item method (see Table 5). However, excess investment interest was less than 10 percent of AGI. Most of the difference represents deductions for investment interest which do not ordinarily represent a tax preference. For the nearly non-taxable group, interest deductions were far less important, 33 percent of AGI, and excess investment interest was only about a tenth of that amount, or 3.6 percent of AGI. Miscellaneous deductions were almost a quarter of AGI for the non-taxables but less than one-tenth of AGI for the nearly non-taxables. Charitable contributions were just over one-tenth of AGI for both groups, and about half of that amount was in non-cash items, much of which ordinarily represents gifts of appreciated property, on which the appreciation is not taxed as income even though its value may be deducted as a charitable contribution. Again, for both groups, taxes were about one-tenth of AGI, or about three times more important than indicated by the largest single item method. None of the other deduction categories was significant for either group.

The deduction equivalent of credits represented 4.5 percent of AGI for the non-taxables but 29.8 percent of AGI for the nearly non-taxables. There is no apparent reason for this large difference. This is another area where further investigation is warranted. The foreign tax credit accounts for virtually all of the saving from credits.

Naturally, the non-taxables had neither regular nor minimum income. The nearly non-taxables had tax liabilities of 4.8 percent of AGI, one-third of which was regular tax and two-thirds of which was minimum tax.

RETURNS SELECTED BY EXPANDED INCOME

Tables IIC2 and IIC3 show the patterns of tax preference income and of deductions and credits for high income non-taxables and nearly non-taxables, as defined by Expanded Income. For the non-taxables, preferences (as defined for the present minimum tax) comprised 20.8 percent of Expanded Income, over 90 percent of which was due to the excluded portion of long-term capitial gains. For the nearly non-taxables, preferences were substantially larger, 62.3 percent of Expanded Income, with about 82 percent from excluded capital gains. Charitable contributions were large: 21.2 percent for the non-taxables and 37.0 percent for the almost non-taxables. Of the 21.2 percentage points, 11.6 percentage points were non-cash contributions, but only 7.4 points of the 37.0 percentage points were non-cash for the nearly non-taxables. Excess investment interest was 11.9 percent of Expanded Income for the non-taxables, but it was only 0.9 percent for the nearly non-taxables. This difference is far larger than when AGI is used as the income standard. As in the AGI tables, the miscellaneous deduction is far larger for the non-taxables, 28.4 percent versus only 6.5 percent of Expanded Income. The taxes paid deduction category is also larger for the non-taxables, 15.9 percent as compared to 7.3 percent.

Unlike the AGI cases, the deduction equivalent of credits is at about the same level for both groups, 12.2 percent and 15.9 percent. Again, the foreign tax credit is the only credit or major significance. No other items represent a significant share of Expanded Income.

When Expanded Income is used as the measure, the significance of the minimum tax is increased. The ordinary tax rate for the nearly non-taxables is only 1.0 percent whereas the minimum tax rate is 5.6 percent, or 85 percent of the entire tax bill for this group.

The differences in results which are obtained when the two different income concepts are used are indicative of the deficiencies of these concepts. The problems associated with Adjusted Gross Income are well known; some have been discussed earlier in this paper. Expanded Income is also deficient as a measure of economic income, but it represents a movement in the right direction, especially given the limitations of using only data which are available on tax returns under present law.

VARIOUS MINIMUM TAX PROPOSALS

It is particularly appropriate to use high income non-taxables and nearly non-taxables to examine the effects of various proposals to alter the minimum tax on items of tax preference. Indeed, a major reason for the adoption of the original minimum tax in 1969 was to eliminate the problem of—indeed, the existence of—high income, non-taxable returns.

Four different proposals to modify the existing minimum tax are examined. Three of the plans represent revisions of the present minimum tax. The fourth proposal represents a structural departure from present law. All four plans would raise substantial amounts of revenue.

The first plan was passed by the House in 1975 as part of H.R. 10612, the tax reform bill. Under it, the minimum tax rate would be raised from 10 percent to 14 percent, the reduction for ordinary taxes paid would be eliminated, the exemption from the minimum tax would be reduced from $30,000 to $20,000, and even this exemption would be phased out on a dollar for dollar basis as preference income rose from $20,000 to $40,000. The preferences would be those under present law plus intangible drilling costs on successful wells, construction period interest and taxes which are not capitalized, and itemized deductions to the extent they exceed 70 percent of AGI. (The details of each of the four proposals are spelled out in the footnotes to Tables 7 and 8)

The second proposal is the one approved by the Senate Finance Committee on May 12, 1976 to be part of H.R. 10612. The minimum tax rate would be raised to 15 percent, and the present separate minimum tax exemption and deduction for ordinary taxes paid would be combined. There would be a single deduction for the larger of $5,000 or ordinary taxes paid. The present minimum tax preferences would be expanded to include intangible costs, construction period interest (but not taxes), and the amount by which itemized deductions other than those for medical expenses and casualty losses exceed 60 percent of AGI.

The third proposal was suggested by Senator Kennedy. Structurally, it is similar to the House plan: the rate would be 14 percent; and there would be no deduction for ordinary taxes. The exemption would be lowered to $5,000 and would be phased out as preferences increased from $5,000 to $10,000. Since Senator Kennedy did not specify the preference items, the preferences are assumed to be the same as under the Finance Committee plan. This facilitates comparisons between the structure of the plans without complicating the issue with relatively minor differences between the preference items.

The fourth proposal is based on a conceptual framework presented to the Finance Committee by the Tax Section of the Bar Association of the City of New York. The details of the plan—the preference items, the rates, etc.—were put together by the staff of the Office of Tax Analysis in the Treasury Department so that the proposal could be evaluated in comparison to other proposals which were already "fleshed-out." Again, the preference items were assumed to be the same as those under the Finance Committee

bill.[4] The so-called NYC Bar type plan is conceptually very different than the other plans. The NYC Bar plan is an alternative tax under which a person's ordinary income and preference income are lumped together. If the tax on a certain percentage of this income exceeds the person's ordinary tax, the alternative tax is paid. If it is not larger, the regular tax is paid, and there is no tax on preference items. In effect, when the alternative tax is paid, certain preference items are taxed at normal tax rates. The other plans impose a tax on preferences largely without regard to a person's ordinary income or the amount of his ordinary tax. The alternative tax treats the person's income, ordinary and preference together, as a single unit and taxes a portion of the sum under the ordinary, progressive tax rate schedule. It should be pointed out that this procedure allows ordinary income to "shelter" preference income (in a certain ratio) from any extra tax.

Under the version of the NYC Bar plan presented here, a person is obligated to pay tax on at least 60 percent of the sum of his ordinary taxable income plus preferences less a $7,500 exemption which phases out on a one-for-two basis as the sum of taxable income plus preferences (*not* preferences alone) rises from $20,000 to $35,000. Adjustments are also provided so that when the alternative tax actually "bites" the tax savings for charitable contributions will not be reduced.

Schedule MTI is a mock-up of how the NYC Bar plan tax would be computed. It should be noted that the list of preference items on Form MTI is for illustrative purposes only and that it does not match the preference list in the plan outlined above. It should also be noted that Form MTI also allows for the carryover of disallowed deferral preferences, such as accelerated depreciation. The carryover could also be allowed for exclusion preferences, or it could be eliminated altogether. Carryovers are not a necessary feature of the alternative tax, and no allowance has been made for them in the plan outlined and estimated here.

The four plans would all raise substantial amounts of revenue. Compared with 1972–74 law and at 1973 levels of income, the Kennedy plan would raise $1.675 billion; the House plan, $933 million; the Finance Committee plan, $875 million; and the NYC Bar plan, $1.006 billion.[5] It should be noted that these estimates are made under the assumption that no behavioral changes result from changes in the tax law.

[4] In addition, charitable contributions are excluded from itemized deductions before the excess of such deductions over 60 percent of AGI is calculated.

[5] At 1976 levels of income and relative to 1976 law (the Tax Adjustment Act of 1975, as extended for all of 1976), the Kennedy plan would raise $2.051 billion; the House plan, $1.082 billion; the Finance Committee plan, $1.147 billion; and the NYC Bar plan, $1.075 billion.

SCHEDULE MTI (FORM 1040)
MINIMUM TAXABLE INCOME, 1977

Name(s) as shown on form 1040	Social security number
1. Taxable income from form 1040, line x	
2. Charitable contributions from schedule A, line x	
3. Exclusion preferences:	
a. Excluded portion of capital gains from schedule D, line x	
b. Stock options	
c. Depletion in excess of basis	
d. Other	
e. Sum of lines 3a through 3d	
4. Deferral preferences (items eligible for carryover):	
a. Itemized deductions from schedule A, line y	
b. Charitable contributions from line 2	
c. Line 4a less line 4b	
d. AGI from form 1040, line y	
e. Multiply 4d by 0.6	
f. Line 4c less line 4e (but not less than zero)	
g. Accelerated depreciation	
h. Construction period taxes and interest	
i. Other	
j. Sum of lines 4f through 4i	
5. Sum of lines 1, 2, 3e, and 4j	
6. Enter $7,500 (or $3,500 if married, filing separately) less half of the excess of line 5 over $20,000 ($10,000 if married, filing separately), but not less than zero	
7. Line 5 less line 6 (but not less than zero)	
8. Multiply line 7 by 0.6	
9. Charitable contributions from line 2	
10. Adjusted taxable income—Line 8 less line 9 (but not less than zero)—Also enter on form 1040, line w	
If line 10 is larger than line 1, enter amount on line 10 on form 1040, line w, and go to line 18 on this form.	
11. Taxable income from line 1	
12. Enter carryover from 1976 (from 1976 form MTI, line x), or enter zero	
13. Enter line 1	
14. Enter line 10	
15. Line 13 less line 14	
16. Carryover used this year. Smallest of lines 12, 13, or 15	
17. Adjusted taxable income. Line 11 less line 16. Also enter on form 1040, line w	
18. Enter carryover from 1976 (from 1976 form MTI, line x) or enter zero	
19. Carryover used this year (from line 16). If line 16 was skipped, enter zero	
20. Line 18 less line 19	
21a. Enter line 10	
b. Enter line 1	
c. Line 21a less line 21b (but not less than zero)	
d. Enter line 4j	
e. Enter smaller or 21c or 21d	
22. Carryover to 1978. Line 20 plus line 21e	

Tables 7 and 8 show the impact of each of the plans on non-taxables and nearly non-taxables with incomes of $50,000 or more. Table 7 is based on Adjusted Gross Income; Table 8 is based on Expanded Income. Both tables show similar results. All four plans would affect the vast majority of non-taxable and nearly non-taxable returns. However, it is apparent from an examination of Tables 7 and 8 that under all of the plans some high income non-taxables would remain, along with the problems and the political issues which they tend to generate.

Both the Kennedy and the Finance Committee proposals would affect these high income, almost or fully non-taxable returns in an almost identical fashion. This is because the only difference between the plans is the amount of, and the phase-out of, the preference exemption, and the tax filers under consideration are largely above the phase-out levels. The House bill affects fewer taxpayers and raises their tax rates less than the Finance Committee or the Kennedy proposals. However, because the House provision was designed to work in conjunction with a limitation on artificial accounting losses which is not simulated here, there are fewer preference items in the House plan.

The NYC Bar type plan generally affects fewer of the non-taxables and nearly non-taxables than any of the other three plans. However, it raises the tax rate on the entire group by substantially more than the other plans. It is evident that when the alternative tax does "hit" a taxpayer it hits much harder than any of the minimum tax plans. The greater impact is due to the progressivity of the tax rates used by the plan. Especially for very high income tax filers, progressive rates up to a 42 percent maximum (60 percent of 70 percent equals 42 percent) can be expected to be more potent than a 14 percent or 15 percent flat rate, even after allowing for the "sheltering" of preferences which is inherent in the alternative tax approach.

The NYC Bar type alternative tax raises the tax rate on non-taxables by 6 to 13 percentage points, but it raises the tax on nearly non-taxables by 13 to 26 percentage points. This discrepancy is due to the fact that non-taxables do not have substantial preferences as defined under present law, or they would have to pay some minimum income tax and would no longer be non-taxable. Thus, they also tend to have less preference income, as redefined under these proposals, and are less affected under these plans.

TABLE 7.—EFFECTS OF VARIOUS MINIMUM TAX PROPOSALS ON HIGH INCOME NONTAXABLES AND NEARLY NONTAXABLES CLASSIFIED BY ADJUSTED GROSS INCOME, 1973

Adjusted gross income class	Returns in class	1973 law tax rate (percent)	Kennedy proposal[3]		House bill[3]		Finance Committee bill[4]		N.Y.C. bar type alternative tax	
			Returns with tax increase (decrease)	Proposed tax rate[1] (percent)	Returns with tax increase (decrease)	Proposed tax rate[1] (percent)	Returns with tax increase (decrease)	Proposed tax rate[1] (percent)	Returns with tax increase (decrease)	Proposed tax rate[1] (percent)
NONTAXABLE RETURNS										
$50,000 to $100,000	2,513	0	1,661	5.2	831	1.5	1,661	4.9	1,512	6.0
$100,000 to $200,000	478	0	281	4.4	281	3.4	281	4.4	220	5.9
$200,000 and more	155	0	144	6.0	146	4.4	144	6.3	124	11.5
NEARLY NONTAXABLE RETURNS										
$50,000 to $100,000	2,474	3.3	2,038	11.8	1,695	10.4	2,038	11.8	1,680	17.5
$100,000 to $200,000	603	3.8	603	15.3	585	13.4	603	15.8	525	30.1
$200,000 and more	496	4.8	487	10.4	486	9.5	485	10.9	443(10)	18.9

Source: 1973 Treasury Tax Model.
Footnotes at end of table.

TABLE 8.—EFFECTS OF VARIOUS MINIMUM TAX PROPOSALS ON HIGH INCOME NONTAXABLES AND NEARLY NONTAXABLES CLASSIFIED BY EXPANDED INCOME, 1973

Economic income class	Returns in class	1973 law tax rate (percent)	Kennedy proposal[2]		House bill[3]		Finance Committee bill[4]		N.Y.C. bar type alternative tax[5]	
			Returns with tax increase (decrease)	Proposed tax rate[1] (percent)	Returns with tax increase (decrease)	Proposed tax rate[1] (percent)	Returns with tax increase (decrease)	Proposed tax rate[1] (percent)	Returns with tax increase (decrease)	Proposed tax rate[1] (percent)
NONTAXABLE RETURNS										
$50,000 to $100,000	1,784	0	931	5.3	512	1.6	931	5.1	813	6.6
$100,000 to $200,000	648	0	452	7.3	404	6.2	452	7.5	335	11.9
$200,000 and more	91	0	80	8.2	82	6.4	80	8.6	68	12.8
NEARLY NONTAXABLE RETURNS										
$50,000 to $100,000	3,719	2.4	(2) 3,341	11.4	(2) 3,147	10.8	(2) 3,341	11.2	3,134	15.7
$100,000 to $200,000	2,091	4.5	2,091	12.0	2,073	11.4	2,091	12.3	2,073	22.0
$200,000 and more	1,142	6.6	1,134	12.2	1,132	11.7	1,131	12.8	(10) 1,047	27.8

Source: 1973 Treasury Tax Model.

FOOTNOTES TO TABLES 7 AND 8

[1] Taxes, including any appropriate minimum tax, as a percentage of Adjusted Gross Income or Expanded Income, whichever is appropriate.

[2] A 14 percent tax on tax preferences. There would be a $5,000 exclusion, phased out dollar for dollar between $5,000 and $10,000 of preferences. There would be no deduction for ordinary taxes paid. The preference items would be those under the present minimum tax:

The excluded portion of long-term capital gains;

The amount of percentage depletion in excess of the basis of the property;

Accelerated depreciation in excess of straight line depreciation on real property and personal property subject to a net lease;

Stock options; and

Rapid amortization in excess of otherwise allowable depreciation for certified pollution control facilities, railroad rolling stock, and on-the-job training and child care facilities; plus:

Intangible drilling costs;

Construction period interest (but *not* taxes) which is not capitalized; and

Any itemized deductions (other than medical and casualty losses) in excess of 60 percent of Adjusted Gross Income.

[3] A 14 percent tax on tax preferences in excess of a $20,000 exemption which phases out dollar for dollar between $20,000 and $40,000 of preferences. There would be no deduction for ordinary taxes paid. The preference items would be those under the present minimum tax (see Footnote 2) plus:

Intangible drilling costs;

Construction period interest and taxes which are not capitalized; and

Itemized deductions in excess of 70 percent of AGI.

[4] A 15 percent tax on the amount by which preference exceed the larger of $5,000 or regular income tax. The preference items would be the same as those listed in Footnote 2.

[5] An alternative tax which would be paid if it were larger than a taxpayer's regular income tax. The alternative tax would be the tax at ordinary tax rates on 60 percent of the sum of the taxpayer's ordinary taxable income plus his tax preferences (which would be the same as those listed in Footnote 2) less a $7,500 exemption which phases out on a one for two basis between $20,000 and $35,000 of income (taxable income plus preferences). In addition, certain adjustments are made so that the tax saving for charitable contributions will not be affected even if the taxpayer is affected by this alternative tax.

APPENDIX I—BASIC TABULATIONS OF HIGH INCOME TAX RETURNS FOR 1973

This Appendix contains 24 basic tables for high income tax returns filed for tax year 1973. These tables show the relationship between Adjusted Gross Income as reported on tax returns and a more broadly defined income concept which, for lack of a better name, is called Expanded Income. The tables also show the relative importance of the various itemized deductions and tax credits in reducing the tax base.

There are separate tables for economic income and for AGI. Also, there are separate non-taxable returns, all other returns, and tabulations of non-taxable returns, nearly all returns together. For purposes of comparison, each table shows data separately for returns with incomes (either AGI or Expanded Income, depending on the table) of $200,000 and over, $100,000 to $200,000, and $50,000 to $100,000. An additional column shows combined data for returns with incomes of $50,000 or over.

Each set of data is shown in three ways: aggregates for all returns in the particular group; averages for all returns in the group; and each item as a percentage of the relevant income concept used for the table.

In order to facilitate comparisons amongst the various tables, each table is identified by a Roman numeral, a capital letter, and an Arabic numeral. For example, the first table is IA1.

The Roman numeral indicates the income concept upon which the tax returns were selected for the table and upon which they are classified:

I. Adjusted Gross Income.

II. Expanded Income.

The capital letter indicates the type of data contained in the table:

A. Aggregate data.

B. Average data (based on the number of returns shown in the particular income class).

C. All items as a percentage of either AGI or Expanded Income, depending upon which concept was used to select returns for the table.

The Arabic numeral identifies the tax status of the return, as follows:

1. All returns.
2. Non-taxable returns.
3. Nearly Non-taxable returns.
4. All other taxable returns.

NEARLY NON-TAXABLE

The discussions about tax preferences which allow persons with large incomes to escape from taxation usually refer to those tax filers with high AGI's who pay absolutely no tax. Some tax authorities indicate that high income non-taxables are only the tip of the iceberg and that there are many more taxpayers who have large incomes but who use tax loopholes to escape most but not all of their tax burden. In order to evaluate this assertion, data are presented for nearly non-taxable returns.

Nearly non-taxable returns are returns with incomes of $50,000 and over on which there is some tax liability but on which Taxable Income is 10 percent or less of AGI or Expanded Income, whichever income concept is relevant in the particular table. Nearly non-taxable returns include those which have a zero taxable income and which would be non-taxable except for the minimum tax on items of tax preference.

DEDUCTIONS VERSUS CREDITS

One problem with selecting returns on the basis of any ratio of taxable income to either AGI or Expanded Income is that this method makes no allowance for tax credits, mainly the foreign tax credit and (to a lesser extent) the investment credit. In theory, at least, a return with a high taxable income could be a non-taxable return because of the value of tax credits. In order to avoid this problem in selection of nearly non-taxable returns as well as to ease comparisons between deductions and credits, a crude attempt was made to "gross-up" the value of all credits into a deduction which would yield the equivalent tax benefit. The deduction equivalent of credits is defined as the difference between the amount of taxable income which would yield the tax before credits and that which would yield income after credits. Because this procedure effectively makes the credit the last item in reducing taxes, it assumes that the credit is taken against income taxed at the lowest tax rates. Thus, this procedure tends to overstate the deduction equivalent of credits relative to a procedure under which credits would be the first item to be deducted in calculating taxable income.

ORDER OF THE TABLES

All eight of the "A" tables come first, followed by the "B" and "C" tables. Within each lettered group, the AGI, or "I", tables precede the Expanded Income, or "II" tables.

TABLE 1A1.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: ALL RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	69,305,442	41,207,584	15,708,533	12,389,325
Plus investments interest<income[1]	1,698,897	763,381	442,333	493,203
Less preferences (total)[2]	7,472,077	2,551,045	1,867,912	3,053,119
Excluded lt. capital gains	6,770,554	2,344,401	1,682,825	2,743,328
Depletion[3]	247,980	66,430	52,381	129,170
3 acc. depreciation preferences[4]	247,349	87,248	84,276	75,825
Stock options	240,024	71,032	56,374	112,618
All other preferences[5]	988	0	39	949
Adjusted gross income	63,532,290	39,419,911	14,282,956	9,829,423
Plus deficits	0	0	0	0
AGI of returns with AGI > 0	63,532,290	39,419,911	14,282,956	9,829,423

Footnotes at end of tables.

	Adjusted gross income			
	$50,000 and under	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Less exemptions	2,150,433	1,770,064	311,286	69,083
Less standard deductions	70,120	63,515	5,860	745
Less itemized deductions	11,847,549	6,679,324	2,740,379	2,427,848
Charitable (total)	2,639,757	1,163,295	632,126	844,337
Charitable—Noncash	745,617	169,369	162,912	413,336
Interest—Total	2,906,210	1,647,382	685,568	573,260
Interest—Mortgage	762,147	600,787	124,759	36,601
Investment: interest<income [6]	1,659,494	741,038	432,381	486,075
Investment: interest>income [7]	484,575	305,561	128,429	50,585
Medical	347,335	246,604	76,725	24,006
Casualty loss	96,281	63,655	14,012	18,414
Tax expense	4,629,862	2,884,587	1,037,740	707,535
State and local income taxes	1,149,573	795,734	237,650	116,189
Real estate tax	2,857,640	1,647,714	683,458	526,467
All other tax expense	622,654	441,143	116,632	64,879
Miscellaneous deductions	1,223,404	671,016	294,210	258,178
Plus excess, if any, of exem. ded>AGI	67,739	31,395	9,525	26,819
Taxable income	49,531,941	30,938,424	11,234,954	7,358,563
Tax at normal rates	20,808,927	11,062,970	5,275,187	4,470,769
Less savings from alternative tax [8]	103,136	21,571	40,542	41,023
Less savings from maximum tax [8]	336,272	31,558	134,642	170,072
Less savings from income averaging	764,899	448,199	197,212	119,488
Tax before credits	19,652,273	10,570,571	4,920,931	4,160,771
Less foreign tax credits	180,669	55,537	26,081	99,051
Less investment credit	242,198	154,943	52,278	34,977
Less all other credits	2,515	1,747	524	244
Plus excess of credits over tax	1	0	0	1
Tax other than minimum tax	19,226,907	10,358,357	4,842,048	4,028,501
Plus minimum tax on preferences	153,470	24,444	33,438	95,587
Tax after credits	19,380,375	10,382,801	4,875,486	4,122,088
Deduction equivalent of credits [9]	802,021	463,929	141,501	196,591
Memo:				
Employee business expense adjustment	308,214	234,896	49,521	23,797
Plus all other adjustments	254,052	215,675	33,847	4,529
Adjustments to gross income—total	562,264	450,571	83,368	28,326
Number of returns represented in the tabulation	732,211	597,639	108,916	25,656
Number of returns in the sample	9,196	3,946	1,992	3,225

TABLE IA2.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: NONTAXABLE RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	208,771	129,600	54,135	25,036
Plus investment: Interest<income [1]	105,481	44,640	11,476	49,366
Less preferences (total) [2]	15,856	8,794	4,253	2,809
Excluded It. capital gains	17,589	8,118	5,679	3,791
Depletion [3]	221	0	18	202
3 acc. depreciation preferences [4]	5,493	4,048	909	536
Stock options	0	0	0	0
All other preferences [5]	0	0	0	0
Adjusted gross income	298,396	165,447	61,357	71,592
Plus deficits	0	0	0	0
A.G.I. of returns with A.G.I.> 0	298,396	165,447	61,357	71,592
Less exemptions	8,724	7,017	1,282	424
Less standard deductions	610	462	144	4
Less itemized deductions	273,028	139,443	45,291	88,293
Charitable (Total)	19,740	5,872	6,115	7,753
Charitable—Noncash	7,951	1,151	3,244	3,557
Interest—Total	157,593	76,025	25,423	56,144
Interest—Mortgage	6,210	4,350	1,484	376
Investment: interest<income [6]	100,836	41,956	10,143	48,737
Investment: interest>income [7]	50,547	29,719	13,796	7,031
Medical	8,408	4,232	3,753	422
Casualty loss	9,312	7,976	45	1,291
Tax expense	29,741	20,164	4,006	5,571
State and local income taxes	14,626	10,559	1,984	2,083
Real estate tax	11,246	7,094	1,412	2,740
All other tax expense	3,869	2,512	610	748
Miscellaneous deductions	48,234	25,173	5,949	17,112
Plus excess, if any, of exem. ded.>AGI	50,187	25,321	4,417	20,448
Taxable income	66,222	43,846	19,057	3,319
Tax at normal rates	24,641	14,592	8,156	1,894
Less savings from alternative tax [8]	36	31	0	4
Less savings from maximum tax [8]	49	0	0	49
Less savings from income averaging	5,183	2,699	2,478	6
Tax before credits	19,404	11,893	5,678	1,834
Less foreign tax credits	6,639	2,514	2,350	1,775
Less investment credit	12,778	9,390	3,328	60
Less all other credits	0	0	0	0
Plus excess of credits over tax	1	0	0	1
Tax other than minimum tax	0	0	0	0
Plus minimum tax on preferences	0	0	0	0
Tax after credits	0	0	0	0
Deduction equivalent of credits [9]	56,341	38,411	14,697	3,232

Footnotes at end of tables.

	Adjusted gross income			
	$50,000 and under	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Memo:				
Employee business expense adjustment	1,464	1,057	31	376
Plus all other adjustments	10	0	0	10
Adjustments to gross income—total	1,475	1,057	31	387
Number of returns represented in the tabulation	3,146	2,513	478	155
Number of returns in the sample	176	23	15	138

TABLE IA3.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: NEARLY NONTAXABLE RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	703,300	245,436	104,021	353,844
Plus investment: interest <income [1]	184,465	38,850	26,831	118,784
Less preferences (total) [2]	271,687	101,032	43,077	127,578
Excluded It capital gains	232,594	76,174	42,392	114,028
Depletion [3]	23,218	19,535	506	3,177
3 Acc. depreciation preferences [4]	30,029	11,385	4,589	14,055
Stock options	898	0	0	898
All other references [5]	472	0	0	472
Adjusted gross income	616,078	183,254	87,775	345,050
Plus deficits	0	0	0	0
A.G.I. of returns with A.G.I.>0	616,078	183,254	87,775	345,050
Less exemptions	8,754	5,725	1,697	1,331
Less standard deductions	160	158	0	2
Less itemized deductions	467,911	146,220	85,660	236,031
Charitable (total)	79,016	30,630	9,560	38,826
Charitable-noncash	20,051	464	2,009	17,578
Interests—total	209,746	48,893	32,802	128,051
Interest—mortgage	9,820	7,841	590	1,389
Investment: interest<income [6]	179,691	38,840	26,544	114,307
Investment: interest >income [7]	20,236	2,212	5,668	12,355
Medical	5,691	4,007	240	1,444
Casualty loss	8,799	6,439	15	2,345
Tax expense	93,361	42,811	14,604	35,947
State and local income taxes	35,269	24,889	2,177	8,203
Real estate tax	50,555	14,520	11,174	24,861
All other tax expense	7,538	3,402	1,253	2,883
Miscellaneous deductions	71,296	13,440	28,438	29,418
Plus excess, if any, of exem. ded.>AGI	17,553	6,073	5,108	6,371
Taxable income	156,806	37,224	5,526	114,056
Tax at normal rates	91,348	13,594	1,412	76,341
Less savings from alternative tax [8]	22	0	0	21
Less savings from maximum tax [8]	45	45	0	0
Less savings from income averaging	525	468	1	56
Tax before credits	90,756	12,081	1,411	76,264
Less foreign tax credits	76,566	10,377	127	66,062
Less investment credit	7,511	2,041	793	4,677
Less all other credits	5	4	0	1
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	6,674	659	491	5,524
Plus minimum tax on preferences	19,238	5,394	2,828	11,016
Tax after credits	25,912	6,053	3,320	16,540
Deduction equivalent of credits [9]	137,460	31,535	3,011	102,914
Memo:				
Employee business expense adjustment	4,650	3,366	301	982
Plus all other adjustments	95	9	44	42
Adjustments to gross income—total	4,745	3,375	346	1,024
Number of returns represented in the tabulation	3,573	2,474	603	496
Number of returns in the sample	173	35	32	106

TABLE IA4.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME—1973: ALL OTHER TAXABLE RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	68,393,371	40,832,549	15,550,377	12,010,445
Plus investment: interest<income [1]	1,408,951	679,871	404,027	325,053
Less preferences (total) [2]	7,184,534	2,441,220	1,820,582	2,992,732
Excluded It capital gains	6,520,372	2,260,109	1,634,754	2,625,509
Depletion [3]	224,542	46,895	51,856	125,791
3 acc, depreciation preferences [4]	211,828	71,815	78,778	61,234

TABLE 1A4.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME—1973: ALL OTHER TAXABLE RETURNS—Continued

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Stock options	239,126	71,032	56,374	111,719
All other preferences [5]	517	0	39	477
Adjusted gross income	62,617,816	39,071,211	14,133,824	9,412,781
Plus deficits	0	0	0	0
A.G.I. of returns with A.G.I.> 0	6,617,816	39,071,211	14,133,824	9,412,781
Less exemptions	2,132,956	1,757,321	308,306	67,328
Less standard deductions	69,350	62,895	5,716	739
Less itemized deductions	11,106,611	6,393,660	2,609,428	2,103,522
Charitable (total)	2,541,001	1,126,792	616,451	797,758
Charitable—noncash	717,615	167,754	157,659	392,201
Interest—total	2,538,871	1,522,463	627,343	389,065
Interest—mortgage	746,116	588,595	122,685	34,837
Investment: Interest<income [6]	1,378,968	660,242	395,694	323,031
Investment: Interest>income [7]	413,793	273,630	108,964	31,198
Medical	333,236	238,365	72,731	22,140
Casualty loss	78,170	49,440	13,952	14,778
Tax expense	4,506,759	2,821,612	1,019,130	666,017
State and local income taxes	1,099,678	760,286	233,490	105,902
Real estate tax	2,795,839	1,626,101	670,871	498,867
All other tax expense	611,247	435,229	114,769	61,249
Miscellaneous deductions	1,103,874	632,403	259,823	211,649
Plus excess, if any, of exem ded>AGI	0	0	0	0
Taxable income	49,308,913	30,857,355	11,210,371	7,241,187
Tax at normal rates	20,692,937	11,034,785	5,265,619	4,392,534
Less savings from alternative tax [8]	103,079	21,540	40,542	40,997
Less savings from maximum tax [8]	336,178	31,513	134,642	170,023
Less savings from income averaging	759,191	445,032	194,733	119,426
Tax before credits	19,542,112	10,545,597	4,913,842	4,082,673
Less foreign tax credits	97,463	42,645	23,604	31,214
Less investment credit	221,909	143,512	48,157	30,240
Less all other credits	2,510	1,743	524	243
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	19,220,233	10,357,698	4,841,557	4,020,977
Plus minimum tax on preferences	134,231	19,050	30,610	84,572
Tax after credits	19,354,463	10,376,748	4,872,167	4,105,548
Deduction equivalent of credits [9]	608,220	393,983	123,792	90,445
Memo:				
Employee business expense adjustment	302,100	230,473	49,188	22,438
Plus all other adjustments	253,946	215,666	33,803	4,477
Adjustments to gross income—total	556,045	446,138	82,991	26,915
Number of returns represented in the tabulation	725,492	592,652	107,835	25,004
Number of returns in the sample	8,847	3,888	1,945	3,014

TABLE IIA1.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: ALL RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and under	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	73,658,943	41,982,516	16,544,192	15,132,235
Plus investment: Interest <Income [1]	1,584,750	750,619	394,196	439,935
Less preferences (total) [2]	9,428,060	2,941,371	2,154,348	4,332,340
Excluded lt. capital gains	8,547,845	2,763,262	1,886,486	3,898,097
Depletion [3]	298,594	20,552	98,978	179,064
3 Acc. depreciation preferences [4]	314,042	73,464	99,055	141,523
Stock options	333,304	108,413	88,841	136,050
All other preferences [5]	994	0	95	899
Adjusted gross income	65,815,672	39,791,790	14,784,044	11,239,839
Plus deficits	34,601	5,185	8,972	20,443
AGI of returns with AGI >0	65,850,273	39,796,975	14,793,016	11,260,282
Less exemptions	2,286,791	1,837,065	354,000	95,726
Less standard deductions	112,411	99,906	10,506	1,999
Less itemized deductions	11,986,226	6,613,780	2,789,596	2,582,849
Charitable (total)	2,693,267	1,135,469	636,461	921,337
Charitable—noncash	749,420	152,115	158,583	438,768
Interest—total	2,799,310	1,640,283	637,615	521,412
Interest—mortgage	791,217	612,299	132,640	46,278
Investment: Interest <Income [6]	1,550,975	728,335	386,874	435,767
Investment: Interest >Income [7]	457,124	299,654	118,101	39,368
Medical	384,124	253,446	100,839	29,839
Casualty loss	98,049	61,850	19,462	16,737
Tax expense	4,738,043	2,842,420	1,085,582	810,042
State and local income taxes	1,176,303	774,543	263,244	138,516
Real estate tax	2,910,744	1,621,602	694,133	595,010
All other tax expense	651,003	446,279	128,205	76,518
Miscellaneous deductions	1,270,114	679,705	308,228	282,182
Plus excess, if any, of exem. ded. >AGI	88,065	33,372	20,948	33,744
Taxable income	51,518,342	31,274,438	11,650,885	8,593,020
Tax at normal rates	21,379,309	10,984,421	5,303,344	5,091,543
Less savings from alternative tax [8]	103,276	12,964	40,670	49,642
Less savings from maximum tax [8]	336,272	31,808	129,586	174,878
Less savings from income averaging	832,746	443,686	203,892	185,168
Tax before credits	20,154,810	10,502,017	4,947,088	4,705,705
Less foreign tax credits	180,794	53,263	25,472	102,059
Less investment credit	255,258	151,121	62,923	41,215
Less all other credits	3,063	2,157	596	310
Plus excess of credits over tax	1	0	0	1
Tax other than minimum tax	19,715,709	10,295,487	4,858,098	4,562,125
Plus minimum tax on preferences	184,221	9,937	29,271	145,013
Tax after credits	19,899,929	10,305,424	4,887,368	4,707,137
Deduction equivalent of credits [9]	840,761	455,057	171,645	214,059
Memo:				
Employee business expense adjustment	311,497	232,463	54,288	24,746
Plus all other adjustments	251,739	211,668	34,531	5,540
Adjustments to gross income—total	563,235	444,130	88,819	30,286
Number of returns represented in the tabulation	798,395	636,645	126,110	35,640
Number of returns in the sample	9,387	3,931	1,997	3,459

TABLE IA2.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME 1973: NONTAXABLE RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	213,350	110,756	74,012	28,582
Plus investment: interest < income [1]	44,397	13,806	22,776	7,816
Less preferences (total) [2]	30,855	6,376	18,525	5,954
Excluded lt. capital gains	20,802	5,327	9,475	6,000
Depletion [3]	10,621	72	10,367	182
3 Acc. depreciation preferences [4]	4,996	3,848	752	395
Stock options	0	0	0	0
All other preferences [5]	0	0	0	0
Adjusted gross income	226,893	118,186	78,263	30,444
Plus deficits	72	72	0	0
A.G.I. of returns with A.G.I. > 0	226,965	118,258	78,263	30,444
Less exemptions	7,417	5,628	1,564	225
Less standard deductions	644	402	239	4
Less itemized deductions	176,809	87,615	57,807	31,387
Charitable (total)	20,140	7,603	6,472	6,065
Charitable—Noncash	7,734	1,137	3,288	3,309
Interest—Total	89,839	42,286	36,136	11,417
Interest—Mortgage	4,064	2,615	1,256	194
Investment: Interest < income [6]	41,996	11,666	22,549	7,782
Investment: Interest > income [7]	43,778	28,005	12,332	3,441
Medical	7,779	3,636	4,066	76
Casualty loss	9,267	7,981	121	1,165
Tax expense	19,534	10,402	4,580	4,552
State and local income taxes	6,623	3,055	1,540	2,028
Real estate tax	9,837	5,579	2,253	2,005
All other tax expense	3,074	1,767	787	520
Miscellaneous deductions	30,254	15,709	6,433	8,111
Plus excess, if any, of exem. ded. > A.G.I.	25,076	15,843	4,478	4,755
Taxable income	67,097	40,384	23,130	3,583
Tax at normal rates	24,870	12,901	9,992	1,978
Less savings from alternative tax [8]	36	0	31	4
Less savings from maximum tax [8]	49	0	0	49
Less savings from income averaging	5,250	1,774	3,471	5
Tax before credits	19,566	11,126	6,521	1,919
Less foreign tax credits	6,638	2,517	2,305	1,816
Less investment credit	12,941	8,621	4,215	105
Less all other credits	0	0	0	0
Plus excess of credits over tax	1	0	0	1
Tax other than minimum tax	0	0	0	0
Plus minimum tax on preferences	0	0	0	0
Tax after credits	0	0	0	0
Deduction equivalent of credits [9]	57,038	36,537	17,002	3,499
Memo:				
Employee business expense adjustment	1,258	1,088	8	162
Plus all other adjustments	10	0	3	8
Adjustments to gross income—Total	1,268	1,088	10	170
Number of returns represented in the tabulation	2,523	1,784	648	91
Number of returns in the sample	144	34	49	61

Footnotes at end of tables.

TABLE 11A3.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: NEARLY NONTAXABLE RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	1,230,258	266,564	285,015	678,678
Plus investment: Interest<income [1]	175,267	50,958	29,160	95,149
Less preferences (total) [2]	764,427	158,357	183,000	423,070
Excluded lt. capital gains	645,970	130,992	150,657	364,322
Depletion [3]	69,048	7,352	28,684	33,012
3 acc. depreciation preferences [4]	80,408	15,967	18,916	45,525
Stock options	17,871	16,973	515	383
All other preferences [5]	477	0	1	477
Adjusted gross income	641,097	159,165	131,175	350,758
Plus deficits	34,529	5,114	8,972	20,443
A.G.I. of returns with A.G.I.>0	675,626	164,278	140,147	371,201
Less exemptions	18,180	9,546	5,479	3,156
Less standard deductions	1,358	1,017	192	149
Less itemized deductions	501,328	131,237	119,091	251,000
Charitable (total)	89,400	20,477	18,475	50,448
Charitable—noncash	21,350	2,350	637	18,363
Interest—total	204,840	61,312	39,661	103,867
Interest—mortgage	15,859	10,217	3,055	2,588
Investment: Interest<income [6]	170,494	50,602	27,345	92,546
Investment: Interest>income [7]	18,488	492	9,261	8,734
Medical	11,596	3,939	5,898	1,760
Casualty loss	9,780	5,946	1,397	2,437
Tax expense	105,312	24,043	31,782	49,486
State and local income taxes	40,076	10,474	20,070	9,532
Real estate tax	55,843	10,539	9,175	36,129
All other tax expense	9,393	3,030	2,538	3,825
Miscellaneous deductions	81,781	15,725	22,236	43,820
Plus excess, if any, of exem. ded>AGI	62,989	17,529	16,471	28,989
Taxable income	183,221	34,895	22,884	125,442
Tax at normal rates	99,676	12,724	6,458	80,494
Less savings from alternative tax [8]	27	0	2	24
Less savings from maximum tax [8]	45	45	0	0
Less savings from income averaging	1,573	111	486	976
Tax before credits	98,037	12,568	5,970	79,500
Less foreign tax credits	79,907	10,199	2,805	66,902
Less investment credit	9,496	1,429	2,183	5,884
Less all other credits	3	2	0	1
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	8,631	937	982	6,712
Plus minimum tax on preferences	55,392	5,583	11,862	37,946
Tax after credits	64,023	6,520	12,844	44,659
Deductions equivalent of credits [9]	152,386	28,373	15,810	108,202
Memo:				
Employee business expense adjustment	4,970	2,457	1,436	1,078
Plus all other adjustments	536	415	44	77
Adjustments to gross income—total	5,506	2,872	1,480	1,154
Number of returns represented in the tabulation	6,953	3,719	2,091	1,142
Number of returns in the sample	319	45	49	225

TABLE IIA4.—AGGREGATE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: ALL OTHER TAXABLE RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	72,215,336	41,605,195	16,185,165	14,424,975
Plus Investment: Interest<income [1]	1,365,085	685,856	342,260	336,970
Less Preferences (total) [2]	8,632,778	2,776,638	1,952,824	3,903,317
Excluded lt. capital gains	7,881,073	2,626,943	1,726,353	3,527,776
Depletion [3]	218,925	13,128	59,927	145,869
3 Acc. depreciation preferences [4]	228,638	53,648	79,387	95,603
Stock options	315,432	91,440	88,325	135,667
All other preferences [5]	517	0	94	422
Adjusted gross income	64,947,682	39,514,493	14,574,606	10,858,637
Plus Deficits	0	0	0	0
A.G.I. of returns with A.G.I.> 0	64,947,682	39,514,439	14,574,606	10,858,637
Less exemptions	2,261,193	1,821,891	346,957	92,346
Less standard deductions	110,409	98,487	10,076	1,846
Less itemized deductions	11,308,088	6,394,928	2,612,699	2,300,462
Charitable (total)	2,583,727	1,107,388	611,515	864,824
Charitable—Noncash	720,336	148,628	154,612	417,096
Interest—Total	2,504,631	1,536,685	561,818	406,128
Interest—Mortgage	771,294	599,468	128,330	43,496
Investment: Interest<income [6]	1,338,485	666,066	336,980	335,439
Investment: Interest>income [7]	394,858	271,156	96,509	27,193
Medical	364,749	245,871	90,875	28,003
Casualty loss	79,002	47,923	17,944	13,135
Tax expense	4,613,197	2,807,974	1,049,220	776,003
State and local income taxes	1,129,604	761,013	241,635	126,956
Real estate tax	2,845,064	1,605,483	682,705	556,876
All other tax expense	638,535	441,481	124,881	72,173

Footnotes at end of tables.

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Miscellaneous deductions	1,158,080	648,270	279,559	230,251
Plus excess, if any, of exem. ded>AGI	0	0	0	0
Taxable income	51,268,024	31,199,159	11,604,870	8,463,995
Tax at normal rates	21,254,762	10,958,797	5,286,894	5,009,071
Less savings from alternative tax [8]	103,214	12,964	40,636	49,614
Less savings from maximum tax [8]	336,178	31,764	129,586	174,829
Less savings from income averaging	825,923	441,800	199,935	184,188
Tax before credits	20,037,207	10,478,323	4,934,598	4,624,286
Less foreign tax credits	94,249	40,547	20,362	33,341
Less investment credit	232,821	141,071	56,524	35,225
Less all other credits	3,060	2,155	596	310
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	19,707,078	10,294,550	4,857,116	4,555,412
Plus minimum tax on preferences	128,830	4,354	17,409	107,067
Tax after credits	19,835,907	10,298,904	4,874,524	4,662,479
Deduction equivalent of credits [9]	631,337	390,147	138,833	102,357
Memo:				
Employee business expense adjustment	305,269	228,919	52,845	23,506
Plus all other adjustments	251,193	211,253	34,485	5,456
Adjustments to gross income—Total	556,461	440,171	87,329	28,961
Number of returns represented in the tabulation	788,919	631,143	123,370	34,407
Number of returns in the sample	8,924	3,852	1,899	3,173

TABLE IB1.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: ALL RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	94,652	68,951	144,225	482,908
Plus investment: Interest <income [1]	2,320	1,277	4,061	19,224
Less preferences (total) [2]	10,205	4,269	17,150	119,004
Excluded lt. capital gains	9,247	3,923	15,451	106,929
Depletion [3]	339	111	481	5,035
3 Acc. depreciation preferences [4]	338	146	774	2,955
Stock options	328	119	518	4,390
All other preferences [5]	1	0	0	37
Adjusted gross income	86,768	65,959	131,137	383,129
Plus deficits	0	0	0	0
AGI of returns with AGI >0	86,768	65,959	131,137	383,129
Less exemptions	2,937	2,962	2,858	2,693
Less standard deductions	96	106	54	29
Less itemized deductions	16,181	11,176	25,160	94,632
Charitable (total)	3,605	1,946	5,804	32,910
Charitable—noncash	1,018	283	1,496	16,111
Interest—Total	3,969	2,756	6,294	22,344
Interest—Mortgage	1,041	1,005	1,145	1,427
Investment: Interest <income [6]	2,266	1,240	3,970	18,946
Investment: Interest >income [7]	662	511	1,179	1,972
Medical	474	413	704	936
Casualty loss	131	107	129	718
Tax expense	6,323	4,827	9,528	27,578
State and local income taxes	1,570	1,331	2,182	4,529
Real estate tax	3,903	2,757	6,275	20,521
All other tax expense	850	738	1,071	2,529
Miscellaneous deductions	1,671	1,123	2,701	10,063
Plus excess, if any, of exem. ded >AGI	93	53	87	1,045
Taxable income	67,647	51,768	103,152	286,820
Tax at normal rates	28,419	18,511	48,433	174,261
Less savings from alternative tax [8]	141	36	372	1,599
Less savings from maximum tax [8]	459	53	1,236	6,629
Less savings from income averaging	1,045	750	1,811	4,657
Tax before credits	26,840	17,687	45,181	162,178
Less foreign tax credits	247	93	239	3,861
Less investment credit	331	259	480	1,363
Less all other credits	3	3	5	10
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	26,259	17,332	44,457	156,944
Plus tax on preferences	210	41	307	3,726
Tax after credits	26,468	17,373	44,764	160,670
Deduction equivalent of credits [9]	1,095	776	1,299	7,663
Memo:				
Employee business expense adjustment	421	393	455	928
Plus all other adjustments	347	361	311	177
Adjustments to gross income—total	768	754	765	1,104
Number of returns represented in the tabulation	732,211	597,639	108,916	25,656
Number of returns in the sample	9,196	3,946	1,992	3,258

TABLE IB2.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME—1973: NONTAXABLE RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	66,351	51,562	113,275	161,427
Plus investment: interest<income [1]	33,524	17,760	24,012	318,302
Less references (total) [2]	5,039	3,499	8,900	18,113
Excluded It capital gains	5,590	3,230	11,883	24,446
Depletion [3]	70	0	38	1,304
3 acc, depreciation preferences [4]	1,746	1,610	1,903	3,454
Stock options	0	0	0	0
All other preferences [5]	0	0	0	0
Adjusted gross income	94,836	65,824	128,387	461,617
Plus deficits	0	0	0	0
A.G.I. of returns with A.G.I.> 0	94,836	65,824	128,387	461,617
Less exemptions	2,773	2,792	2,683	2,735
Less standard deductions	194	184	301	26
Less itemized deductions	86,773	55,479	94,769	569,301
Charitable (total)	6,274	2,336	12,795	49,991
Charitable—Noncash	2,527	458	6,787	22,933
Interest—Total	50,086	30,247	53,196	362,012
Interest—Mortgage	1,974	1,731	3,106	2,422
Investment: Interest<income [6]	32,047	16,692	21,223	314,253
Investment: Interest>income [7]	16,065	11,824	28,867	45,337
Medical	2,672	1,684	7,854	2,721
Casualty loss	2,959	3,173	94	8,322
Tax expense	9,452	8,023	8,382	35,922
State and local income taxes	4,648	4,201	4,151	13,433
Real estate tax	3,574	2,822	2,955	17,665
All other tax expense	1,230	999	1,276	4,824
Miscellaneous deductions	15,330	10,015	12,448	110,333
Plus excess, if any, of exem. ded>AGI	15,950	10,074	9,242	131,849
Taxable income	21,046	17,444	39,875	21,404
Tax at normal rates	7,831	5,805	17,066	12,209
Less savings from alternative tax [8]	11	12	0	29
Less savings from maximum tax [8]	16	0	0	318
Less savings from income averaging	1,647	1,074	5,185	40
Tax before credits	6,167	4,732	11,881	11,822
Less foreign tax credits	2,110	1,000	4,916	11,446
Less investment credit	4,061	3,736	6,965	385
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	9
Tax other than minimum tax	0	0	0	0
Plus minimum tax on preferences	0	0	0	0
Tax after credits	0	0	0	0
Deduction equivalent of credits [9]	17,906	15,282	30,753	20,841
Memo:				
Employee business expense adjustment	465	420	65	2,427
Plus all other adjustments	3	0	0	67
Adjustments to gross income—total	469	420	65	2,494
Number of returns represented in the tabulation	3,146	2,513	478	155
Number of returns in the sample	176	23	15	138

TABLE IB3.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: NEARLY NONTAXABLE RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	196,838	99,214	172,483	713,236
Plus Investment: Interest<income [1]	51,628	15,705	44,490	239,431
Less Preferences (Total) [2]	76,039	40,841	71,429	257,157
Excluded It. capital gains	65,098	30,792	70,293	229,845
Depletion [3]	6,498	7,897	839	6,403
3 acc. depreciation preferences [4]	8,404	4,602	7,609	28,330
Stock options	251	0	0	1,811
All other preferences [5]	132	0	0	951
Adjusted gross income	172,426	74,078	145,544	695,511
Plus Deficits	0	0	0	0
A.G.I. of returns with A.G.I.>0	172,426	74,078	145,544	695,511
Less exemptions	2,450	2,314	2,814	2,684
Less standard deductions	45	64	0	4
Less itemized deductions	130,958	59,108	142,037	475,764
Charitable (total)	22,115	12,382	15,852	78,261
Charitable—Noncash	5,612	187	3,332	35,432
Interest—Total	58,703	19,764	54,391	258,110
Interest—Mortgage	2,748	3,170	978	2,799
Investment: Interest<income [6]	50,292	15,700	44,015	230,407
Investment: Interest>income [7]	5,663	894	9,399	24,904
Medical	1,593	1,620	398	2,911
Casualty loss	2,463	2,603	25	4,727
Tax expense	26,130	17,306	24,216	72,457
State and local income taxes	9,871	10,061	3,609	16,535
Real estate tax	14,149	5,869	18,529	50,112
All other tax expense	2,110	1,375	2,077	5,811
Miscellaneous deductions	19,954	5,433	47,155	59,297
Plus excess, if any, of exem. ded>AGI	4,913	2,455	8,471	12,842
Taxable income	43,887	15,047	9,163	229,902
Tax at normal rates	25,566	5,495	2,342	153,880
Less savings from alternative tax [8]	6	0	0	43
Less savings from maximum tax [8]	13	18	0	0
Less savings from income averaging	147	189	1	113
Tax before credits	25,401	5,288	2,340	153,724
Less foreign tax credits	21,429	4,195	211	133,160
Less investment credit	2,102	825	1,314	9,428
Less all other credits	1	2	0	1
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	1,868	266	815	11,135
Plus minimum tax on preferences	5,384	2,180	4,690	22,204
Tax after credits	7,252	2,447	5,504	33,340
Deduction equivalent of credits [9]	38,472	12,748	4,993	207,441
Memo:				
Employee business expense adjustment	1,301	1,361	500	1,980
Plus all other adjustments	27	4	73	84
Adjustments to gross income—Total	1,328	1,364	573	2,064
Number of returns represented in the tabulation	3,573	2,474	603	496
Number of returns in the sample	173	35	32	106

Footnotes at end of tables.

TABLE IB4.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME—1973: ALL OTHER TAXABLE RETURNS

[In thousands of dollars]

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$$200,000 and over
Expanded income	94,272	88,898	144,205	480,332
Plus investment: Interest<income [1]	1,942	1,147	3,747	13,000
Less preferences (total) [2]	9,903	4,119	16,883	116,888
Excluded It capital gains	8,988	3,814	15,160	105,002
Depletion [3]	310	79	481	5,031
3 acc. depreciation preferences [4]	292	121	731	2,449
Stock options	330	120	523	4,468
All other preferences [5]	1	0	0	19
Adjusted gross income	86,311	65,926	131,068	376,444
Plus deficits	0	0	0	0
A.G.I. of returns with A.G.I.>0	86,311	65,926	131,068	376,444
Less exemptions	2,940	2,965	2,859	2,693
Less standard deductions	96	106	53	30
Less itemized deductions	15,309	10,788	24,198	84,126
Charitable (total)	3,502	1,901	5,717	31,905
Charitable—Noncash	989	283	1,462	15,685
Interest—Total	3,500	2,569	5,818	15,560
Interest—Mortgage	1,028	993	1,138	1,393
Investment: Interest<income [6]	1,901	1,114	3,669	12,919
Investment: Interest>income [7]	570	462	1,010	1,248
Medical	459	402	674	885
Casualty loss	108	83	129	591
Tax expense	6,212	4,761	9,451	26,636
State and local income taxes	1,516	1,283	2,165	4,235
Real estate tax	3,854	2,744	6,221	19,951
All other tax expense	843	734	1,064	2,450
Miscellaneous deductions	1,522	1,067	2,409	8,464
Plus excess, if any, of exem. ded>AGI	0	0	0	0
Taxable income	67,966	52,067	103,958	289,596
Tax at normal rates	28,523	18,619	488,830	175,670
Less savings from alternative tax [8]	142	36	376	1,640
Less savings from maximum tax [8]	463	53	1,249	6,800
Less savings from income averaging	1,046	751	1,806	4,776
Tax before credits	26,936	17,794	45,568	163,278
Less foreign tax credits	134	72	219	1,248
Less investment credit	306	242	447	1,209
Less all other credits	3	3	5	10
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	26,493	17,477	44,898	160,810
Plus minimum tax on preferences	185	32	284	3,382
Tax after credits	26,678	17,509	45,181	164,193
Deduction equivalent of credits [9]	838	665	1,148	3,617
Memo:				
Employee business expense adjustment	416	389	456	897
Plus all other adjustments	350	364	313	179
Adjustments to gross income—total	766	753	770	1,076
Number of returns represented in the tabulation	725,492	592,652	107,835	25,004
Number of returns in the sample	8,847	3,888	1,945	3,014

TABLE IIB1.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: ALL RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	92,259	65,943	131,189	424,584
Plus investment: interest <income [1]	1,985	1,179	3,126	12,344
Less preferences (total) [2]	11,809	4,620	17,083	121,558
Excluded lt. capital gains	10,706	4,340	14,959	109,374
Depletion [3]	374	32	785	5,024
3 Acc. depreciation preferences [4]	393	115	785	3,971
Stock options	417	170	704	3,817
All other preferences [5]	1	0	1	25
Adjusted gross income	82,435	62,502	117,231	315,370
Plus deficits	43	8	71	574
AGI of returns with AGI > 0	82,478	62,510	117,303	315,944
Less exemptions	2,864	2,886	2,807	2,686
Less standard deductions	141	157	83	56
Less itemized deductions	15,013	10,388	22,120	72,470
Charitable (total)	3,373	1,784	5,047	25,851
Charitable—Noncash	939	239	1,257	12,311
Interest—Total	3,506	2,576	5,056	14,630
Interest—Mortgage	991	962	1,052	1,298
Investment: Interest <income [6]	1,943	1,144	3,068	12,227
Investment: Interest >income [7]	573	471	936	1,105
Medical	481	398	800	837
Casualty loss	123	97	154	470
Tax expense	5,934	4,465	8,608	22,728
State and local income taxes	1,473	1,217	2,087	3,887
Real estate tax	3,646	2,547	5,504	16,695
All other tax expense	815	701	1,017	2,147
Miscellaneous deductions	1,591	1,068	2,444	7,918
Plus excess, if any, of exem, ded >AGI	110	52	166	947
Taxable income	64,527	49,124	92,387	241,105
Tax at normal rates	26,778	17,254	42,053	142,860
Less savings from alternative tax [8]	129	20	322	1,393
Less savings from maximum tax [8]	421	50	1,028	4,907
Less savings from income averaging	1,043	697	1,617	5,195
Tax before credits	25,244	16,496	39,228	132,034
Less foreign tax credits	226	84	202	2,864
Less investment credit	320	237	499	1,156
Less all other credits	4	3	5	9
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	24,694	16,171	38,523	128,005
Plus minimum tax on preferences	231	16	232	4,069
Tax after credits	24,925	16,187	38,755	132,074
Deduction equivalent of credits [9]	1,053	715	1,361	6,006
Memo:				
Employee business expense adjustment	390	365	430	694
Plus all other adjustments	315	332	274	155
Adjustments to gross income—total	705	698	704	850
Number of returns represented in the tabulation	798,395	636,645	126,110	35,640
Number of returns in the sample	9,387	3,931	1,997	3,459

TABLE IIB2.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: NONTAXABLE RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	84,558	62,097	114,157	313,433
Plus investment: Interest<income [1]	17,596	7,740	35,130	85,780
Less preferences (total) [2]	12,229	3,575	28,573	65,291
Excluded lt capital gains	8,245	2,987	14,615	65,795
Depletion [3]	4,209	40	15,990	2,001
3 acc. depreciation preferences [4]	1,980	2,158	1,160	4,336
Stock options	0	0	0	0
All other preferences [5]	0	0	0	0
Adjusted gross income	89,926	66,263	120,715	333,850
Plus deficits	28	40	0	0
A.G.I. of returns with A.G.I. >0	89,954	66,303	120,715	333,850
Less exemptions	2,940	3,156	2,413	2,463
Less standard deductions	255	225	368	44
Less itemized deductions	70,076	49,123	89,163	344,193
Charitable (total)	7,982	4,263	9,982	66,513
Charitable-Noncash	3,065	638	5,072	36,286
Interest—Total	35,606	23,708	55,737	125,198
Interest—Mortgage	1,611	1,466	1,937	2,128
Investment: Interest<income [6]	16,645	6,541	34,780	85,336
Investment: Interest>income [7]	17,351	15,702	19,020	37,733
Medical	3,083	2,039	6,272	837
Casualty loss	3,673	4,474	186	12,779
Tax expense	7,742	5,832	7,064	49,922
State and local income taxes	2,625	1,713	2,375	22,237
Real estate tax	3,899	3,128	3,475	21,985
All other tax expense	1,218	991	1,214	5,699
Miscellaneous deductions	11,991	8,808	9,923	88,946
Plus excess, if any, of exem. ded>AGI	9,939	8,883	6,907	52,144
Taxable income	26,593	22,642	35,677	39,294
Tax at normal rates	9,857	7,233	15,411	21,687
Less savings from alternative tax [8]	14	0	48	49
Less savings from maximum tax [8]	20	0	0	542
Less savings from income averaging	2,081	995	5,353	53
Tax before credits	7,755	6,238	10,058	21,044
Less foriegn tax credits	2,631	1,411	3,556	19,909
Less investment credit	5,129	4,833	6,502	1,150
Less all other credits	0	0	0	0
Plus excess of credits over tax	1	0	0	15
Tax other than minimum tax	0	0	0	0
Plus minimum tax on preferences	0	0	0	0
Tax after credits	0	0	0	0
Deduction equivalent of credits [9]	22,606	20,485	26,224	38,375
Memo:				
Employee business expense adjustment	499	610	12	1,780
Plus all other adjustments	4	0	4	86
Adjustments to gross income—total	503	610	16	1,866
Number of returns represented in the tabulation	2,523	1,784	648	91
Number of returns in the sample	144	34	49	61

TABLE IIB3.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: NEARLY NONTAXABLE RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	176,947	71,675	136,296	594,040
Plus investment: interest < income [1]	25,208	13,702	13,944	83,283
Less preferences (total) [2]	109,947	42,580	87,512	370,309
Excluded lt. capital gains	92,909	35,222	72,045	318,887
Depletion [3]	9,931	1,977	13,717	28,895
3 acc. depreciation preferences [4]	11,565	4,293	9,046	39,847
Stock options	2,570	4,564	247	335
All other preferences [5]	69	0	0	417
Adjusted gross income	92,208	42,797	62,729	307,014
Plus deficits	4,966	1,375	4,291	17,894
A.G.I. of returns with A.G.I. > 0	97,175	44,172	67,019	324,908
Less exemptions	2,615	2,567	2,620	2,762
Less standard deductions	195	273	92	130
Less itemized deductions	72,105	35,288	56,950	219,698
Charitable (total)	12,858	5,506	8,835	44,157
Charitable—noncash	3,071	632	305	16,073
Interest—total	29,462	16,486	18,966	90,914
Interest—mortgage	2,281	2,747	1,461	2,265
Investment: Interest < income [6]	24,522	13,606	13,077	81,004
Investment: Interest > income [7]	2,659	132	4,429	7,645
Medical	1,668	1,059	2,820	1,540
Casualty loss	1,407	1,599	668	2,133
Tax expense	15,147	6,465	15,198	43,315
State and local income taxes	5,764	2,816	9,597	8,343
Real estate tax	8,032	2,834	4,387	31,624
All other tax expense	1,351	815	1,214	3,348
Miscellaneous deductions	11,762	4,228	10,633	38,355
Plus excess, if any, of exem. ded. > AGI	9,060	4,713	7,876	25,374
Taxable income	26,352	9,383	10,943	109,798
Tax at normal rates	14,336	3,421	3,088	70,456
Less savings from alternative tax [8]	4	0	1	21
Less savings from maximum tax [8]	6	12	0	0
Less savings from income averaging	226	30	233	854
Tax before credits	14,101	3,379	2,855	69,585
Less foreign tax credits	11,493	2,742	1,341	58,559
Less investment credit	1,366	384	1,044	5,150
Less all other credits	0	1	0	1
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	1,241	252	469	5,875
Plus minimum tax on preferences	7,967	1,501	5,673	33,214
Tax after credits	9,208	1,753	6,142	39,089
Deduction equivalent of credits [9]	21,918	7,629	7,561	94,708
Memo:				
Employee business expense adjustment	715	661	687	943
Plus all other adjustments	77	112	21	67
Adjustments to gross income—total	792	772	708	1,010
Number of returns represented in the tabulation	6,953	3,719	2,091	1,142
Number of returns in the sample	319	45	49	225

Footnotes at end of tables.

TABLE IIB4.—AVERAGE INCOME, DEDUCTIONS, AND CREDITS FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: ALL OTHER TAXABLE RETURNS

[In thousands of dollars]

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	91,537	65,920	131,192	419,251
Plus investment: Interest <income [1]	1,730	1,087	2,774	9,794
Less preferences (total) [2]	10,943	4,399	15,829	113,447
Excluded lt. capital gains	9,990	4,162	13,993	102,532
Depletion [3]	277	21	486	4,240
3 acc. depreciation preferences [4]	290	85	643	2,779
Stock options	400	145	716	3,943
All other preferences [5]	1	0	1	12
Adjusted gross income	82,325	62,608	118,137	315,598
Plus deficits	0	0	0	0
A.G.I. of returns with A.G.I. > 0	82,325	62,608	118,137	315,598
Less exemptions	2,866	2,887	2,812	2,684
Less standard deductions	140	156	82	54
Less itemized deductions	14,334	10,132	21,178	66,861
Charitable (total)	3,275	1,755	4,957	25,135
Charitable—Noncash	913	235	1,253	12,123
Interest—Total	3,175	2,435	4,554	11,804
Interest—Mortgage	978	950	1,040	1,264
Investment: Interest<income [6]	1,697	1,055	2,731	9,749
Investment: Interest>income [7]	501	430	782	790
Medical	462	390	737	814
Casualty loss	100	76	145	382
Tax expense	5,847	4,449	8,505	21,973
State and local income taxes	1,432	1,206	1,959	3,690
Real estate tax	3,606	2,544	5,534	16,185
All other tax expense	809	699	1,012	2,098
Miscellaneous deductions	1,468	1,027	2,266	6,692
Plus excess, if any, of exem. ded>AGI	0	0	0	0
Taxable income	64,985	49,433	94,065	246,000
Tax at normal rates	26,942	17,363	42,854	145,585
Less savings from alternative tax [8]	131	21	329	1,442
Less savings from maximum tax [8]	426	50	1,050	5,081
Less savings from income averaging	1,047	700	1,621	5,353
Tax before credits	25,398	16,602	39,998	134,402
Less foreign tax credits	119	64	165	969
Less investment credit	295	224	458	1,024
Less all other credits	4	3	5	9
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	24,980	16,311	39,370	132,400
Plus minimum tax on preferences	163	7	141	3,112
Tax after credits	25,143	16,318	39,511	135,512
Deduction equivalent of credits [9]	800	618	1,125	2,975
Memo:				
Employee business expense adjustment	387	363	428	683
Plus all other adjustments	318	335	280	159
Adjustments to gross income—Total	705	697	708	842
Number of returns represented in the tabulation	788,919	631,143	123,370	34,407
Number of returns in the sample	8,924	3,852	1,899	3,173

TABLE IC1.—INCOME, DEDUCTIONS, AND CREDITS AS PERCENTAGES OF ADJUSTED GROSS INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: ALL RETURNS

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	109.1	104.5	110.0	126.0
Plus investment: Interest <income	2.7	1.9	3.1	5.0
Less preferences (total) [2]	11.8	6.5	13.1	31.1
Excluded lt capital gains	10.7	5.9	11.8	27.9
Depletion [3]	.4	.2	.4	1.3
3 acc depreciation preferences [4]	.4	.2	.6	.8
Stock options	.4	.2	.4	1.1
All other preferences [5]	0	0	0	0
Adjusted gross income	100.0	100.0	100.0	100.0
Plus deficits	0	0	0	0
AGI of returns with AGI > 0	100.0	100.0	100.0	100.0
Less exemptions	3.4	4.5	2.2	.7
Less standard deductions	.1	.2	0	0
Less itemized deductions	18.6	16.9	19.2	24.7
Charitable (total)	4.2	3.0	4.4	8.6
Charitable—Noncash	1.2	.4	1.1	4.2
Interest—Total	4.6	4.2	4.8	5.8
Interest—Mortgage	1.2	1.5	.9	.4
Investment: Interest <income [6]	2.6	1.9	3.0	4.9
Investment: Interest >income [7]	.8	.8	.9	.5
Medical	.5	.6	.5	.2
Casualty loss	.2	.2	.1	.2
Tax expense	7.3	7.3	7.3	7.2
State and local income taxes	1.8	2.0	1.7	1.2
Real estate tax	4.5	4.2	4.8	5.4
All other tax expense	1.0	1.1	.8	.7
Miscellaneous deductions	1.9	1.7	2.1	2.6
Plus excess, if any, of exem, ded >AGI	.1	.1	.1	.3
Taxable income	78.0	78.5	78.7	74.9
Tax at normal rates	32.8	28.1	36.9	45.5
Less savings from alternative tax [8]	.2	.1	.3	.4
Less savings from maximum tax [8]	.5	.1	.9	1.7
Less savings from income averaging	1.2	1.1	1.4	1.2
Tax before credits	30.9	26.8	34.5	42.3
Less foreign tax credits	.3	.1	.2	1.0
Less investment credit	.4	.4	.4	.4
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	30.3	26.3	33.9	41.0
Plus minimum tax on preferences	.2	.1	.2	1.0
Tax after credits	30.5	26.3	34.1	41.9
Deduction equivalent of credits [9]	1.3	1.2	1.0	2.0
Memo:				
Employee business expense adjustment	.5	.6	.3	.2
Plus all other adjustments	.4	.5	.2	0
Adjustments to gross income—total	.9	1.1	.6	.3
Number of returns represented in the tabulation	732,211	597,639	108,916	25,656
Number of returns in the sample	9,196	3,946	1,992	3,258

TABLE IC2.—INCOME, DEDUCTIONS, AND CREDITS AS PERCENTAGES OF ADJUSTED GROSS INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: NONTAXABLE RETURNS

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	70.0	78.3	88.2	35.0
Plus investment: interest<income [1]	35.3	27.0	18.7	69.0
Less preferences (total) [2]	5.3	5.3	6.9	3.9
Excluded lt. capital gains	5.9	4.9	9.3	5.3
Depletion [3]	.1	0	0	.3
3 acc. depreciation preferences [4]	1.8	2.4	1.5	.7
Stock options	0	0	0	0
All other preferences [5]	0	0	0	0
Adjusted gross income	100.0	100.0	100.0	100.0
Plus deficits	0	0	0	0
AGI of returns with AGI> 0	100.0	100.0	100.0	100.0
Less exemptions	2.9	4.2	2.1	.6
Less standard deductions	.2	.3	.2	0
Less itemized deductions	91.5	84.3	73.8	123.3
Charitable (total)	6.6	3.5	10.0	10.8
Charitable—Noncash	2.7	.7	5.3	5.0
Interest—Total	52.8	46.0	41.4	78.4
Interest—Mortgage	2.1	2.6	2.4	.5
Investment: interest <income [6]	33.8	25.4	16.5	68.1
Investment: interest >income [7]	16.9	18.0	22.5	9.8
Medical	2.8	2.6	6.1	.6
Casualty loss	3.1	4.8	.1	1.8
Tax expense	10.0	12.2	6.5	7.8
State and local income taxes	4.9	6.4	3.2	2.9
Real estate tax	3.8	4.3	2.3	3.8
All other tax expense	1.3	1.5	1.0	1.0
Miscellaneous deductions	16.2	15.2	9.7	23.9
Plus excess, if any, of exem. ded >AGI	16.8	15.3	7.2	28.6
Taxable income	22.2	26.5	31.1	4.6
Tax at normal rates	8.3	8.8	13.3	2.6
Less savings from alternative tax [8]	0	0	0	0
Less savings from maximum tax [8]	0	0	0	.1
Less savings from income averaging	1.7	1.6	4.0	0
Tax before credits	6.5	7.2	9.3	2.6
Less foreign tax credits	2.2	1.5	3.8	2.5
Less investment credit	4.3	5.7	5.4	.1
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	0	0	0	0
Plus minimum tax on preferences	0	0	0	0
Tax after credits	0	0	0	0
Deduction equivalent of credits [9]	18.9	23.2	24.0	4.5
Memo:				
Employee business expense adjustment	.5	.6	.1	.5
Plus all other adjustments	0	0	0	0
Adjustments to gross income—total	.5	.6	.1	.5
Number of returns represented in the tabulation	3,146	2,513	478	155
Number of returns in the sample	176	23	15	138

Footnotes at end of tables.

TABLE IC3.—INCOME, DEDUCTIONS, AND CREDITS AS A PERCENTAGES OF ADJUSTED GROSS INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: NEARLY NONTAXABLE RETURNS

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	114.2	133.9	118.5	102.5
Plus investment: interest < income [1]	29.9	21.2	30.6	34.4
Less preferences (total) [2]	44.1	55.1	49.1	37.0
Excluded lt. capital gains	37.8	41.6	48.3	33.0
Depletion [3]	3.8	10.7	.6	.9
3 acc. depreciation preferences [4]	4.9	6.2	5.2	4.1
Stock options	.1	0	0	.3
All other preferences [5]	.1	0	0	.1
Adjusted gross income	100.0	100.0	100.0	100.0
Plus deficits	0	0	0	0
A.G.I. or returns with A.G.I. >0	100.0	100.0	100.0	100.0
Less exemptions	1.4	3.1	1.9	.4
Less standard deductions	0	.1	0	0
Less itemized deductions	75.9	79.8	97.6	68.4
Charitable (total)	12.8	16.7	10.9	11.3
Charitable—Noncash	3.3	.3	2.3	5.1
Interest—total	34.0	26.7	37.4	37.1
Interest—mortgage	1.6	4.3	.7	.4
Investment: interest < income [6]	29.2	21.2	30.2	33.1
Investment: interest > income [7]	3.3	1.2	6.5	3.6
Medical	.9	2.2	.3	.4
Casualty loss	1.4	3.5	0	.7
Tax expense	15.2	23.4	16.6	10.4
State and local income taxes	5.7	13.6	2.5	2.4
Real estate tax	8.2	7.9	12.7	7.2
All other tax expense	1.2	1.9	1.4	.8
Miscellaneous deductions	11.6	7.3	32.4	8.5
Plus excess, if any, of exem. ded. A.G.I. >	2.8	3.3	5.8	1.8
Taxable income	25.5	20.3	6.3	33.1
Taxable at normal rates	14.8	7.4	1.6	22.1
Less savings from alternative tax [8]	0	0	0	0
Less savings from maximum tax [8]	0	0	0	0
Less savings from income averaging	.1	.3	0	0
Tax before credits	14.7	7.1	1.6	22.1
Less foreign tax credits	12.4	5.7	.1	19.1
Less investment credit	1.2	1.1	.9	1.4
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	1.1	.4	.6	1.6
Plus minimum tax on preferences	3.1	2.9	3.2	3.2
Tax after credits	4.2	3.3	3.8	4.8
Deduction equivalent of credits [9]	22.3	17.2	3.4	29.8
Memo:				
Employee business expense adjustment	.8	1.8	.3	.3
Plus all other adjustments	0	0	.1	0
Adjustments to gross income—total	.8	1.8	.4	.3
Number of returns represented in the tabulation	3,573	2,474	603	496
Number of returns in the sample	173	35	32	106

TABLE IC4.—INCOME, DEDUCTIONS, AND CREDITS AS PERCENTAGES OF ADJUSTED GROSS INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY ADJUSTED GROSS INCOME, 1973: ALL OTHER TAXABLE RETURNS

	Adjusted gross income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	109.2	104.5	110.0	127.6
Plus investments :Interest<income [1]	2.3	1.7	2.9	3.5
Minus preferences (total) [2]	11.5	6.2	12.9	31.1
Excluded lt capital gains	10.4	5.8	11.6	27.9
Depletion [3]	.4	.1	.4	1.3
3 acc. depreciation preferences [4]	.3	.2	.6	.7
Stock options	.4	.2	.4	1.2
All other preferences [5]	0	0	0	0
Adjusted gross income	100.0	100.0	100.0	100.0
Plus deficits	0	0	0	0
A.G.I. of returns with A.G.I.> 0	100.0	100.0	100.0	100.0
Minus exemptions	3.4	4.5	2.2	.7
Minus standard deductions	.1	.2	0	0
Minus itemized deductions	17.7	16.4	18.5	22.3
Charitable (total)	4.1	2.9	4.4	8.5
Charitable—Noncash	1.1	.4	1.1	4.2
Interest—Total	4.1	3.9	4.4	4.1
Interest—Mortgage	1.2	1.5	.9	.4
Investment: Interest<income [6]	2.2	1.7	2.8	3.4
Investment: Interest>income [7]	.7	.7	.8	.3
Medical	.5	.6	.5	.2
Casualty loss	.1	.1	.1	.2
Tax expense	7.2	7.2	7.2	7.1
State and local income taxes	1.8	1.9	1.7	1.1
Real estate tax	4.5	4.2	4.7	5.3
All other tax expense	1.0	1.1	.8	.7
Miscellaneous deductions	1.8	1.6	1.8	2.2
Plus excess, if any, of exem. ded>AGI	0	0	0	0
Taxable income	78.7	79.0	79.3	76.9
Tax at normal rates	33.0	28.2	37.3	46.7
Minus savings from alternative tax [8]	.2	.1	.3	.4
Minus savings from maximum tax [8]	.5	.1	1.0	1.8
Minus savings from income averaging	1.2	1.1	1.4	1.3
Tax before credits	31.2	27.0	34.8	43.4
Minus foreign tax credits	.2	.1	.2	.3
Minus investment credit	.4	.4	.3	.3
Minus all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	30.7	26.5	34.3	42.7
Plus minimum tax on preferences	.2	0	.2	.9
Tax after credits	30.9	26.6	34.5	43.6
Deduction equivalent of credits [9]	1.0	1.0	.9	1.0
Memo:				
Employee business expense adjustment	.5	.6	.3	.2
Plus all other adjustments	.4	.6	.2	0
Adjustments to gross income—total	.9	1.1	.6	.3
Number of returns represented in the tabulation	725,492	592,652	107,835	25,004
Number of returns in the sample	8,847	3,888	1,945	3,014

Footnotes at end of tables.

TABLE IIC1.—INCOME, DEDUCTIONS, AND CREDITS AS PERCENTAGES OF EXPANDED INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: ALL RETURNS

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	100.0	100.0	100.0	100.0
Plus investment: Interest<income [1]	2.2	1.8	2.4	2.9
Less preferences (total) [2]	12.8	7.0	13.0	28.6
Excluded lt. capital gains	11.6	6.6	11.4	25.8
Depletion [3]	.4	0	.6	1.2
3 acc. depreciation preferences [4]	.4	.2	.6	.9
Stock options	.5	.3	.5	.9
All other preferences [5]	0	0	0	0
Adjusted gross income	89.4	94.8	89.4	74.3
Plus deficits	0	0	.1	.1
A.G.I. of returns with A.G.I.>0	89.4	4.8	89.4	74.4
Less exemptions	3.1	4.4	2.1	.6
Less standard deductions	.2	.2	.1	0
Less itemized deductions	16.3	15.8	16.9	17.1
Charitable (total)	3.7	2.7	3.8	6.1
Charitable—Noncash	1.0	.4	1.0	2.9
Interest—total	3.8	3.9	3.9	3.4
Interest—mortgage	1.1	1.5	.8	.3
Investment: Interest<income [6]	2.1	1.7	2.3	2.9
Investment: Interest>income [7]	.6	.7	.7	.3
Medical	.5	.6	.6	.2
Casualty loss	.1	.1	.1	.1
Tax expense	6.4	6.8	6.6	5.4
State and local income taxes	1.6	1.8	1.6	.9
Real estate tax	4.0	3.9	4.2	3.9
All other tax expense	.9	1.1	.8	.5
Miscellaneous deductions	1.7	1.6	1.9	1.9
Plus excess if any, of exem. ded>AGI	.1	.1	.1	.2
Taxable income	69.9	74.5	70.4	56.8
Tax at normal rates	29.0	26.2	32.1	33.6
Less savings from alternative tax [8]	.1	0	.2	.3
Less savings from maximum tax [8]	.5	.1	.8	1.2
Less savings from income averaging	1.1	1.1	1.2	1.2
Tax before credits	27.4	25.0	29.9	31.1
Less foreign tax credits	.2	.1	.2	.7
Less investment credit	.3	.4	.4	.3
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	26.8	24.5	29.4	30.1
Plus minimum tax on preferences	.3	0	.2	1.0
Tax after credits	27.0	24.5	29.5	31.1
Deduction equivalent of credits [9]	1.1	1.1	1.0	1.4
Memo:				
Employee business expense adjustment	.4	.6	.3	.2
Plus all other adjustments	.3	.5	.2	0
Adjustments to gross income—total	.8	1.1	.5	.2
Number of returns represented in the tabulation	798,395	636,645	126,110	36,640
Number of returns in the sample	9,387	3,931	1,997	3,459

TABLE IIC2.—INCOME, DEDUCTIONS, AND CREDITS AS PERCENTAGES OF EXPANDED INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: NON-TAXABLE RETURNS

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	100.0	100.0	100.0	100.0
Plus investment: Interest<income [1]	20.8	12.5	30.8	27.3
Less preferences (total) [2]	14.5	5.8	25.0	20.8
Excluded It capital gains	9.8	4.8	12.8	21.0
Depletion [3]	5.0	.1	14.0	.6
3 acc. depreciation preferences [4]	2.3	3.5	1.0	1.4
Stock options	0	0	0	0
All other preferences	0	0	0	0
Adjusted gross income	106.3	106.7	105.7	106.5
Plus deficits	0	.1	0	0
A.G.I of returns with A.G.I.> 0	106.4	106.8	105.7	106.5
Less exemprtions	3.5	5.1	2.1	.8
Less standa d deductions	.3	.4	.3	0
Less itemized deductions	82.9	79.1	78.1	109.8
Charitable (total)	9.4	6.9	8.7	21.2
Charitable—Noncash	3.6	1.0	4.4	11.6
Interest—Total	42.1	38.2	48.8	39.9
Interest—Mortgage	1.9	2.4	1.7	.7
Investment: Interest<Income [6]	19.7	10.5	30.5	27.2
Investment: Interest>Income [7]	20.5	25.3	16.7	12.0
Medical	3.6	3.3	5.5	.3
Casualty loss	4.3	7.2	.2	4.1
Tax expense	9.2	9.4	6.2	15.9
State and local income taxes	3.1	2.8	2.1	7.1
Real estate tax	4.6	5.0	3.0	7.0
All other tax expense	1.4	1.6	1.1	1.8
Miscellaneous deductions	14.2	14.2	8.7	28.4
Plus excess, if any, of exem. ded>A.G.I	11.8	14.3	6.1	16.6
Taxable income	31.4	36.5	31.3	12.5
Tax at normal rates	11.7	11.6	13.5	6.9
Less savings from alternative tax [8]	0	0	0	0
Less savings from maximum tax [8]	0	0	0	.2
Less savings from income averaging	2.5	1.6	4.7	0
Tax before credits	9.2	10.0	8.8	6.7
Less foreign tax credits	3.1	2.3	3.1	6.4
Less investment credit	6.1	7.8	5.7	.4
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	0	0	0	0
Plus minimum tax on preferences	0	0	0	0
Tax after credits	0	0	0	0
Deduction equivalent of credits [9]	26.7	33.0	23.0	12.2
Memo:				
Employee business expense adjustment	.6	1.0	0	.6
Plus all other adjustments	0	0	0	0
Adjustments to gross income—Total	.6	1.0	0	.6
Number of returns represented in the tabulation	2,523	1,784	648	91
Number of returns in the sample	144	34	49	61

TABLE IIC3.—INCOME, DEDUCTIONS, AND CREDITS AS PERCENTAGES OF EXPANDED INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: NEARLY NON-TAXABLE RETURNS

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200,000 and over
Expanded income	100.0	100.0	100.0	100.0
Plus Investment: Interest<income [1]	14.2	19.1	10.2	14.0
Less Preferences (total) [2]	62.1	59.4	64.2	62.3
Excluded It. capital gains	52.5	49.1	52.9	53.7
Depletion [3]	5.6	2.8	10.1	4.9
3 acc. depreciation preferences [4]	6.5	6.0	6.6	6.7
Stock options	1.5	6.4	.2	.1
All other references [5]	0	0	0	.1
Adjusted gross income	52.1	59.7	46.0	51.7
Plus Deficits	2.8	1.9	3.1	3.0
A.G.I. of returns with A.G.I.> 0	54.9	61.6	49.2	54.7
Less exemptions	1.5	3.6	1.9	.5
Less standard deductions	.1	.4	.1	0
Less itemized deductions	40.7	49.2	41.8	37.0
Charitable (total)	7.3	7.7	6.5	7.4
Charitable—Noncash	1.7	.9	.2	2.7
Interest—Total	16.7	23.0	13.9	15.3
Interest—Mortgage	1.3	3.8	1.1	.4
Investment: Interest<income [6]	13.9	19.0	9.6	13.6
Investment: Interest>income [7]	1.5	.2	3.2	1.3
Medical	.9	1.5	2.1	.3
Casualty loss	.8	2.2	.5	.4
Tax expense	8.6	9.0	11.2	7.3
State and local income taxes	3.3	3.9	7.0	1.4
Real estate tax	4.5	4.0	3.2	5.3
All other tax expense	.8	1.1	.9	.6
Miscellaneous deductions	6.6	5.9	7.8	6.5
Plus Excess, if any, of exem. ded>AGI	5.1	6.6	5.8	4.3
Taxable income	14.9	13.1	8.0	18.5
Tax at normal rates	8.1	4.8	2.3	11.9
Less savings from alternative tax [8]	0	0	0	0
Less savings from maximum tax [8]	0	0	0	0
Less Savings from income averaging	.1	0	.2	.1
Tax before credits	8.0	4.7	2.1	11.7
Less foreign tax credits	6.5	3.8	1.0	9.9
Less investment credit	.8	.5	.8	.9
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	.7	.4	.3	1.0
Plus minimum tax on preferences	4.5	2.1	4.2	5.6
Tax after credits	5.2	2.4	4.5	6.6
Deduction equivalent of credits [9]	12.4	10.6	5.5	15.9
Memo:				
Employee business expense adjustment	.4	.9	.5	.2
Plus all other adjustments	0	.2	0	0
Adjustments to gross income—Total	.4	1.1	.5	.2
Number of returns represented in the tabulation	6,953	3,719	2,091	1,142
Number of returns in the sample	319	45	49	225

TABLE IIC4.—INCOME, DEDUCTIONS, AND CREDITS AS PERCENTAGES OF EXPANDED INCOME FOR HIGH INCOME RETURNS CLASSIFIED BY EXPANDED INCOME, 1973: ALL OTHER TAXABLE RETURNS

	Expanded income			
	$50,000 and over	$50,000–$100,000	$100,000–$200,000	$200 000 and over
Expanded income	100.0	100.0	100.0	100.0
Plus investment: interest<income [1]	1.9	1.6	2.1	2.3
Less preferences (total) [2]	12.0	6.7	12.1	27.1
Excluded It. capital gains	10.9	6.3	10.7	24.5
Depletion [3]	.3	.0	.4	1.0
3 acc. depreciation preferences [4]	.3	.1	.5	.7
Stock options	.4	.2	.5	.9
All other preferences [5]	0	0	0	0
Adjusted gross income	89.9	95.0	90.0	75.3
Plus deficits	0	0	0	0
AGI of returns with AGI >0	89.9	95.0	90.0	75.3
Less exemptions	3.1	4.4	2.1	.6
Less standard deductions	.2	.2	.1	0
Less itemized deductions	15.7	15.4	16.1	15.9
Charitable (total)	3.6	2.7	3.8	6.0
Charitable—Noncash	1.0	.4	1.0	2.9
Interest—Total	3.5	3.7	3.5	2.8
Interest—Mortgage	1.1	1.4	.8	.3
Investment: Interest <income [6]	1.9	1.6	2.1	2.3
Investment: Interest >income [7]	.5	.7	.6	.2
Medical	.5	.6	.6	.2
Casualty loss	.1	.1	.1	.1
Tax expense	6.4	6.7	6.5	5.2
State and local income taxes	1.6	1.8	1.5	.9
Real estate tax	3.9	3.9	4.2	3.9
All other tax expense	.9	1.1	.8	.5
Miscellaneous deductions	1.6	1.6	1.7	1.6
Plus excess, if any, of exem. ded >AGI	0	0	0	0
Taxable income	71.0	75.0	71.7	58.7
Tax at normal rates	29.4	26.3	32.7	34.7
Less savings from alternative tax [8]	.1	.0	.3	.3
Less savings from maximum tax [8]	.5	.1	.8	1.2
Less savings from income averaging	1.1	1.1	1.2	1.3
Tax before credits	27.7	25.2	30.5	32.1
Less foreign tax credits	.1	.1	.1	.2
Less investment credit	.3	.3	.3	.2
Less all other credits	0	0	0	0
Plus excess of credits over tax	0	0	0	0
Tax other than minimum tax	27.3	24.7	30.0	31.6
Plus maximum tax on preferences	.2	.0	.1	.7
Tax after credits	27.5	24.8	30.1	32.3
Deduction equivalent of credits [9]	.9	.9	.9	.7
Memo:				
Employee business expense adjustment	.4	.6	.3	.2
Plus all other adjustments	.3	.5	.2	0
Adjustments to gross income—total	.8	1.1	.5	.2
Number of returns represented in the tabulation	788,919	631,143	123,370	34,407
Number of returns in the sample	8,924	3,852	1,899	3,173

FOOTNOTES FOR TABLES IN APPENDIX I

[1] Investment interest not in excess of investment income. Investment interest is defined as total interest paid less mortgage interest. Investment income consists of dividends (net of the $100 exclusion), interest, and realized capital gains (including the excluded portion of long-term capital gains).

[2] Detailed preferences may not add to the total because the "no benefit" rule only affects the total.

[3] The amount of percentage depletion in excess of the adjusted basis of the property.

[4] The excess of accelerated over straight-line depreciation on low income rental housing, on other real property, and on personal property subject to a net lease.

[5] Rapid amortization deductions in excess of otherwise allowable depreciation for certified pollution control facilities, railroad rolling stock, and on-the-job training and child care facilities.

[6] Investment interest not in excess of investment income. Investment interest is defined as total interest paid less mortgage interest. Investment income consists of dividends (net of the $100 exclusion), interest, and realized capital gains after deducting the excluded portion of long-term capital gains. This definition differs from the definition in footnote 2 because the excluded portion of long-term capital gains is excluded from AGI whereas it is included in Expanded Income.

[7] Investment interest in excess of investment income. Investment interest (as defined in footnote 6) in excess of the amount allowed as "Investment Interest Not in Excess of Investment Income."

[8] Savings from the Alternative Tax or the Maximum Tax on Earned Income are included on the appropriate line even if the taxpayer foregoes them in order to calculate his tax liability under the income averaging procedure.

[9] The deduction equivalent of tax credits is calculated in order to allow the relative importance of deductions and credits to be compared. The deduction equivalent is defined as the difference between the taxable income which would yield Tax Before Credits and the taxable income which would yield tax Other Than Minimum Tax.

Mr. KENNEDY. Mr. President, I know that the Senator from Minnesota is very much aware of the history and the development of the minimum tax, really as a result of the shocking announcement that Joe Barr made in the latter part of the 1960's, that there were scores of Americans who were not paying any tax at all, basically escaping tax through very careful selection of tax preferences. I am sure the Senator remembers that this issue was explored within the Finance Committee.

The minimum tax began in the 1969 act. Then, over the objections of myself and a few other Senators, we had the adoption of the Miller amendments, which permitted the deductions for taxes paid, which in effect completely undermined the minimum tax.

The proposal which we will hopefully have a chance to act upon today puts this issue right back before the Senate, some 7 years later, but nonetheless the reasons for it are as justified, if not more justified on the basis of the revenues and the various tax disclosures since 1969.

As I understand it, one of the essential differences between the Finance Committee proposal and this proposal is the elimination of the deduction for taxes paid. I wonder how the Senator from Minnesota would respond to the argument, which I am sure will be made, "Well, we are really not so much interested in reaching some Americans, even though they have substantial untaxed incomes, so long as they are paying a little tax, as we are to reach those Americans with substantial incomes who pay no tax at all."

I think the Senator touched on that when he referred to the "executive suite loophole" and how it works. But does not the Senator agree with me that permitting a person's salary to be a deductible item in computing the income on tax preferences, is really creating a sieve out of the minimum tax, How does the Senator respond to that situation?

Mr. MONDALE. I agree completely with the Senator. The Senator will recall the history.

Where did the idea of a minimum tax come from? It came from the disclosure that we had many, many very wealthy Americans who were paying no tax at all. Of course, the American people could not, nor should they, tolerate that. So the first answer was, "Let us amend the underlying law to prevent these loopholes."

They said, "Oh, no, we cannot do that; but as a compromise, let us have a tax that is much below what you would pay if you did not have a loophole, but you would pay something"—a compromise providing that we would at least pick up a little bit.

The Finance Committee reported out that bill without a deduction for regular taxes. But when they got out on the floor, the Senator from Iowa (Mr. MILLER) said, "Let us let them deduct taxes paid on other taxable income."

That proposal was adopted, and instead of an effective 10-percent rate, we dropped down to a nominal, largely useless, 4 percent rate.

In 1974—and I think the Senator from Massachusetts led that fight—an amendment was adopted here on the Senate floor repealing the deductions of taxes paid, and a similar amendment has been adopted in the House. But the two bills have never got together, so that even though the House and the Senate have voted to repeal that deduction which nullified the minimum tax, it is still in the law.

Mr. KENNEDY. Mr. President, on that point, the Senator will recall that the chairman of the Finance Committee made the motion to recommit the bill after we had made that change in the law, which is included in the amendment at the present time. He had to recommit his own bill to avoid this reform in the minimum tax.

Mr. MONDALE. To give the Senator an example of how the law would work, under the Finance Committee's bill, take a businessman who is drawing down a salary of $120,000 a year—I think most Americans would like to draw down such salaries, but they do not—and who also receives tax preference income of $45,000. He files a joint return and claims exemptions and deductions of $20,000.

His regular tax liability on his earned income is $45,090. What additional minimum tax liability does he have under the Finance Committee's proposal?

He will pay no tax on preference income of $45,000. The coalition bill would tax him $5,250, the 15 percent rate, because we do not allow the deduction of the regular tax.

Mr. NELSON. Mr. President, will the Senator yield for a question there? I am missing something.

The PRESIDING OFFICER. Will the Senator from Wisconsin use his microphone?

Mr. NELSON. There is something I am missing in this example. If the executive's salary is $120,000, and then he has a preference income in addition of $45,000——

Mr. MONDALE. That is right.

Mr. NELSON. That is $165,000?

Mr. MONDALE. The total money he receives in a year would be $165,000, which is a pretty good income, in my opinion: $120,000 would be a check from his corporation or his business; $45,000 would be this preference income, which is not taxed.

Under the Finance Committee bill, he would pay no tax on this preference income.

Mr. KENNEDY. That is right. The Senator will understand that, under existing law, if you pay $100,000 in taxes, and then you have another $100,000 in preference income, you pay no minimum tax, because the deduction for taxes paid completely offsets the preference income. That does not even include the $30,000 exemption for preference income, so you could actually have $130,000 in preference income and pay no minimum tax.

Mr. NELSON. That is under the present law?

Mr. KENNEDY. That is the present law. But under the Finance Committee bill, the exemption is dropped to $5,000. The rate is raised to 15 percent, and a few new preference items are added. But it does not apply to corporations, and it does not go far enough on individuals, because it keeps the deduction for taxes paid.

Mr. NELSON. Let me ask another question. Then from this example, is the proper conclusion that on a salary of $120,000 preference income of $45,000, total $165,000, the tax liability under current law is $45,000?

Mr. MONDALE. That is right. In other words, he pays nothing on the $45,000 of tax preference income.

Mr. NELSON. And you calculate that to be a tax rate of 27 percent?

Mr. MONDALE. That is correct.

Mr. NELSON. If this was straight salary—I do not have the chart before me—at what level does the wage earner or anyone else reach the 27 percent bracket?

Mr. MONDALE. We will have that figure in a minute. And while we look for it, I would like to give another example of how this bill works.

We just talked about the wealthy business executive who makes $45,000 on the side. If you were an employee in a papermill earning $15,000 a year your tax bracket would be about 27 percent.

Mr. NELSON. So on this example an individual with $165,000 income, $45,000

of which is preference income, $120,000 of which is salary, is paying a maximum rate of tax of 27 percent, which is the same rate of taxes as a worker in a steel mill pays.

Mr. MONDALE. Yes, with a salary of $15,000 a year.

Mr. NELSON. Or a truck driver receiving $15,000 a year.

Mr. MONDALE. That is correct.

I shall give one further example.

We have given the example of how the bill of the Committee on Finance works on a big hitter.

Let us take a 60-year-old widow who receives a pension of $6,000 a year. She sells her home for a $20,000 capital gain and goes to live in a rental apartment. That is standard, I think, in those years, that one sells her house and moves into an apartment as she reaches retirement.

She files a single individual tax return and claims her personal exemption and the $2,400 standard deduction under the law. Her regular tax liability is $2,800.

How do the two bills differ? The Finance Committee's bill would charge that widow $750 taxes, and the coalition amendment would charge nothing, because we have raised the exemption up to $10,000 for modest earnings and tried to make this minimum tax a progressive one.

Mr. KENNEDY. One of the features of this proposal, which I know is of great interest and concern, is its application to corporations.

Mr. MONDALE. That is correct.

Mr. KENNEDY. Under the bill of the Committee on Finance, as I understand it, they still permit the deductions for taxes paid. We are changing that to eliminate the taxes paid deduction and apply the charges to corporations.

Unless we move in the corporate area, we are going to be inviting hundreds or thousands of wealthy people to incorporate in order to receive more favorable tax treatment for their tax preference income. We will leave it open to abuse unless we move into that area.

I would be interested in what the views of the Senator are on the justification for extending the same line of reasoning and rationale that we use on individuals to corporations.

Mr. MONDALE. I can see the Senator understands the dichotomy in the Finance Committee bill.

We raised the rate on the individual minimum tax 15 percent, and we left the corporations untouched. So there would still be a 10-percent minimum tax rate less taxes paid, and that minimum corporate rate picks up practically no revenue at all. I think the effective rate is about 4 percent.

Let us look at the environment, as one might put it, of that decision. First of all, corporate profits are soaring. They have gone up 50 percent in less than a year. There is a profit explosion going on in America today, but at the same time consumer spending is stagnant; and we have higher unemployment. We have a recession in the housing industry. Retail sales were actually off and, despite the fact that there is evidence that consumer demand is beginning to stagnate, corporate profits, and thus the availability of capital, are soaring.

This bill will, over the next 5 years, reduce taxes on corporations by $5.5 billion and increase taxes on individuals by a like amount.

We do some "nice" things in here. For example, we have to look carefully.

I shall talk about this because a lot of people do not know about it. But if this bill passes, a lot of people are going to write and say: "How come I can't deduct my gas taxes anymore?"

Mr. KENNEDY. That is right.

Mr. MONDALE. And some may not know it is in this bill, because we have to look under a title called "Tax Simplification." And when people write and say, "How come my tax bill is up," you say, "Tax simplification," when responding to them. We used to call it tax increase, but it is called simplification here.

We have picked up $300 million from the average worker going to work and transferred almost the same amount to the rich-income people in the form of a maximum tax.

Mr. HASKELL. Mr. President, I wonder if the Senator will yield merely to emphasize something.

Mr. MONDALE. I am glad to yield.

Mr. HASKELL. Does the Senator from Massachusetts wish to proceed first?

Mr. KENNEDY. I have simply a final point on this. Even with these figures, the percentage of taxes that is being collected from corporations has declined by about a third over recent years. Up to 3 to 4 years ago it was 22 percent of all the Federal revenues that were actually collected. Now it is down to about 14 percent. So actually the moneys that are being collected, in spite of these extraordinary kinds of profits, are just not getting into the Federal Treasury. Again, who ends up paying that? It is the individuals and the working people of this country.

We, with this particular amendment, are trying to reach these loopholes.

Mr. MONDALE. The Senator is correct in that, and I shall print a table in the RECORD shortly. It sets for the nature of the revenues raised and percentage of revenue raised, from corporations through the minimum income tax. It does not amount to much.

What we wish to do is make a minimum tax at least work the way it was intended to work when it was originally passed out of the Committee on Finance.

Mr. President, I yield to the Senator from Colorado.

Mr. HASKELL. I thank the Senator from Minnesota.

I think the point has been made, but I think it is so important that I wish to go over it again.

The Senator from Minnesota pointed out that this was a minimum tax. It is my understanding all this tax seeks to do is to tax income that is otherwise not taxed. Am I accurate in that?

Mr. MONDALE. The Senator is correct.

Mr. HASKELL. And all this does is impose a tax of 15 percent, which is only 1 percentage point higher than the lowest wage earner pays; is that correct?

Mr. MONDALE. That is correct.

Mr. HASKELL. Then the very important thing is the bill of the Committee on Finance really avoids the minimum tax because it says one can get an exemption for taxes paid on other income, completely separate income, and in that way he can avoid any tax on the income that is preference income. All the Senator and others who have cosponsored this bill wish to do is to be sure the minimum tax is imposed on income which completely escapes taxation. Am I correct in that?

Mr. MONDALE. That is correct.

I will print in the RECORD the list of the 13 so-called tax preference income categories to show what that means.

For example, take bad debt reserve. The tax laws permit a lending institution to deduct from their income, in arriving at their taxes, a bad debt amount which is arbitrary and far in excess of what they actually lost through bad debts.

Mr. HASKELL. They might have a loss historically for a bad debt.

Mr. MONDALE. It has no relation to it.

Mr. HASKELL. That is right.

Mr. MONDALE. And it is a preference by which substantial amounts of income from these lending institutions escape the tax net entirely. It is a fiction. They did not lose the money. But the theory permits them to say they lost it when they put in on the tax returns and therefore avoid taxes.

The same thing occurs on capital gains. An individual taxpayer in arriving at the tax on capital gains is able to take half of the gain and disregard it. That half is money that was never subjected to the income taxes as provided by the law.

It is those sorts of items, and there are 13 other items like this, items like, for example, percentage depletion.

The average oil well, I am told, under the old law, might be depleted 19 times—under the tax law. You cannot pump 19 times more oil out of a well than is in a well. You can only pump it once; and when it is dry, it is no more. But for tax purposes, you could pump it up to 19 times.

Mr. HASKELL. In the example the Senator is giving on the oil well, a taxpayer can recover his cost and still take depletion.

Mr. MONDALE. That is correct.

Mr. HASKELL. So it would be comparable to a wage earner, I suppose, who had a $10,000 salary but, by some magic enactment of Congress, would pay tax on only $7,800. Will the Senator agree with that?

Mr. MONDALE. That is correct.

Mr. HASKELL. So that a wage earner would think it was awfully nice if, on the $10,000 salary, he could start with a gross income of $7,800.

Mr. MONDALE. It would be most acceptable to most people.

Mr. HASKELL. All the Senator is trying to do is to tax income that is not subject to tax or has an unusual deduction.

Mr. MONDALE. Bear in mind that the supporters of this coalition amendment, including the Senator from Colorado, did not make up this list. This list of preference income was prepared by the Senate Finance Committee and their gifted staff. The definition is income that was never subject to taxes, and therefore is preference income that escapes the tax net almost completely today.

Mr. HASKELL. Completely, really.

Mr. MONDALE. Four percent.

Mr. HASKELL. Right.

Mr. MONDALE. Which is, I would say, no more than a nominal rate.

Mr. HASKELL. I thank the Senator very much.

Mr. MONDALE. Mr. President, I ask unanimous consent to have printed in the RECORD a list of tax preference, making up preferred income.

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

TAX PREFERENCE UNDER THE COALITION'S MINIMUM TAX AMENDMENT

Unless otherwise noted, each of the following tax preferences would apply both to individuals and corporations.

1. Excess investment interest (applies only to individuals);

2. Accelerated depreciation on real property in excess of straight-line depreciation;

3. Accelerated depreciation on personal property subject to a lease (applies only to individuals);

4. 60-month amortization of certified pollution control facilities over depreciation otherwise allowable;

5. 60-month amortization of railroad rolling stock over depreciation otherwise allowable;

6. qualified or restricted stock options—the excess of the fair market value at time of exercise over the option price;

7. reserves for losses on bad debts of financial institutions—the excess of the special deduction for such institutions over the bad debt reserve deduction allowable on the basis of actual experience;

8. percentage depletion in excess of the adjusted basis of the property;

9. capital gains—for individuals one-half of net long-term capital gains, and for corporations in general, 18/48th of net long-term gains;

10. 6-month amortization of on-the-job training and child care facilities over depreciation otherwise allowable;

11. construction period interest;

12. intangible drilling expenses in excess of amount deductible had such expenses been capitalized and in excess of related income;

13. itemized deductions, other than deductible medical expenses and casualty losses, to the extent they extend 60% of adjusted gross income (applicable only to individuals)

Generally, all changes from current law with respect to individuals would apply for taxable years beginning after December 31, 1975; such changes with respect to corporations would be effective for taxable years beginning after June 30, 1966. However, in the case of "banks" (as defined in Code section 581), the minimum tax changes would not apply until taxable years beginning after December 31, 1977. In addition, in the case of government-subsidized low and moderate income housing, the construction period interest tax preference would not apply to interest accruing prior to Jan. 1, 1892; and the excess investment interest tax preference would not apply with respect to any low and moderate income housing project subject to a binding construction or financing contract by Dec. 31, 1981.

Mr. KENNEDY. We have a few examples, and I will give one which I think probably illustrates it as well as the earlier examples.

As I understand it, under the present law, if you have taxable income of $1 million, your taxes, if it is from dividend income, would be $670,000. If you have preference income of $700,000, you deduct the taxes paid, which would be $670,000, and then you take the exemption of $30,000, which means you pay zero minimum tax.

So, in effect, you have had $1.7 million in income, and have paid a tax of $670,000. That means that on $1.7 million you are paying at only the 40-percent level.

Mr. MONDALE. That is correct.

Mr. KENNEDY. Our proposal would say that if you make the same million dollars, you will pay $670,000 in regular taxes. You have $700,000 in preference income, you get the exemption of $10,000, you have $690,000 in preference left and you pay a 15-percent minimum tax, which is $103,000. When you add the $103,000 on top of the $670,000 which you would be paying on the salary or taxable dividend income, that raises the effective rate substantially, which is much more in keeping with the ability to pay.

A final point: A point is made about which corporations this hits. I understand that in the existing minimum tax, in excess of 80 percent of the money that is raised in the current minimum tax is raised from corporations of $250 million in assets or more. So as we prepare to listen to the discussion and the debate, we have to realize that 80 percent of it is coming from corporations of $250 million in assets or more.

So we are not affecting the small farmer or the small businessman.

Mr. MONDALE. The laundry worker.

Mr. KENNEDY. We will hear about that plenty in the next 2 or 3 hours.

Mr. MONDALE. We will hear a lot about the laundry worker who borrowed $250,000 from the friendly banker. [Laughter.]

Mr. President, I yield to the Senator from New Hampshire.

Mr. McINTYRE. Since I have been absent from the floor, I ask the Senator from Minnesota whether he has referred to the problem I have, as a member of the Committee on Banking, Housing and Urban Affairs, with the amendment he is about to offer.

Mr. MONDALE. I referred to it briefly, but we have not had a discussion on it as yet.

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

Mr. MONDALE. I yield to the Senator from New Hampshire, and then I will be glad to yield.

Mr. McINTYRE. Mr. President, it is my understanding that the mover of this amendment, the distinguished Senator from Minnesota recognizes and addresses a difficulty which may befall financial institutions, particularly savings and loan associations, as a result of the minimum income tax provisions contained in his amendment.

As chairman of the Subcommittee on Financial Institutions of the Banking Committee, I support that part of the amendment which defers the effective date of the minimum income tax provisions on financial institutions to taxable years beginning after December 31, 1977.

Mr. President, I have been contacted by a number of representatives in the savings and loan industry indicating their extreme concern over the manner in which this amendment would affect their reserve posture, and, as a consequence, their tax liability.

Savings and loans associations and other thrift institutions are particularly vulnerable to this amendment in light of the amounts which they are presently entitled to include in their bad debt reserves. Any change as substantial as that contained in this amendment would almost certainly result in a disproportionate impact on their tax liability in relation to that of commercial banks.

Mr. President, I have a letter from the Chairman of the Federal Home Loan Bank Board, dated June 16, in which he raises substantial questions about the impact of this amendment on S&Ls, which I ask unanimous consent to have printed in the RECORD at this point.

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

JUNE 16, 1976.

Hon. THOMAS J. McINTYRE,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR McINTYRE: The Board wishes to invite your attention to a specific provision relating to savings and loan associations in the package of amendments to H.R. 10612, the "Tax Reform Act of 1976,"[1] to be offered by Senator Kennedy and 14 other Senators on the Senate Floor. Although the specific statutory language of the proposed floor amendments has not become available for detailed analysis by the Board's staff as of the date of this letter, we believe that the provisions, as described in a June 10, 1976, news release, could substantially alter the tax liability of savings and loan associations by amending the "Minimum Tax for Tax Preferences" sections of the Internal Revenue Code of 1954 ("IRC").[2] For the reasons

[1] The Tax Reform Act of 1976 was reported by the Senate Committee on Finance on June 10, 1976; Senate Report 94-938, dated June 10, 1976.

[2] Part VI of Subchapter A of Chapter 1 of the Internal Revenue Code of 1954, sections 56-58.

set forth below, the Board requests that you not extend the proposed change in tax treatment to savings and loan associations taking a bad debt reserve deduction under section 593 of the IRC.

We understand that the proposed floor amendments relating to the minimum tax for tax preferences would change the current provisions of the IRC in four basic ways. First, the minimum tax rate would be increased from 10% to 15%, both for individuals and corporations. Second, the current $30,000 exemption would be reduced to $10,000. Third, the deduction for regular taxes paid (and the carryover thereof) would be repealed. Fourth, the proposed floor amendments would add additional tax preference items.[3] H.R. 10612, as reported by Senate Finance, would basically retain existing law for corporations.[4]

Savings and loan associations are currently subject to the imposition of a tax (in addition to ordinary corporate income taxes) under section 56 of the IRC for items of tax preference. Items of tax preference are defined in section 57 of the IRC and, in particular, subsection (a)(7) defines one such item as:

"(7) RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience."

Savings and loan associations are financial institutions to which section 593 applies. A great number, if not nearly all, savings and loan associations elect each taxable year to deduct from gross income the maximum addition to a reserve for bad debts allowable under section 593, and this amount generally exceeds the amount which would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience. Thus, the proposed floor amendments would, if enacted, substantially increase the effective tax rate for savings and loan associations and, consequently, reduce their after-tax income.

The Board considers this proposed change in tax treatment for savings and loan associations unwise at this point for a number of reasons. First, it is clear from the legislative history that Congress provided the special tax treatment under section 593 as an incentive for thrift institutions to mainain a high percentage of assets in residential mortgage loans.[5] The proposed floor amendments, which in effect increase the penalty for electing to use the optional section 593 bad debt provisions, lessen the attractiveness of the tax benefits obtainable under section 593 and thereby reduce the incentive for savings and loan associations to invest in residential mortgage loans.

Second, an increase in tax liability for savings and loan associations may be particularly harmful at this time when many institutions are undergoing rapid savings growth and experiencing severely reduced earnings. Federal insurance reserve ("FIR") and net worth requirements for institutions insured by the Federal Savings and Loan Insurance Corporation are prescribed by statute under the National Housing Act.[6] As a savings and loan association grows rapidly, its FIR and net worth requirements increase correspondingly. A decrease in after-tax income, and hence in retained earnings makes it difficult for a savings and loan association to accumulate enough net worth to sustain growth, remain in compliance with regulatory and statutory guidelines, and consequently to provide adequate funds for housing. The increase in the effective tax rate has the consequence of penalizing the more aggressive, expanding savings and loan associations. A table prepared by the Board's Office of Economic Research which gives an approximation of the aggregate tax effect on all FSLIC-insured savings and loan associations is attached herewith. These computations are based on a number of preliminary assumptions and provide only a rough estimate of the likely tax impact of the proposed charges. These computations show that total Federal tax liability would have been increased by 28% in 1974.

Third, the Board notes that the issue of taxation of savings and loan associations is being considered in the context of an overall restructuring of the nation's financial institutions. In particular, section 701 of the Senate-passed Financial Institutions Act of 1975[7] provides that the act shall become effective upon the enactment of the Uniform Tax Treatment of Financial Institutions Act.[8] This latter act would, in general, phase out, over a period of years, the tax treatment offered to savings and loan associations vis-a-vis commercial banks under section 593 and substitute in lieu thereof a generalized credit for interest received by all creditors on residential mortgage loans. Fourth, the provisions of the proposed floor amendments relating to the minimum tax for preference income would disproportionately burden the savings and loan industry as compared to the banking industry due to the more attractive tax benefits offered under section 593 than under section 585 of the IRC. Commercial banks already have a lower effective tax rate than savings and loan associations, and the proposed legislation would give commercial banks an even greater competitive advantage. Because taxation of financial institutions is such an integral part of reform of such financial institutions, the Board would urge that changes in the tax liability of financial institutions be given special consideration and considered separate from the general question of corporate income taxation.

Finally, the Board would point out that an increase in tax liability of savings and loan associations would reduce after-tax income, and, consequently have a tendency to increase rates on home mortgage loans. This result would be contrary to the policy of Congress in making, at low cost, residential credit available to the public.

In conclusion, the Board would urge that the language of the bill reported by the Committee on Finance be adopted. In the alternative, the Board would urge that an amendment to the proposed floor amendment be adopted which would remove existing subsection (a)(7) from section 57 of the IRC which defines certain losses on bad debts of financial institutions as items of tax preference.

Sincerely,

GARTH MARSTON.

Estimates of the increase in Federal tax from altering the minimum tax provisions, all FSLIC-insured S&Ls, 1974

	Total increase in Federal tax	*Increase in tax due to each incremental provision*
Change in minimum tax provision:		
(1) Remove the deduction for other Federal taxes	18%	18%
(2) Increase the minimum tax rate from 10% to 15%, +(1)	25%	7%
(3) Reduce the standard deduction from $30,000 to $10,000, +(1)+(2)	28%	3%

(NOTE.—The amounts attributable to each provision depend upon the order in which the provisions are analyzed. These estimates are based on a number of preliminary assumptions and data.)

Mr. McINTYRE. Mr. President, while Acting Chairman Marston requests that these provisions be deleted, I am satisfied that the delay in effective date is a satisfactory compromise at the present time. I say this for two reasons.

First, it is virtually impossible under the present circumstances to assess in actual numbers what would constitute fair treatment of the savings and loan industry if this amendment were to become effective immediately. Second, and perhaps most important, the present difficulty in assessing fair tax treatment of financial institutions is accentuated by the fact that the various types of institutions, particularly commercial banks and savings and loan associations, are taxed differently.

In this regard, the Senate last December 11 overwhelmingly passed a comprehensive financial restructuring bill entitled "The Financial Institutions Act of 1975."

One of the original seven titles of that bill addressed itself to this specific issue. Title VII of the Financial Institutions Act, provided that all financial institutions would be taxed alike. At the time the Financial Institutions Act was passed, this title was deleted from the bill and subsequently introduced as S. 2772 by me, along with Senator TOWER, the ranking minority member of the Banking Committee. S. 2772 has been pending before the Finance Committee since that time. The legislative history, including the floor debate on December 11, is testimony to the importance of this legislation to a number of financial restructuring proposals which are still presently pending before Congress.

In this regard, I remind the distinguished Senator from Louisiana—I do not believe I see him on the floor. If I may have the attention of the Senator from Tennessee, I am discussing now S. 2772, which was that part of the FIA bill that was taken from the bill and referred directly by Senator TOWER and myself

[3] These additional tax preferences, we understand, would have little or no effect on the taxation of savings and loan associations.

[4] Section 301 of Title III of H.R. 10612 (See provision contained therein making existing section 56 of the IRC apply exclusively to corporations).

[5] Prior to 1952, savings and loan associations were exempt from Federal income taxation.

[6] Section 403(b) of the National Housing Act, as amended 12 U.S.C. 1726(b) requires each institution insured by the FSLIC to build up reserves to 5 per centum of all insured accounts within a reasonable period, not exceeding twenty years.

[7] S. 1267, 94th Congress, 1st Session (1975).

[8] S. 2772, 94th Congress, 1st Session (1975).

to the Committee on Finance for consideration.

I wish also to have printed in the RECORD a letter from the chairman of our committee, Mr. PROXMIRE, dated February 27 of this year, to the chairman of the Committee on Finance, requesting that this legislation be expedited.

Mr. President, I ask unanimous consent to have that letter printed at this point.

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

FEBRUARY 27, 1976.

Hon. RUSSELL LONG,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR RUSSELL: As you may recall, the Senate, on December 11, passed S. 1267, the Financial Institutions Act of 1975, by a vote of 79–14. The Financial Institutions Act represents the most comprehensive restructuring of our nation's financial institutions in over 40 years.

The measure passed by the Senate is the product of over two years of concerted deliberations within the Banking Committee. Since introduction in 1973, however, the Financial Institutions Act has represented a balanced package of financial restructuring proposals which are mutually reinforcing. Of the seven titles originally contained in the bill, six were within the jurisdiction of the Banking Committee. The seventh, entitled the "Uniform Tax Treatment of Financial Institutions Act", is within the jurisdiction of the Committee on Finance.

At the same time S. 1267 was passed, Title 7 was deleted from the bill and subsequently reintroduced as S. 2772 by the floor manager of S. 1267 and Chairman of the Subcommittee on Financial Institutions, Senator McINTYRE. I, along with Senator Tower, the Ranking Minority Member, were cosponsors. S. 2772 is now before the Finance Committee.

To emphasize the "package" nature of the restructing proposal, the passage of S. 1267 was in a form which rendered its provisions "effective upon the enactment" of S. 2772. I, therefore, urgently request that you expedite the Finance Committee's consideration of S. 2772 so that the Senate may have an opportunity to pass upon it in the near future.

Companion proposals to the Financial Institutions Act are proceeding apace in the House. It appears now that 1976 provides the best opportunity for meaningful financial institutions reform in a long, long time. Therefore, your attention to this request will be greatly appreciated.

Sincerely,

WILLIAM PROXMIRE,
Chairman.

Mr. McINTYRE. I mention this not only because this legislation is important to a number of other efforts regarding financial restructuring currently underway, but because it would obviate the imbalance of tax treatment among different types of financial institutions which gives rise to the need for this modification and discussion we are having this afternoon.

Therefore, I wish to have the assurance, in the absence of the distinguished Senator from Louisiana, of the distinguished Senator from Tennessee whether, in the event this Mondale reform amendment on minimum tax passes and is adopted by the Senate, he, along with his colleagues, will defend the provision delaying the effective date of the minimum tax provisions on financial institutions. More importantly, I wish to know, whether, once this tax bill has been disposed of by the Congress—and I realize he cannot give me that assurance since he is not the chairman—the Senate Committee on Finance will address itself to this bill, S. 2772, which has now been pending before the committee these past 6 months.

Before I conclude, I yield to the distinguished Senator from Minnesota for any remarks he may wish to make.

Mr. MONDALE. The Senator from New Hampshire and I discussed this concern before the time we introduced the amendment. There is pending before the Committee on Finance and before Congress legislation which, I think, is called the Uniform Tax Treatment of Financial Institutions Act. This bill tries to take an overall look at the tax structure as it applies to financial institutions, to come up with a uniform way in which to deal with it. In light of that, we decided to defer the imposition of the minimum tax provisions to those institutions until a year after—January 1, 1978. This was in order to give these financial institutions and Congress time to develop a proposal in legislative form. I have a letter here from the U.S. League of Savings Associations which indicates, of course, that they prefer no changes at all; but they said they very much appreciate and hope Congress will fully evaluate the effects of these laws. It seems to indicate that this change is a desirable one and is helpful to the lending institutions.

Mr. McINTYRE. I thank my friend from Minnesota. Mr. President, I wish to conclude by emphasizing that the minimum income tax provisions as they relate to financial institutions is something we in the Banking Committee must carefully assess, and I am hopeful that we, in conjunction with the Finance Committee, will be in a position to respond to these concerns in ample time to meet the December 31, 1977, deadline.

Is the Senator from Minnesota positive on that 1978 date? I have here December 31, 1977; 1978 would be preferable as we as we are concerned.

Mr. MONDALE. The effective date is for taxable years beginning after December 31, 1977.

Mr. McINTYRE. That is correct. It would give us ample time to meet this December 31, 1977, deadline.

With that, I thank the distinguished Senator from Minnesota for his cooperation and that of his other colleagues who are supporting this amendment. I yield the floor to the Senator from Minnesota.

Mr. MONDALE. I thank the Senator.

Mr. NELSON. Will the Senator yield?

Mr. MONDALE. Yes, I yield.

Mr. NELSON. In the opening remarks of the Senator from Minnesota, did I understand correctly that the minimum tax proposal pending here would increase the revenues by $800 million over the Finance proposal, or by $800 million, period?

Mr. MONDALE. The Finance Committee minimum tax raises approximately $980 million. The individual minimum tax provisions in our amendment raise $1.270 million. The corporate minimum tax provisions raise an additional $500 million. So it is roughly $800 million more that would be raised by the coalition amendment than by the Finance Committee amendment. That is almost what we are going to need, plus the maximum tax changes, to fund the continuation of the individual tax cuts now found in the law.

What we are trying to do here is take a little money from those who are very, very wealthy—the big corporations, the superrich; not a lot, but a little bit—to help keep what is already on the books for individual taxpayers.

Mr. NELSON. I thank the Senator.

Mr. MONDALE. I yield the floor.

ADDITIONAL STATEMENTS SUBMITTED

Mr. BEALL. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Illinois (Mr. PERCY) relating to this matter.

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

STATEMENT BY MR. PERCY

I believe the Committee has done an effective job in re-designing the minimum tax to accomplish its intended purpose when we enacted it in 1969.

The reduction in the exclusion to $5,000 or the amount of regular taxes paid, the increase in the rate from 10 to 15% and inclusion of additional preference items will help make it the anti-tax dodge it was intended to be.

My main disappointment in the Committee provision is that it does not make its tightened minimum tax provisions applicable to corporations. Under the Committee bill, corporations will continue to be subject to the existing partially effective minimum tax provisions.

We heard testimony this morning in the Multinational Corporations Subcommittee that U.S. corporations are paying an effective tax of 44 percent worldwide and a U.S. rate of 24 precent. In part, this low tax liability is an accurate reflection of the companies' actual income, but in part it is testimony to the ineffectiveness of our tax laws in collecting those taxes that are rightfully due. During Senate action on the minimum tax provision it should be made applicable to corporations as well as to individuals.

I do not, however, favor the proposal to delete the deduction for regular federal income taxes paid in computing minimum tax liability. Our purpose in enacting the minimum tax was to assure that taxpayers not use the preferences provided in the tax law to totally evade the payment of all federal income taxes whatsoever. Allowing a deduction for taxes paid is entirely consistent with this purpose. Disallowing the deduction will not in any way make the minimum tax reach those who are paying no taxes, and would unfairly penalize those who pay large amounts of regular income tax.

STRENGTHENING THE MINIMUM TAX

Mr. HUMPHREY. Mr. President, the world is more complicated than when I

entered Government service. Who would have thought that questions of simple justice could be obscured in incomprehensible tax tables? It is our job to cut through the confusion and get to the nub of the matter as we consider the Tax Reform Act of 1976.

I am appalled that today, more than 6 years after our last tax reform efforts, more wealthy people are successfully sheltering their incomes and becoming nontaxpayers. In 1974, Mr. President, about 57 percent more individuals with incomes over $200,000 paid no taxes than in 1969. And that is too many.

We tried in 1969, but our effort has proved poor, indeed. That year, Congress adopted a "minimum tax" on preference income resulting from accelerated appreciation and amortization of nine categories of investment. But the plug itself had holes, and now we must try again with a little more experience and wisdom.

Therefore, I joined with 12 colleagues in support of bolstering the minimum tax provisions beyond either the House bill or the Senate Finance Committee bill. Our collective position is backed by the AFL-CIO, the UAW, Common Cause and Public Citizen, as well as 17 well-known economists.

What is the situation today? Let us say an executive who earns $183,000 "invests"—I use the term loosely—$83,000 of that money in a Kiwi farm. Because Kiwi farming is accounted on a strict cash basis, his new "capital" is instantly depreciated—and tax deductible. Now he will pay $53,000 tax on the remaining $100,000 of income if he is single. Because the law allows him to exempt $30,000 plus the amount of regular tax he pays, his whole "investment" is exempted from the minimum tax, which has a nominal rate of 10 percent. Because of this defect in the law, the average tax rate on preference income has been only 4.4 percent.

Now that is not fair and you do not have to be a certified public accountant with a masters degree in philosophy to understand why. The proposal I support would raise the effective rate to between 8 and 12 percent.

Additionally, the current law does not encompass corporations which use tax shelters. Neither the House bill nor the Senate Finance Committee bill would extend application to companies. I believe, if corporations are truly "people" as the Supreme Court has said, they should not have tax advantages above those available to people.

The Finance Committee bill would raise the minimum tax rate to 15 percent. I support that because it at least pushes the rate above the 14-percent rate paid on income by the poorest wage earners. The bill, however, would lower the exemption to $5,000, a measure I do not support because it would adversely affect a large number of middle-income taxpayers. The $1 billion of anticipated new revenue this year under the Finance Committee approach would come in average payments of only $2,000 per taxpayer. I would support a somewhat higher level and exempt preference income of up to $10,000. That would encourage the truly small family farmer to continue purchasing productive tools throughout the recovery without rewarding the executives, doctors, lawyers, and other high-income earners who wish to avoid paying their fair share.

The Ways and Means Committee bill was more to my taste, but it also had problems. For one thing, it was needlessly complicated with the $20,000 preference income exemption it contemplated being phased out at the $40,000 level. For another, it would not expand the definition of preference income as would the Finance Committee bill to other important tax shelters not brought under the minimum tax in 1969, such as certain intangible drilling costs.

I agree with the House that the exemption of preference income equal to regular taxes paid on other income should be eliminated. The theory was that this would direct the minimum tax to those who were escaping all taxation, but the effect has been to further benefit those who choose tax shelters.

If my proposals are incorporated in the tax code, revenue will be increased by about $1.8 billion, compared to $1 billion in either of the other bills. The main thrust is not to raise money, however; the main thrust, Mr. President, is to treat people justly.

EFFECT OF MONDALE MINIMUM TAX ON INDEPENDENT OIL PRODUCERS

Mr. DOLE. Mr. President, the amendment of the Senator from Minnesota would change the present minimum tax insofar as it affects individuals, trusts and estates, by first, increasing the 10-percent minimum tax rate to 15 percent; second, reducing the $30,000 exemption to $10,000; and third, eliminating the deduction for normal tax liability or tax carryovers from previous years.

The effect of these changes would be to alter insofar as noncorporate taxpayers are concerned, the concept of the minimum tax as an additional tax on taxpayers who do not pay sufficent normal income tax in relation to the total amount of their tax preferences. Instead the minimum tax would become a straight 15 percent tax on preferences, except to the extent the $10,000 exemption is available, without regard to the amount of normal taxes paid.

INTANGIBLE DRILLING EXPENSES ADDED AS PREFERENCE

The changes in the minimum tax proposed by the Senator from Minnesota will affect greatly the operations of our domestic independent oil and gas producers by adding the deduction for intangible drilling expenses on productive wells to the list of tax preferences. The amount of the preference would be equal to the amount of the intangible drilling expense deduction, reduced by the amount which would have been allowed if the intangible expenses had been capitalized and recovered over a 10-year period, or at the election of the taxpayer, reduced by the amount which would have been allowable if the intangibles had been capitalized and recovered through normal cost depletion.

The further inclusion of intangible drilling expenses in the minimum tax base can only serve to further discourage exploration by domestic oil producers. Moreover, there is already a "separate minimum tax" of sorts on independent oil producers.

In 1975, we imposed a ceiling on the percentage depletion deduction of independent producers equal to 65 percent of taxable income. This new 65-percent limit in the law is, in effect, a separate minimum tax on this one preference—percentage depletion—since it requires every taxpayer who has percentage depletion to pay a minimum amount of Federal income tax. For many active independent producers this 65-percent limit has a greater tax impact than the regular minimum tax on tax preference items.

The proposed changes in the minimum tax proposed by the Senator from Minnesota would have a devastating effect on independent producers since percentage depletion continues to be subject to both the 15-percent minimum tax and the new 65-percent limit on the percentage depletion deduction.

CONCLUSION

I do not think that now is an appropriate time to increase the tax burden on independent oil and gas producers. This segment of the industry has suffered a very significant increase in tax burden as a result of the tax legislation we passed in 1975. These independents are for the most part subject to price controls and, therefore, cannot offset diminution of tax incentives by increasing the price of their product. Independent producers play a major role in the discovery of new oil and natural gas deposits in the United States and the viability of this industry should not be curtailed by further eroding their exploration capital base through major changes in the minimum tax base.

UP AMENDMENT NO. 94

Mr. BROCK. Mr. President, I call up my amendment in the nature of a substitute and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read unprinted amendment No. 94.

Mr. BROCK. 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 by Mr. BROCK and Mr. DOMENICI is as follows:

In lieu of the language proposed to be inserted by the Senator from Minnesota:

SEC. 101. MINIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Part VI of subchapter A of chapter (relating to minimum tax for tax preferences) is amended by inserting immediately before section 56 the following new section:

"SEC. 55. MINIMUM TAX FOR INDIVIDUALS.

"(a) IMPOSITION OF TAX.—In the case of a taxpayer other than a corporation which is

not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), in lieu of the tax imposed by sections 1 and 511, there is hereby imposed a tax (if such tax is greater than the tax imposed by such sections) equal to the tax which would be imposed by sections 1 and 511 if the taxpayer's taxable income were an amount equal to his minimum taxable income.

"(b) EXPANDED INCOME; MINIMUM TAXABLE INCOME.—For purposes of this section—

"(1) EXPANDED INCOME.—The term 'expanded income' means the sum of—

"(A) the taxable income for the taxable year,

"(B) the charitable contribution adjustment, plus

"(C) an amount equal to the items of tax preference.

"(2) MINIMUM TAXABLE INCOME.—The term 'minimum taxable income' means—

"(A) 60 percent of the excess of expanded income over the exemption, if any, provided by subsection (c), reduced by—

"(B) the charitable contribution adjustment.

"(c) EXEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and in section 58(a), the exemption provided by this subsection is $7,500.

"(2) REDUCTION WHERE EXPANDED INCOME EXCEEDS $20,000.—The $7,500 figure set forth in paragraph (1) shall be reduced by one-half of the excess of the taxpayer's expanded income (determined without regard to the charitable adjustment) for the taxable year over $20,000.

"(d) CARRYOVER OF DEFERRAL PREFERENCES.—

"(1) IN GENERAL.—In a year in which a taxpayer is liable for the minimum tax such taxpayer shall be allowed a carryforward for an amount of deferral tax preferences (as defined in paragraph (3)) for such year equal to the smaller of—

"(A) the excess of minimum taxable income over the taxable income for such year, or

"(B) the amount of deferral preferences for such taxable year.

"(2) ALLOWANCE OF DEDUCTION.—Deferral preferences allowed as carryforwards under paragraph (1) shall be allowed as a deduction for purposes of computing the tax imposed by sections 1 and 511 in the first succeeding taxable year to the extent that—

"(A) the amount of taxable income for the taxable year exceeds

"(B) the amount of minimum taxable income for such year.

"(3) DEFERRAL PREFERENCES DEFINED.—The term deferral preferences' means the following items of tax preference:

"(A) excess investment interest,

"(B) accelerated depreciation on real property,

"(C) accelerated depreciation on property subject to a lease,

"(D) amortization of railroad rolling stock,

"(E) excess itemized deductions,

"(F) construction period interest,

"(G) Capital Gains,

"(H) depletion, and

"(I) intangible drilling costs.

"(e) NET OPERATING LOSS RULES.—If for any taxable year a taxpayer has no taxable income or has a net operating loss (as defined in section 172(c)) or a net operating loss deduction under section 172(a), the taxpayer's expanded income and minimum taxable income shall be computed in the manner as the Secretary shall by regulations provide.

"(f) CHARITABLE CONTRIBUTION ADJUSTMENT.—The term 'charitable contribution adjustment' means the amount of the deduction allowed under section 170 for the taxable year."

(b) AMENDMENTS OF SECTION 56.—Section 56 (relating to the imposition of the minimum tax) is amended—

(1) by striking out "person" in subsections (a) and (b)(1) and inserting in lieu thereof "corporation which is not an elective small corporation (as defined in section 1371 (b)) or a personal holding company (as defined in section 542)",

(2) by striking out clauses (ii) and (v) of subsection (a)(2)(A),

(3) by redesignating clauses (iii) and (iv) of subsection (a)(2)(A) as clauses (ii) and (iii) and by striking out ", and" at the end of clause (iii) (as so redesignated) and inserting in lieu thereof "; and",

(4) by striking out subparagraphs (B) and (E) of subsection (c)(1),

(5) by redesignating subparagraph (C) of subsection (c)(1) as subparagraph (B) and inserting "and" at the end thereof, and

(6) by redesignating subparagraph (D) of subsection (c)(1) as subparagraph (C), and by striking out "and" at the end of such subparagraph and inserting in lieu thereof "exceed".

(c) AMENDMENTS OF SECTION 57.—Section 57 (relating to items of tax preference) is amended—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter after paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, construction, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COSTS.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas well (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), (4), (11), (12), and (13) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraphs (4) and (10) shall not apply to taxpayers other than such corporations. Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C).".

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction for charitable contributions provided by section 170,

"(5) the deduction provided by section 213,

"(6) the deduction for casualty losses described in section 165(c)(3), and

"(7) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(e), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income.".

(3) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (12) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight

line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12).".

(4) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1, 1976, and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term "'investment interest expense" does not include 50 percent of any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C).

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'investment expense' shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a)."

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended—

(1) by amending subsection (a) to read as follows:

"(a) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual who files a separate return for the taxable year, section 55(c) shall be applied by substituting $3,750 for $7,500 each place it appears.",

(2) by striking out paragraph 2 of subsection (c) to read as follows:

"(1) EXEMPTION FOR TRUSTS.—Section 55(c) shall be applied by substituting for $7,500 each place it appears the amount which bears the same ratio to $7,500 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.

"(2) CHARACTER OF AMOUNTS.—In applying the second sentence of section 652(b) and the second sentence of section 662(b) for purposes of this part, the allocation of items of deduction shall be made under regulations prescribed by the Secretary which shall contain such rules as may be necessary to carry out the purposes of this part.

"(3) DISTRIBUTION DEDUCTION.—Under regulations prescribed by the Secretary, the minimum taxable income of an estate or trust shall be reduced by the deduction allowed to such estate or trust under section 651 or 661.".

(e) TAXES TAKEN INTO ACCOUNT IN CASE OF ACCUMULATION DISTRIBUTIONS BY TRUSTS.—Section 666(b) (relating to total taxes deemed distributed) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and subsection (c), if the taxes imposed on the trust for any taxable year are imposed by section 55 (relating to minimum tax on individuals), the taxes deemed imposed on the trust for such taxable year shall be the taxes which would have been imposed on the trust for such taxable year by section 1 if this title did not contain section 55."

(f) MODIFICATION OF NET OPERATING LOSS IN CASE OF INDIVIDUALS SUBJECT TO MINIMUM TAX.—Section 172(d)(4) is amended by adding at the end thereof the following new sentence: "If a tax under section 55 is imposed on the taxpayer, the deductions allowable under this paragraph shall not exceed the amount of any such deductions which are allowable under section 62 plus the amount of the taxpayer's investment expenses (but not in excess of investment income).

(g) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 5(a) (relating to cross references relating to tax on individuals) is amended to read as follows:

"(5) For minimum tax for individuals, see section 55.".

(2) Paragraph (3) of section 46(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(3) Paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(4) Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "the $30,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58," and inserting in lieu thereof "the $5,000 amount specified in section 55 (relating to minimum tax for individuals), modified as provided by section 58, or the $30,000 amount specified in section 56 (relating to minimum tax for corporation.)".

(5) Subsection (d) of section 511 (relating to tax preferences) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(6) Subsection (a) of section 901 (relating to allowance of credit of taxes of foreign countries and of possessions of the United States) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credits against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(9) Section 6362(b)(2)(A) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55".

(h) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 55. Minimum tax for individuals.
"Sec. 56. Minimum tax for corporations."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975.

Mr. BROCK. Mr. President, this is the same amendment which I had printed several days ago, for the information of my colleagues, with a technical amendment on page 4, that relates to preference items. We just had eliminated a couple that we have added back in. I offer it now in what is, perhaps, a fond and wishful hope that all of the rhetoric which has been uttered against those who get away without paying any taxes could have had its effect and we can really get down to dealing with the basic problem of what to do about a situation with which we all find some disagreement.

Mr. LONG. Will the Senator yield to me at that point?

Mr. BROCK. Yes, I do.

Mr. LONG. I just want to give this example, because it is one of the many injustices that exist already and that the Mondale amendment would make a lot worse. I think that we ought to put it up there so everybody can look at it, because this is the kind of thing that should not happen to a dog. I do not think that fair-minded people will like this.

Between 80 and 90 percent of the collections from the minimum tax are coming out of capital gains. The Senator knows that. That is how it stands today This minimum tax is patterned after the existing minimum tax. Therefore, most of it would be expected to come from capital gains in the future. Let us take this situation. I would like the sponsors of the amendment to hear this, because I do not think they can defend it.

Let us assume that a man, in 1955, buys a piece of property, which he is unable to develop, for $200,000. He manages to keep the interest payments up. Then he sells that piece of property, let us say this year, for $400,000. In tax terms, he made $200,000 profit. But in real terms and especially in terms of constant dollars, in terms of real value, he lost money, because $400,000 today is not worth as much as $200,000 was in 1955. So, in real terms, he has lost money already. In real terms and in terms of constant dollars, it is a loss transaction. But in tax terms, he made a capital gain of $200,000.

Now, add that to the tax on his $100,000 of earned income and that man then owes $123,000 in taxes—to be exact, $123,090 in taxes on what, in real terms, is $100,000 of income. So on $100,000 of real income, he owes the Government $123,000 in taxes.

The amendment of the Committee on Finance recognizes the fact that in real terms, he did not make any money. All the money he would have made was this $100,000 of ordinary income. It takes into account the taxes already paid on the capital gains and the fact that, in real terms, he is behind, even before taxes, and further behind after taxes, and it does not levy a minimum tax on him.

But the Mondale amendment then proceeds to levy a 15-percent tax on top of that. So that makes it then that a man who, in real terms, has made $100,000 of income the next year would pay a tax of $136,590.

Now, as a practical matter, may I say to the Senator, would that not really mean that a man just could not sell his property?

Mr. BROCK. It would make it very difficult for a realistic businessman. What it would really mean, if he were going to make an investment in the first place, he would rather get something with an income than an appreciation potential, so he would not face the situation then where he would pay in 20 years, and we would have less investment.

Mr. LONG. Does the Senator think it is fair where in real terms a man has made $100,000 to charge a man $136,000 on that income in real terms?

Mr. BROCK. I think the Senator's point is well taken, except for the fact that we now place a penalty on capital accumulation by taxing it at the current rate. So I am not so sure this is any less fair. It is just a matter of degree. But I do understand what the Senator is saying.

Mr. LONG. Let us be fair about it. Did the Senator vote in committee the way I voted to say in the future we ought to start looking at this inflationary problem?

Mr. BROCK. Yes.

Mr. LONG. And that we ought to gear this tax on capital gains to take inflation into account?

Mr. BROCK. Yes.

Mr. LONG. So that everybody recognizes it, and although it might not appeal to some, we begin to look at it and see that we are not going to penalize a taxpayer, victimize him and crucify him because the Government failed to maintain the purchasing power of his money for him.

Mr. BROCK. That is right.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. LONG. I do not have the floor.

Mr. KENNEDY. Just on that point.

Mr. BROCK. May I just say to my colleagues I will yield to my colleagues, but I have not had a chance to explain my amendment, and I would like to do that before we go any further.

Mr. KENNEDY. Will the Senator yield, Mr. President, on this point?

I wonder why the Senator from Louisiana is worrying about this fellow who made an investment and is being taxed on capital gains. There are millions of Americans who have put their money into savings banks and who have this same problem of inflation.

To follow what the Senator is saying, he is saying let us take care of that rich person who has lost in terms of inflation. But you also have millions and millions of Americans who have lost in other ways because of inflation. Why do we not shed tears over those people? For the Senator's one example, we can give him hundreds and hundreds of more typical examples of people who are losing because of inflation.

Mr. LONG. The Senator says I am taking care of them? I am taking care of the fellow who pays $136,000 in taxes with $100,000 worth of income. I call that really taking care of him, $136,000 worth of taxes on $100,000 worth of income.

So far as I am concerned, I would like to do more in doing something about inflation, and one way to do something about inflation is to try to increase production. That is what the Senator's people do not seem to understand because I have yet to see those who take the other point of view support the first simple thing that would help us to channel more money here into encouraging business to make more investments and to put more people to work. I do not see any of these amendments here to do that. All of them are to take money away from those who would make the investments to try to put more people to work, and that is not the best way to fight inflation.

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

Mr. BROCK. I will yield briefly.

Mr. MONDALE. First of all, may I say to the chairman of the Finance Committee that the reason we have not come up with new ideas for relieving rich people of taxes is that the Finance Committee thought of every good idea, and they are in this bill.

What I tried to do is to think up some ways of shaving some of that so that we could continue the individual tax cuts now existing in the law.

Let us return to the problem of inflation as it affects assets. The bill of the Finance Committee—and I want to get this clear, the bill that came out of the Finance Committee—taxes capital gains on the modest earner higher than we do. In other words, the Finance Committee did not care about the ravages of inflation for a wage earner who may have $15,000 or $20,000 of capital gains. What they worried about were the big hitters who picked up a lot of money on capital gains and also had big earned income and taxable income at the same time. And so they shaped their regressive minimum tax which raises the tax on modest capital gains at the lower level and drops the tax at the upper level, particularly when you have the maximum tax ceiling that is found in this bill.

So we found the Finance Committee——

Mr. BROCK. The Senator is going to have to ask a question.

Mr. MONDALE. So we cry crocodile tears for the big investor and not for the small investor or the family that is finding its individual tax cuts taken away from them.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. BROCK. That was quite a question.

Mr. MONDALE. I do not blame the Senator for saying so.

Mr. BROCK. I did not hear the question mark, but I am sure it is somewhere.

I think the Senator has made my case for an alternative, my tax against his amendment, and the Finance Committee bill. He said just what I am going to try to say later on.

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

Mr. BROCK. I yield.

Mr. LONG. I will make it a question. May I just ask the Senator if he is going to have an add-on tax, just a matter of simple common justice and equity, and if his purpose is to tax people who made a substantial amount of money and paid no tax or very little, does it not make sense that he would give him a deduction for the tax he has already paid?

Mr. BROCK. Of course, it does.

Mr. HANSEN. Mr. President, will the Senator from Tennessee yield for another question?

Mr. BROCK. Yes, I yield.

Mr. HANSEN. I know that the coalition has been very critical of the proposals that were made by the Finance Committee—I hope I might have the attention of the Senator from Minnesota—and he talks about this proposal that is going to catch the rich people. He spoke about 80 percent of the revenue that would come from corporations with assets in excess of $250 million, if I understood him correctly. He talks about this great windfall opportunity—those are not his words but those are the implications, which were about the same—whereby you can take money if you are a lending institution and put it into this set-aside reserve for bad debts without paying any taxes on it.

If I am not mistaken, I think this same group are those who spoke out, among others, condemning and damning "red lining." "Red lining," as everyone knows, is a practice that some banks use to identify certain parts of town where the real estate value, despite the replacement cost of a building, is the same as some other part of town, but it does not have the same selling price for a very good reason: It may be in a bad neighborhood, and if you try to put the property on the market it just will not bring the same amount of money.

So banks have entered into what they call "red lining,' and they say in this part of town if you have a building that costs $50,000 to replace, and you have in this part of town a building which is identical that, too, costs $50,000 to replace, you cannot in good business terms lend as much money here in this area that is "red lined" as you can over here because you will not be able to sell it.

Now, I ask my good friend from Tennessee if it is not a fact that this reserve for bad debts makes it possible for lending institutions, if we are going to have extenuation of the concept, you are going to ignore poor risk areas and you are going to make the money available simply on the basis of replacement costs or whatever, does it not make sense that institutions have to have some reserve for bad debts or they are simply going to have to do one of two things: They are either going to go broke or they are going to have to stop making that kind of loan.

Mr. BROCK. That is correct. The Senator makes a good point, and I appreciate it.

I ask my friends on the floor to indulge me now and let me explain an alternative tax to them. I am just fascinated to hear the proponents of two kinds of a minimum add-on tax argue about it when, in fact, neither is in truth a minimum tax but an additional tax on the regular tax system. I think it is recognized by all parties concerned that the minimum tax is somewhat of a misnomer under those circumstances.

What do we have? We have a problem

of 244 people who do not pay any taxes; 2,500 people have paid little if any tax at all. What do we do to deal with that? Well, the proponents of the Finance Committee bill and the proponents of the so-called reform bill say, "Well, let us just add a tax on those returns that are already paying taxes."

But that defies the logic of the case. If you want to deal with people who are not paying taxes, who have a high economic income, then you have got to deal with those individuals with an alternative tax. You cannot do it by just taxing more those people who are paying taxes.

If you are going to deal with them honestly and fairly within the tax system you have got to deal with them with a progressive tax rate and not a flat tax.

Both the reform proposal and the Finance Committee approach proposed simply a flat additional tax. No progressivity at all on this particular group.

Let me give a couple of examples on how that would work.

In the Finance Committee bill, they only raise $13 million from target returns from those who pay no tax at all today.

Under the Mondale minimum tax, they still only raise $13 million from that particular group of target returns.

Under my approach, with an alternative tax, we raise $54 million.

Taking all returns, not just the target, under the Finance Committee, they raise $64 million.

Under Mondale, they raise less, $55 million.

Under mine, $136 million.

I will give more figures. Taking all the returns, in computing the average increase per return, all returns, under the Mondale minimum tax, all of those returns with less than zero reported, adjusted gross income, they increase the tax by an average $5,574.

Mine raises $12,785.

Under the target group, which are those with high expanded incomes, in other words, those people with a lot of shelters, the average increase under the Mondale flat rate is $19,000 per return. Mine is $83,000.

We talk about the changes from the 1974 law. The Mondale minimum tax raises only $127 million of its income from the nontaxable or nearly nontaxable group.

The Brock alternative raises $227 million.

What are we really talking about? We are trying to talk about equity. We are trying to talk about efficiency and how we deal with a problem where certain individuals are using tax shelters to disadvantage the tax system and to advantage themselves against the tax system.

The alternative tax is formulated with a view to balancing two competing considerations. First, Congress has provided various tax incentives designed to encourage specific economic objectives. Second, excessive use of these tax incentives by some taxpayers with large economic incomes enables them to avoid paying a reasonable amount of tax, or, in some cases, any tax at all. This conflicts directly with the basic tenets of equity and fairness in the income tax system—the income tax should be based on ability to pay. The income tax should be fair and should be perceived as such by all taxpayers. It is not today.

Neither the House nor the Finance Committee, nor the Senator from Minnesota, the Senator from Massachusetts, adopted this alternative tax although there was substantial support for it in the Finance Committee. Both the House and Finance Committee versions perpetuate the present additional minimum tax, as does the Mondale version, which I, and many others, believe is defective. Let me review briefly the defects of the minimum tax.

DEFECTS OF PRESENT MINIMUM TAX

The present law minimum tax is a flat 10-percent tax on certain preference items—these are the items the Senator from Minnesota referred to—such as the excluded portion of capital gains, accelerated depreciation on real property, and the excess of percentage depletion over cost depletion. An exemption for the first $30,000 of preferences and a full offset for regular income taxes paid are applied to reduce the amount subject to the minimum tax.

The minimum tax is defective in two critical respects:

First, since it is an additional tax, it penalizes the use of preferences, or incentives, even where an individual has paid significant amounts of regular tax. By contrast, MTI—that is my alternative tax—comes into play only if the taxpayer's preference income is sufficiently large, in relation to his economic income, to assure that he is not paying his fair share of taxes.

Second, because the minimum tax is imposed at a flat rate, it serves merely to "slap the wrist" of those taxpayers who are able to shelter large amounts of income from regular tax. In contrast this alternative proposal is predicated on the proposition that taxpayers should not be permitted to avoid the graduated rates through the use of tax preferences, itemized deductions, or the payment of a 10-percent surcharge.

HOUSE ACTION

The House merely restructured the present minimum tax. The rate of tax is increased from 10 to 14 percent, the $30,000 exemption is reduced to $20,000 and is subject to a phaseout. Moreover, new items of tax preference are added. A serious consequence of the House action is the denial of any offset for regular income taxes paid. This means that individuals who have paid significant amounts of regular tax would for the first time be subject to an additional minimum tax.

The House Bill also treats as preferences for minimum tax purposes certain accelerated deductions which result in deferral of tax rather than a permanent exemption from tax. For example, as an incentive for real estate development, taxpayers may elect to deduct taxes and interest during the construction period. To prevent the mismatching of these deductions and the related income, the House adopted the administration's LAL proposal. I did not support LAL for reasons which have already been articulated and debated on the floor of the Senate, and the Senate has rejected that concept.

FINANCE ACTION

Instead of adopting the alternative tax concept, the Finance Committee merely restructured the present minimum tax in a manner similar to the House action. The rate of tax is increased to 15 percent and the $30,000 exemption and the regular tax offset are combined and reduced to the greater of $5,000 or the amount of regular taxes paid. Moreover, new items of tax preference are added.

The exemption provided by the committee amendment results in too large a burden on lower and moderate income taxpayers. Reducing the exemption to $5,000 results in the application of the minimum tax to persons who are not in the higher income brackets and who have only modest amounts of preference income, for example, from the sale of capital assets.

MINIMUM ALTERNATIVE TAX PROPOSAL

I am convinced that the current minimum tax, the amendments made by the House bill, the Finance Committee, and the proposed Mondale minimum tax amendment do not properly deal with the problem of high economic income taxpayers who pay little or no income tax. I, therefore, propose the repeal of the minimum tax and the adoption of an alternative minimum tax.

A major reason for the adoption of the minimum tax in 1969 was to eliminate the problem of—indeed, the existence of—persons with large economic incomes—or with large adjusted gross incomes—who pay little or no income tax. Thus, in examining the various proposals to alter the minimum tax, it is appropriate to examine the impact of these plans on high income nontaxable and nearly nontaxable returns.

Table 1 shows the impact of each of the plans on nontaxable and nearly nontaxables with incomes of $50,000 or more, based on adjusted gross income. All four plans would affect the vast majority of nontaxable and nearly nontaxable returns. However, it is apparent that under each of the plans some high income nontaxables would remain, along with the problems and the political issues which they tend to generate.

Mr. President, I ask unanimous consent to have the table and footnotes printed in the RECORD.

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

TABLE 1.—EFFECT IN TAX RATES UNDER VARIOUS MINIMUM TAX PROPOSALS ON HIGH INCOME NONTAXABLES AND NEARLY NONTAXABLES CLASSIFIED BY ADJUSTED GROSS INCOME 1973 [1]

[In percent]

	Fiscal years 1972–74	Kennedy minimum tax [2]	House minimum tax [3]	Finance Committee minimum tax [4]	Brock alternative tax [5]
Nontaxable returns:					
$50,000 to $100,000	0	5.2	1.5	4.9	6.0
$100,000 to $200,000	0	4.4	3.4	4.4	5.9
$200,000 and more	0	6.0	4.4	6.3	11.5
Nearly nontaxable returns: [6]					
$50,000 to $100,000	3.3	11.8	11.4	11.8	17.5
$100,000 to $200,000	3.8	15.3	13.4	15.8	30.1
$200,000 and more	4.8	10.4	9.5	10.9	18.9

Source: 1973 Treasury Tax Model, Office of the Secretary of the Treasury, Office of Tax Analysis, June 8, 1976.

[1] Taxes, including any appropriate minimum tax, as a percentage of Adjusted Gross Income or Expanded Income, whichever is appropriate.

[2] A 14 percent tax on tax preferences. There would be a $5,000 exclusion, phased out dollar for dollar between $5,000 and $10,000 of preferences. There would be no deduction for ordinary taxes paid. The preference items would be those under the present minimum tax:

The excluded portion of long-term capital gains;

The amount of percentage depletion in excess of the basis of the property;

Accelerated depreciation in excess of straight line depreciation on real property and personal property subject to a net lease;

Stock options; and

Rapid amortization in excess of otherwise allowable depreciation for certified pollution control facilities, railroad rolling stock, and on-the-job training and child care facilities; plus:

Intangible drilling costs;

Construction period interest (but *not* taxes) which is not capitalized; and

Any itemized deductions (other than medical and casualty losses) in excess of 60 percent of Adjusted Gross Income.

[3] A 14 percent tax on tax preferences in excess of a $20,000 exemption which phases out dollar for dollar between $20,000 and $40,000 of preferences. There would be no deduction for ordinary taxes paid. The preference items would be those under the present minimum tax (se Footnote 2) plus:

Intangible Drilling Costs;

Construction period interest and taxes which are not capitalized and;

Itemized deductions in excess of 70 percent of AGI.

[4] A 15 percent tax on the amount by which preferences exceed the larger of $5,000 or regular income tax. The preference items would be the same as those listed in Footnote 2.

[5] An alternative tax which would be paid if it were larger than a taxpayer's regular income tax. The alternative tax would be the tax at ordinary tax rates on 60 percent of the sum of the taxpayer's ordinary taxable income plus his tax preferences (which would be the same as those listed in Footnote 2) less a $7,500 exemption which phases out on a one for two basis between $20,000 and $35,000 dollars of income (taxable income plus preferences). In addition, certain adjustments are made so that the tax saving for charitable contributions will not be affected even if the taxpayer is affected by this alternative tax.

[6] Taxable income as adjusted is less than 10 percent of Adjusted Gross Income.

Mr. BROCK. Mr. President, the alternative tax generally affects fewer of the nontaxables and nearly nontaxables than any of the other three plans. However, it raises the tax rate on the entire group by substantially more than the other plans. It is evident that when the alternative tax does hit a taxpayer it hits much harder than any of the minimum tax plans. The greater impact is due to the progressivity of the tax rates used by the plan. Especially for very high income tax filers, progressive rates up to a 42 percent maximum—60 percent of 70 percent equals 42 percent—can be expected to be more potent than a 14 percent or 15 percent flatrate, even after allowing for the fact that the alternative tax may only subject a portion of preferences.

The alternative tax raises the tax rate on nontaxables by 6 to 13 percentage points, but it raises the tax on nearly nontaxable by 13 to 26 percentage points. This discrepancy is due to the fact that nontaxables do not have substantial preferences as defined under present law, or they would have to pay some minimum income tax and would no longer be nontaxable. Thus, they also tend to have less preference income, as redefined under these proposals, and are less affected under these plans. In all cases—for each of the three income classes, for nontaxables as well as for nearly nontaxables—the alternative tax results in a much higher tax rate on these groups than do the other proposals. The difference in tax rates is usually substantial, ranging up to 15 percentage points or more. That is, for the target groups the tax rate under the alternative tax can be twice as great as under any of the other proposals. For example, the $200,000 and over nontaxable group—as measured by AGI—would pay at 11.5 percent of income in taxes under this plan but only 4.4 percent under the House bill, 6.3 percent under the Finance Committee bills and 6 percent under the Kennedy proposals. The $200,000 and over nearly nontaxable group would pay 18.9 percent under this plan but only 9.5 percent under the House bill, 10.9 percent under the Finance Commitee bill, and 4 percent under the Kennedy proposal.

The most important conclusion that can be drawn from table 1 is that the alternative tax has a much greater impact on the target group of nontaxables and nearly nontaxables than any of the other three plans.

Permit me to review how the alternative tax will work. Under my proposal, a taxpayer will pay tax at the regular rates on the larger of his taxable income or on his expanded income base. The expanded income base is generally calculated by first, adding items of tax preference to a taxpayer's taxable income, and second, taking 60 percent of that expanded base. A $7,500 exclusion—reduced by one-half the sum of tax preferences and taxable income in excess of $20,000—is allowed before applying the 60 percent factor to assure that the alternative tax does not affect either low income taxpayers or taxpayers with only a small amount of tax preferences. For alternative tax purposes, the items of tax preference are those included in the committee amendment.

The alternative tax will be more effective in insuring that individuals with large economic incomes pay a tax which is significant in relation to that income.

CHARITABLE CONTRIBUTIONS UNDER THE ALTERNATIVE TAX

In 1974, when the House Ways and Means Committee in its tentative decisions adopted an expanded income concept, one of the controversial issues was the impact of the tax on charitable contributions. After considerable discussion, the committee decided to put charitable deductions entirely outside its scope. In view of the dire financial position in which inflation has left so many private charities, my alternative tax proposal has been carefully structured to avoid completely all impact on charitable contributions. Under the proposal, charitable contributions, no matter how large, will not be an item of preference. They will be excluded in computing the extent to which itemized deductions will be a preference item. Also, charitable contributions will be completely excluded in computing the expanded income.

In short, charitable contributions have been treated very generously. Under no circumstances will my proposal adversely affect contributions.

CARRYOVER OF DEFERRAL PREFERENCES

In order to eliminate the possibility of excessive taxation of so-called deferral

preferences, which do not permanently exclude income from taxation, the amendment provides for the carryover of disallowed preferences. These preferences can then be taken as deductions in subsequent years in which taxable income exceeds the alternative base.

Overall, I believe that my proposal is superior to the minimum tax as a way of dealing with the problem of taxpayers who make excessive use of tax preferences. It will not affect taxpayers who use tax preferences—which the Congress has provided to encourage various economic activities—and who otherwise pay substantial ordinary tax. At the same time, the alternative tax will assure that every taxpayer bears a fair share of the tax burden. The idea of fair share is related to the taxpayer's ability to pay. Whereas the minimum tax is an additional tax at a flat rate, my minimum taxable income proposal involves an alternative tax, at progressive rates, based directly on a measure of ability to pay. Not only is this in itself a desirable feature, it is compatible with long-term tax reform in the direction of a more inclusive definition of income, taxes at a lower structure of rates.

REVENUE IMPACT

My alternative tax proposal will result in a revenue gain in fiscal 1977 of $1,038 million. The following table reflects comparisons of the various plans we are discussing.

Mr. President, I ask unanimous consent to have a table printed in the RECORD.

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

Estimated increases in fiscal year 1977 recepits resulting from alternative tax shelter and tax preference proposals

(1974 law)

[Dollars in millions]

Alternative proposals	Increase in fiscal year 1977 receipts
I. Administration proposals of March 17, 1976:	
Minimum taxable income (alternative tax)	415
II. House bill:	
Minimum tax (add-on tax)	1,083
III. Senate Finance Committee:	
Minimum tax (add-on tax)	980
IV. Brock alternative tax	1,038
V. Kennedy minimum tax	1,500

Mr. DOMENICI. Mr. President, I want to say a few words in support of Senator BROCK's amendment to the tax reform bill with regard to the minimum alternative tax rate.

As we all know, there are many relatively wealthy people in this country who only pay a token tax to their country; some manage to pay no tax at all. The present tax laws are used by these individuals to evade, what I believe is every citizen's duty, paying their fair share.

Although a relatively few wealthy individuals are involved in these sanctioned tax shelters, the result is obvious. The tax burden is left to everyone else creating an atmosphere of cynicism and distrust.

I have studied the various minimum tax proposals offered to the pending legislation on tax reform, and I believe that Senator BROCK has offered a sound alternative which should be seriously considered. This minimum alternative tax attempts to place a fair, but, from all appearances, an unburdensome tax requirement on those who earn over $50,000. In the comparison graph attached to Senator BROCK's statement, I am impressed with the minimum tax required in the three main income groupings for taxpayers who pay no income tax under present law.

Mr. PRESIDENT, I ask unanimous consent to have printed in the RECORD a table showing the effect in tax rates under various minimum tax proposals on high income nontaxables and nearly nontaxables classified by adjusted gross income for 1973.

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

EFFECT IN TAX RATES UNDER VARIOUS MINIMUM TAX PROPOSALS ON HIGH INCOME NONTAXABLES AND NEARLY NONTAXABLES CLASSIFIED BY ADJUSTED GROSS INCOME, 1973

	Fiscal year 1972–74	Kennedy minimum tax	House minimum tax	Finance Committee minimum tax	Brock alternative tax
Nontaxable:					
$50,000 to $100,000	0	5.2	1.5	4.9	6.0
$100,000 to $200,000	0	4.4	3.4	4.4	5.9
$200,000 and more	0	6.0	4.4	6.3	11.5
Nearly nontaxable returns:					
$50,000 to $100,000	3.3	11.8	10.4	11.8	17.5
$100,000 to $200,000	3.8	15.3	13.4	15.8	30.1
$200,000 and more	4.8	10.4	9.5	10.9	18.9

Source: 1973 Treasury Tax Model, Office of the Secretary of the Treasury, Office of Tax Analysis, June 8, 1976.

Mr. DOMENICI. I would like to expand on this theme by using an example which I hope will illustrate the relative merits of the House, Senate, and Brock approaches. If an individual had a gross income of $50,000, assume this person had a taxable income—after deductions—of $30,000 and assume this individual enjoyed a $10,000 tax preference item. The Senate Finance Committee bill would only add an additional tax of $750 on the preference tax item, and the House bill would exempt totally any tax due on the $10,000 categorized as a preference tax item. The Brock formula offers a significant change. Because this individual would be paying a tax at the regular progressive tax rate on the $30,000 of taxable income—not absolutely required under the other proposals—he would have no additional tax to pay on the preference items.

The point of the Brock proposal, as I understand it, is to insure that every American pay his fair share of tax whether his income is composed of preference items or not.

I believe the Brock tax rate proposal to be fair and equitable. It is time that all Americans, regardless of their income, should pay their fair share of income tax. We can not continue to have the majority of our citizens feel they are asked to give more than those in the upper income brackets. Should our tax obligations continue to be discriminatory, those in the lower income groups will eventually lose faith. Should this attitude, exaggerated or not, persist, I predict trouble ahead. It has happened in other countries. It can happen here.

Mr. BROCK. Now, if I may, I would like to have the attention of the Senator from Massachusetts—I do not see him in the Chamber at the moment—and the Senator from Minnesota. I want to try to point out where the main add-on tax falls.

The Senator from Massachusetts and the Senator from Minnesota have been very articulate in criticizing those who have these massive incomes for paying little or no tax. Do Senators know what the Kennedy-Mondale minimum tax add-on would average if the income is $50,000 to $100,000: 5.2 percent.

The Mondale add-on tax, between $100,000 and $200,000 of income, would add 4.4 percent.

Over $200,000, it would be a massive 6-percent tax put on these poor people.

That is for people who pay no effective tax today because they are all shelter income.

Talk about the nonshelter tax returns. It does not go up much. The Mondale tax on $50,000 to $100,000 is 11.8 percent; on $100,000 to $200,000 it is 15.3 percent, and above $200,000 it is 10.4 percent. If we have a problem, why not be honest and deal with the problem? Are we going to have a progressive tax system or not? Are these people avoiding income taxes or are they not? If they are, is 10 percent going to deal with the problem? If they are not, should we be putting an add-on tax at all?

What I am suggesting is that we look at this thing in an entirely new light.

Let us say most of the people in this country, 99.8 percent or 99.9 percent,

are so pure and pay a fair share of taxes. Some of them pay more, more than a fair share. What are we trying to deal with? We are dealing with a very small group of people who have very large and very sheltered incomes.

If that is true, then let us say to the average person who is paying his fair share of taxes:

Compute your taxes as you do today, and if it is higher than the alternative tax you do not pay a penny more. You just pay your fair share.

Let us take the sheltered incomes and let us recalculate under a true minimum tax, an alternative tax, and say:

If you are not paying any tax because you are using these shelters and abusing these shelters, then you are going to have to pay the higher of the two taxes.

That is the way to get at the problem. It is not proper to get at the problem by taxing those who now pay taxes, as the Mondale amendment does and as the Finance Committee amendment does, because they are simple add-on taxes. If we want to deal with this problem, let us deal with it honestly and say:

If you have sheltered income, you have to calculate it twice. You have to calculate it on the normal rate and on the alternative minimum rate and pay the higher of the two, and be very sure that you pay your fair share of taxes.

Mr. LONG. Will the Senator yield?

Mr. BROCK. Yes.

Mr. LONG. Mr. President, we are confronted with a difficult situation in that we have many absentees and we will have more. The Senator, I regret to say, does not have as many people to hear his argument as he should have present to hear it. It may be that the Senate is happy with the Finance Committee recommendation and, again, maybe not. I wonder if the Senator would be willing to yield to me in order that I might make a motion. I would like to make a motion and have a vote, and, if the motion fails to carry, at least we would then have enough people here so that the Senator could explain his amendment to them.

Mr. BROCK. It depends on what the motion is.

Mr. LONG. The motion I would like to make is a motion to table the Mondale amendment. If that is the case, it would displace the Senator's amendment as well, but he could bring his amendment up after the fact anyway, if he wanted to. At least he would have somebody to hear him. Right now I regret to say he does not have anything like the number of Senators he ought to have present to hear him explain his case. He has a fine argument, and, frankly, if we have a vote, I believe the Senators would stick around to hear what he has to say. He ought to get the attention that his amendment deserves.

Mr. BROCK. I appreciate the Senator's thoughtfulness.

Mr. CURTIS. Will the Senator yield for a query? If I understand what is suggested here, should the motion to table the Mondale amendment prevail, then would it be necessary for the Senator from Tennessee to reoffer his amendment as a substitute to the committee language?

Mr. LONG. That would be completely in order, or anybody else could offer his substitute to the committee language. But at least we would get some indication while Senators are still here in town—Senators are leaving town, I regret to say—while we have more people around, as to whether the Senate likes the Finance Committee's handiwork or whether they would like to change it.

Mr. BROCK. I have no objection, and I think it might help to get more participation in the debate.

Mr. LONG. I think it would help in that respect.

Mr. BROCK. Does the Senator from Minnesota object to this?

Mr. MONDALE. In all fairness, I do not know how I could object because it is the right of the Senator to make the motion if he wishes. That is his right. I would hope before we vote that I might make one point to the Senator from Louisiana.

If the Senator's concern, as his question earlier suggests, is about the ravages of inflation on investment property and the relationship of the tax laws to inflation, why is it that the Senate Finance Committee, in shaping its bill, came up with a minimum tax that strikes at the modest investor and his earned income at a higher rate than we do?

Mr. LONG. We can talk about the ravages of inflation later on. Right now I am worried about the ravages of absenteeism.

Mr. MONDALE. I was wondering what explained the difference in feeling.

Mr. LONG. I can explain all of that, and I will later on when we have some Senators in the Chamber. It will not do any good to explain it when I look around and there are only about two people here who might have an open mind on this anyway. I would like to get more Senators in the Chamber.

Mr. BROCK. I will yield to the Senator from Louisiana, but I would like to make the point to the Senator from Minnesota that if he feels that way then I would appreciate his supporting my amendment because I believe it does deal with the problem he raises.

Mr. MONDALE. The House looked at the amendment over there and got 85 votes because it did not do anything with regard to sheltered income.

Mr. LONG. Mr. President, I move to table the Mondale amendment, which would also displace the Brock amendment.

Mr. BROCK. 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 yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. McCLELLAN). If he were present and voting, he would vote "nay." If I were at liberty to vote I would vote "yea." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I anounce that the Senator from California (Mr. TUNNEY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Arkansas (Mr. McCLELLAN) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. McCLURE), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illiness.

I further anounce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 40, nays 50, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—40

Allen	Fong	Nunn
Baker	Garn	Packwood
Bartlett	Gravel	Pearson
Beall	Griffin	Scott, William L.
Bellmon	Hansen	Sparkman
Bentsen	Helms	Stennis
Brock	Hruska	Stevens
Byrd, Harry F., Jr.	Johnston	Stone
Curtis	Laxalt	Taft
Dole	Long	Talmadge
Domenici	Magnuson	Thurmond
Eastland	McGee	Tower
Fannin	Montoya	Young
	Morgan	

NAYS—50

Abourezk	Glenn	Mondale
Bayh	Hart, Gary	Moss
Biden	Hart, Philip A.	Muskie
Brooke	Hartke	Nelson
Bumpers	Haskell	Pastore
Burdick	Hathaway	Pell
Byrd, Robert C.	Hollings	Proxmire
Cannon	Huddleston	Randolph
Case	Humphrey	Ribicoff
Chiles	Jackson	Roth
Church	Javits	Schweiker
Clark	Kennedy	Scott, Hugh
Cranston	Leahy	Stafford
Culver	Mathias	Stevenson
Durkin	McGovern	Weicker
Eagleton	McIntyre	Williams
Ford	Metcalf	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—9

Buckley	Inouye	Percy
Goldwater	McClellan	Symington
Hatfield	McClure	Tunney

So the motion to lay on the table was rejected.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Minnesota.

Mr. MONDALE. Mr. President, I shall summarize briefly the nature of the pending amendment.

The Finance Committee minimum tax bill increases the rates for individual taxpayers but does not increase the rate at all for corporate taxpayers. Second, the Finance Committee bill shapes a new minimum tax which is regressive. A modest income taxpayer receiving pref-

erence income, say, of $20,000 a year in addition to his taxable income, will pay a higher tax under the Finance Committee bill than under the reform amendment that we are proposing; and it is relief at the upper levels which is achieved by placing a higher tax on a modest investment. A middle income investor pays a higher tax under the Finance Committee bill than under the amendment we propose.

Second, tomorrow, we will see the other part of the chapter, and that is a new idea called the maximum tax ceiling on unearned income. This maximum tax will mean to the very wealthiest in America a new form of tax relief—a new form of preference unheard of before in the tax law—a tax ceiling on unearned income, which means that the very wealthiest in America will get relief of about $20,000 each at the very top.

What we are trying to deal with here is what is known as the executive-suite loophole; under the present minimum tax, if an individual is a high paid movie star, or a top football player, or a high paid corporate executive, he can take the taxes that he pays on his taxable income and deduct all of it against taxes that would be due under the minimum tax on preference income.

A few years ago when we passed this minimum tax the idea was that many wealthy Americans were avoiding all taxes, and we were confronted, if we wanted to do something about it, with two options—one, close the loopholes or, two, leave the loopholes there but then pick up a little of it in the form of a minimum tax.

It was a modest minimum compromise to require the very wealthy to pay a little, in a sense of decency, toward the support of a Government from which they have received so many fruits.

We got ready to pass it, when an amendment was adopted on the floor of the Senate, offered by Senator Miller of Iowa, which permitted you to deduct taxes paid on taxable income, which meant that the rate imposed on this preference income was only an average of 4 percent.

So we have only the torn, shattered, pathetic remains of a minimum tax under the present law, and the Finance Committee proposes to pick up a little more revenue by increasing the minimum tax on the middle income investor and leaving the big hitters, the really wealthy in America, largely scot-free.

Second, although the figures show that, increasingly, individual income taxpayers are paying a higher proportion of revenues into the Treasury as opposed to corporations, and even though the economics today show us that we are in the middle of a profits explosion while consumer income is stagnant or dropping off, this tax bill gives more relief for corporate profits and takes four billion dollars away from the average taxpayer over the next 5 years.

So what we see here is another example of trying to advance increased tax relief for the wealthy in America by, first of all, terminating the current temporary relief that averages out to about $180 a family—taking that away from them—and using the money to help pay for other tax loopholes we are introducing into this law.

What we have in our compromise amendment is a proposal to have a progressive minimum tax, so that people of moderate income would have a $10,000 exemption. There are not many people making a living at modest wages who earn anywhere near $10,000, so these low and moderate income individuals would be exempt under our proposal. This amendment represents a modest proposal to insist that taxpayers using large tax preferences pay something toward their Government.

Second, if the Senate is serious about raising enough revenue to pay for the extension of those individual tax cuts and not "busting" the budget—that is what we all claim we want to do—then it is necessary to have some revenue pickup of the kind proposed in the amendment I have offered.

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

Mr. MONDALE. I yield.

Mr. NELSON. Earlier, the Senator from Minnesota responded to a question on this precise point, but since more Members are in the Chamber now, I wonder whether the Senator from Minnesota will repeat the statistics.

We will be voting at a later time on the extension of the $35 credit. Is that right?

Mr. MONDALE. That is correct.

Mr. NELSON. The $35 credit totals how much?

Mr. MONDALE. If we take that plus the optional 2 percent credit—it comes out to $9 billion per year.

Mr. NELSON. Per year?

Mr. MONDALE. That is correct. But the implication for the fiscal year we are dealing with is $1.7 billion, which is a 3-month extension.

Mr. NELSON. The amendment that will be taken up and voted on—I think it is almost inevitable to be adopted—will extend the $35 for the remainder of the fiscal year—that is, from July to October 1.

Mr. MONDALE. That is right.

Mr. NELSON. That is at a cost of $1.7 billion.

Mr. MONDALE. That is correct.

Mr. NELSON. Will the Senator advise the Senate as to how much additional money this minimum tax proposed by the Senator from Minnesota will raise over and above the amount of the minimum tax that was adopted by the Finance Committee?

Mr. MONDALE. The Finance Committee's minimum tax picks up about $980 million. The amendment we propose picks up, in the individual minimum tax, $1.27 billion—and if we add the corporate minimum tax, another $500 million.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I will yield in a few minutes.

Mr. NELSON. The Finance Committee minimum tax addresses itself, however, only to individuals?

Mr. MONDALE. That is right. Even though the figures show that corporate profits are soaring, and even though the figures show that the percentage of taxes being paid by individuals is rising dramatically while corporate taxes are dropping, and even though the general economic situation would seem to indicate that we should be giving more relief to the consumer, this bill tilts the relief to the corporations and to the big investors; and finances it by taking it away from the consumers. These are choices that have been made.

Mr. BROCK. Mr. President, will the Senator let us debate the amendment at hand?

Mr. MONDALE. I will yield in a little while.

Mr. NELSON. So the total of the corporate minimum and the individual minimum is $1.7 billion?

Mr. MONDALE. That is correct.

What is ironic is that the Finance Committee's minimum tax bill has a higher rate on middle-income investors than we do. In other words, they say, "In order to get the relief found in this tax bill that comes out of the Finance Committee, be sure that you are a big hitter. Don't be just a middle income taxpayer, picking up $10,000 or $15,000 in outside work, because if you are, we'll tax you more."

Our concern is for the ones who really have substance, great wealth, people who are able to make a couple of hundred thousand dollars as a movie star, as a corporate executive, and can use that tax to nullify any kind of tax on preferred income. That is the general thrust of our amendment.

There is one other proposal, I say to the Senator from Wisconsin, which is the alternative tax offered by the Senator from Tennessee. That tax raised about $100 million more than the Finance Committee bill but about $600 million less than we do. It is a proposal that does little to hit sheltered income; and because of that, the House voted this amendment down by a vote of 334 to 85.

Mr. NELSON. Was this precise amendment on the floor of the House?

Mr. MONDALE. It was not the precise bill, but it was the same theory. The Treasury Department has been trying to sell this alternative minimum tax for several years. They have not been able to explain it to anybody because it is so complicated.

Mr. BROCK. It is hard to get the floor, too. [Laughter.]

Mr. MONDALE. I will explain it.

Second, they have not been able to sell many people on it because it permits you to take a large proportion of taxes paid on earned income and use it to shield unearned income.

Mr. NELSON. But on that point, the principle in the proposal, similar to that advocated by the Senator from Tennessee, was debated and voted upon in the House of Representatives.

Mr. MONDALE. Yes. It received 85 votes, and on the other side there were 334.

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

Mr. MONDALE. I am glad to yield.

Mr. STONE. Is the effect of the Senator's amendment not to give credit

for exemption or exclusion or recognition to capital gains allowances that are paid?

Mr. MONDALE. No, the list that goes to make up the preferred income against which our tax is applied is substantially the same list found in the bill of the Senate Committee on Finance. It is the same list. We do not let a deduction to be taken on taxable income against the minimum tax that is supposed to be assessed on preferred income. The reason is that if we do that, there is nothing left. It makes a mockery, a sham, out of the minimum tax.

Mr. STONE. If I were growing some trees and I sold the trees and paid a capital gains income tax on it, would the effect of the Senator's amendment be a surtax or not?

Mr. BROCK. The answer is "Yes."

Mr. MONDALE. I thank the Senator for that question, because I have heard that there are certain people in the lumber industry who are concerned with this. Let us just talk about it.

Mr. STONE. How about just a tree grower, not a person in the lumber industry?

Mr. MONDALE. Let us take an example. One of the most preferred industries in America today is the timber industry because, unlike every other corporation, they do not pay ordinary income tax; they are taxed at a capital gains rate. They are already preferred. Of course, if we want a minimum tax to pick up any revenue from companies that are preferred in that way, they will have to pay something toward it.

Let us look at the lumber and wood products corporation profits recently.

Mr. STONE. I just want to——

Mr. MONDALE. I think we ought to know what we are doing here. In the first quarter of 1975, their profits were about $800 million. By the first quarter of 1976, they were earning at a rate of $2.38 billion. So the profits of the lumber and wood products corporations have increased three times in 1 year.

Mr. STONE. What was the Senator's answer? Was the Senator's answer that it is a surtax or it is not a surtax?

Mr. MONDALE. The minimum tax is a tax on income that has been excluded from taxes.

Mr. STONE. But if a capital gains tax were paid on it, it was not excluded from tax, was it?

Mr. MONDALE. The excluded portion carried no tax. That is the portion under the definition that goes into the minimum tax. Does the Senator accept that point?

Mr. STONE. If the Senator will further yield.

Mr. MONDALE. Will he accept that point?

Mr. STONE. I do not understand it.

Mr. MONDALE. I see.

Mr. STONE. I understand, from what I have read and seen, that the defect, from the point of view of the Senator from Florida, in the proposal for minimum tax is that it is not a minimum tax, it is a surtax. If the Senator's amendment would give credit for Federal taxes paid—not local taxes paid, not foreign taxes paid, not taxes paid for a special district, just Federal taxes paid—then the Senator from Florida would see that we are talking about a minimum tax.

Mr. MONDALE. Then I think there is some hope that the Senator from Florida might support me on this.

Mr. STONE. There is hope if some adjustment is made so that it is not a surtax.

Mr. MONDALE. I think we can demonstrate that it is not a surtax.

The first thing I should say is that this list that goes to make up the preferred income is not mine. It was made up by the Senate Committee on Finance as a part of the committee bill. For example, here are some of the things that go into it.

Present law permits financial institutions to establish deductions for bad debt reserves, which are not based on actual experience but are arbitrary and theoretical. Those deductions exceed the actual losses in almost all cases. What we do, then, is take that part of the financial institutions' income that has been excused from taxes based on a legal fiction and say, since it escaped taxes because of that legal fiction, we will include that part that escaped in the part called preferred income.

In capital gains, which is the largest part, maybe we say an individual will get $100,000 in capital gains. Only half of that income shows up in the tax bill. The other half is excluded. It is only the half that is included against which the tax rate is based. The other half is exempted from taxes. And because of that, it is considered to have had a preferred status and goes into that other part.

Mr. STONE. I understand. Does the Senator acknowledge that 80 percent of the base of his minimum tax is capital gains?

Mr. MONDALE. A great proportion of it is capital gains, that is correct.

Mr. STONE. Is it not 80 percent?

Mr. MONDALE. I shall get the exact figure.

Mr. STONE. 75 or 80 percent.

Mr. MONDALE. The Senator is close.

Mr. STONE. Is not what the Senator is trying to do raising the capital gains rate? If that is the case, why does the Senator not simply offer an amendment saying, capital gains are too low; let us raise them 15 percent.

Mr. MONDALE. Because our minimum tax amendment strikes not at all at the modest gainer in capital gains. He does not come within this. The people who come within this, who have their rates increased, are the people at the very top—the real high earners. The tax increase is a modest one, and it includes the other preferred income. In order to have the maximum capital gains rate, for example, under this minimum tax, a taxpayer would have to have $200,000 in taxable income and over $50,000 in capital gains. That shows that our minimum tax would strike only at the top level; it does not strike the middle income investor, which an across-the-board tax investment income would do. The weaker finance bill is favored, let me remind the Senator, by terminating the individual tax cuts in order to finance these kinds of loopholes.

Mr. STONE. Just to explain the position of the Senator from Florida on this, the Senator from Florida is perfectly willing to extend the increase in minimum tax to corporations from the present 10 up to 15 percent. The Senator from Florida is perfectly willing to increase the minimum tax on individuals from 10 to 15 percent. But the Senator from Florida is very reluctant to add a surtax to an existing capital gains tax through the back door.

Mr. MONDALE. Then the Senator from Florida is agreeing to the amendment that guts the minimum tax. Let me go back to why we have had a minimum tax in the first place.

The Treasury Department came out with figures showing that several hundred taxpayers made massive quantities of money and paid no taxes. The American people would not tolerate it, nor should they. So the first answer was, let us close the loophole. They said, oh, we cannot do that. That would be wrong.

The next theory was, let us have a minimum tax rate that takes these preferences, puts the preferred income in another pot, and assesses a minimum tax against that pot. That is how the Senate Committee on Finance agreed to do it. Then, when it came out on the floor, Mr. Miller of Iowa proposed that we deduct taxes paid, which meant that the minimum tax ended up bringing in practically no revenue at all.

Mr. PASTORE. Will the Senator yield?

Mr. MONDALE. I yield.

Mr. PASTORE. I am not on the Committee on Finance and I am very, very loath to say that, by the time the tax experts get through talking, we are all confused.

Will the Senator from Minnesota give an example? Let us assume a movie actor makes $3 million in 1 year. Does he have to pay the tax that 1 year on $3 million?

Mr. MONDALE. If it is earned income, he has to pay it.

Mr. PASTORE. Oh, it is earned income. So he pays it. Out of his own assets, he buys himself a forest and he cuts trees or whatever he does, and makes money on that. Does he not pay a tax on that, too? And what kind of a tax does he pay?

Mr. MONDALE. He would pay a capital gains tax, which is at one-half the rate he would pay on ordinary income.

Mr. PASTORE. But he would pay a capital gains tax because it is on a preferred list.

Mr. MONDALE. That is right.

Mr. PASTORE. Where does the minimum tax come in?

Mr. MONDALE. Here is what they do: In the Senator's instance, they take half of the capital gain. Suppose he sold his trees for $100,000; half of that capital gain is not included in taxable income. The other half would be, and it is against that half that the rate on the income tax applies.

Mr. PASTORE. Why is it not included?

Mr. MONDALE. Because it is exempted——

Mr. PASTORE. Let us assume that when he sells the trees, the sells them for $100,000. What is the rate of his capital gain?

Mr. MONDALE. It would be whatever $50,000 would do to his tax rate. In other

words, he gets $100,000 in gain. We forget $50,000 under the capital gains theory. The other $50,000 goes into his taxes, and he pays whatever the rate is——

Mr. PASTORE. The Senator means he pays only capital gains on $50,000?

Mr. MONDALE. He pays ordinary income taxes on $50,000 and that is why it is at only half the rate, because they excluded half the gain.

Mr. PASTORE. Let me get this straight. He makes $3 million as an actor. He pays a tax on it. But then he takes some money and invests it in a forest, in trees. So he cuts down part of the trees and sells that for $100,000.

Mr. MONDALE. That is right. Fifty thousand dollars of that money would go into his regular income, and it would be included in his taxes.

Mr. PASTORE. Under the tax rate he would pay as an actor?

Mr. MONDALE. That is correct.

Mr. PASTORE. The other $50,000 would be capital gains?

Mr. MONDALE. The other $50,000 is not in the tax at all. It is excluded. If he is an individual, it is excluded from taxes; and it is that $50,000 that goes into the preferred income.

Mr. PASTORE. I see, and that is where you invoke your 10 percent?

Mr. MONDALE. Fifteen percent under both bills.

Mr. PASTORE. Fifteen percent.

Mr. MONDALE. But let me give the Senator an example.

Mr. PASTORE. In other words, where before he was getting away scot-free on $50,000——

Mr. MONDALE. That is right.

Mr. PASTORE. Now you are letting him pay 15 percent as a minimum tax.

Mr. MONDALE. That is correct.

Mr. PASTORE. I do not see why anybody is objecting to that. [Laughter.]

Mr. MONDALE. Let me give one other example.

Mr. BENTSEN. Let us be fair——

Mr. PASTORE. Let us refine it. When we get into an example we know what we are talking about.

Mr. MONDALE. A business executive has a salary of $120,000. That is pretty good pay. I think it is more than we get.

Mr. PASTORE. I know it is more than we make.

Mr. MONDALE. In addition to the $120,000 that he earns at his job, he receives preference income of $45,000. His regular tax liability is $45,000.

Now, under the coalition bill he would pay $5,250 on that $45,000 of preferred income.

Under the Finance Committee bill he would not pay anything because they lighten the load on that kind of person who has got big earnings; he can take the taxes he pays on big earnings to shield himself from the minimum tax on the other side.

So what we do is consider the minimum tax preferred income by itself and say that he should at least pay 15 percent on that income. That is our theory.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I yield.

Mr. PASTORE. I am no better off than when the Senator started.

[Laughter.]

Mr. JOHNSTON. I wonder whether this does not apply to a high roller. Let us take an example where a Federal employee back in 1965 in the Washington area bought a house for $50,000, which is not a palatial house in Washington, and they are ready to sell out and move to Florida and buy another home, so they find they can sell it at $100,000, so it gives them $50,000 capital gains.

As I understand it, you would have an exemption in effect of $10,000, and you would have what would amount to a surtax of an additional 7.5 percent on a $40,000 gain; is that correct?

Mr. MONDALE. We are working up the calculation now.

Mr. BROCK. $90,000 or 15 percent of $40,000.

Mr. JOHNSTON. Fifteen percent surtax on $40,000. This is not the movie star, this is just someone on retirement income, is that right?

Mr. BROCK. That is correct.

Mr. MONDALE. Under the Finance Committee bill, that retiree with $50,000 of capital gains would pay approximately $600 more minimum tax than he would under the coalition amendment.

Mr. BROCK. That does not answer the question, does it?

Mr. JOHNSTON. I mean is it a fact though that the amount of surtax, no matter what the tax levels, of 15 percent on anything above $10,000 capital gains, without reference to what that tax is, you get a $10,000 exemption and a surtax of 15 percent on everything else; is that a correct description?

Mr. MONDALE. Yes, you get a $10,000 exemption on preferred income, and then you pay 15 percent on what goes into that pot. Of course, if it is individual capital gain, half of the gain is exempt and the other half is subject to capital gains tax.

Mr. JOHNSTON. I see. That is without reference—you do not have to be a high roller to pay that tax. All you have to do is make more than $10,000 and pay capital gains.

Mr. MONDALE. No, but I will point out that, if the Senate Finance Committee bill passes, it is the high rollers who will win because they are the ones who can take earnings that they make as movie stars, as football players, and high-paid corporate executives.

Mr. BROCK. Why does not the Senator put it with respect to my amendment?

Mr. PASTORE. Regular order.

Mr. MONDALE. And use it against the regular tax. That is why the super rich are so strong for being able to do that.

Mr. JOHNSTON. May I ask one more question?

Mr. MONDALE. You see, if you deduct taxes paid, you have no minimum tax; and if you have no minimum tax then you either bust the budget to extend those temporaries or you do it as the Finance Committee proposed, which is to repeal the temporary individual tax cuts for the average family in order to pay for these kinds of continuing preferences for the very wealthy in America—people who are able to accumulate vast amounts of preference income because they have the money to invest and gain those kinds of preferences. That is the issue that is involved.

Mr. JOHNSTON. Does the Senator have figures—as I understand, 75 or 80 percent of this revenue comes from the capital gains tax and I am wondering of that 75 or 80 percent what percentage is paid by the high rollers and what percentage would be paid by the ordinary people selling homes, and that sort of thing. Does the Senator have a breakdown?

Mr. MONDALE. Yes. Under my proposal, those who have adjusted gross income of zero to $20,000 would pay 3 percent at the minimum tax. Under the Finance Committee proposal they would pay 16 percent of the minimum tax, and under the Brock alternative they would pay 6.19 percent. So if you are worried about progressivity, if you are worried about people with modest incomes of $20,000 or less, our amendment hits them much lighter than the others.

Let us go up the scale. Then between $20,000 and $50,000 in adjusted gross income, 10 percent of the revenue would be raised under my proposal; 28 percent would be raised under the Finance Committee proposal, and 11 some percent under the Brock proposal.

Fifty to $100,000 adjusted income, 19 percent would be raised under my proposal; 16 percent under Brock; 18 percent under the Finance Committee proposal; and $100,000 and above, 63 percent would be raised under our proposal, 51 percent under the Brock alternative, and 20 percent under the Finance Committee. In other words, the Finance Committee raises revenue by tightening up at the lower end of the minimum tax scale.

Mr. JOHNSTON. Is this capital gains the Senator is dealing with or all the tax preferences?

Mr. MONDALE. There are 13 some preferences that are listed in the Finance Committee bill, and we drew our preferences almost identically from that bill.

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

Mr. MONDALE. I would be glad to yield.

Mr. BENTSEN. Mr. President, I oppose this amendment.

I share the objectives of the sponsors of this amendment in trying to find a way to assure that those people who have large income pay a fair tax. But this is a strange amendment, indeed, in the way it actually works because those persons who today are paying the most taxes will be the ones who will be penalized the most by the amendment and those people are paying the least taxes and have the largest preference incomes will be affected the least. That just does not make sense to me, and I do not think that is the way we ought to approach tax reform.

In fact, this amendment to remove the deduction for other taxes paid is counterproductive since it would encourage persons who are paying high taxes to look for more preference income. It means that they will go into more accelerated depreciation deals, for example. If they convert all of their income to "preference income" they would

finally be able to reduce their tax level to 15 percent and certainly that cannot be the objective of the sponsors of this amendment, but that could well be the result for a high income individual with a clever tax lawyer. I do not believe that is the objective of the sponsors of this amendment. I am confident it is not. But I think that is the practical result of how this amendment would work.

The amendment provides that the man who pays the highest taxes is not going to be given any deduction for his regular taxes in the computation of the minimum tax. The man with a large income who pays the least taxes is the man who will be least penalized by this amendment. The amendment is counterproductive.

Mr. President, I strongly believe that all high income Americans should pay their fair share of taxes. The effectiveness of our system of tax collection, based upon voluntary self-compliance, has been very successful in raising Federal revenues. Indeed, our success is the envy of all other nations around the world. In many nations, the failure to pay taxes seems to be the rule rather than the exception. We cannot maintain public confidence in our tax system unless Americans are convinced our tax laws are fair.

At the same time, our tax laws must include reasonable investment incentives to stimulate the economy and to promote economic growth.

The Senate Finance Committee held months of hearings and markup on tax reform and the bill reported to the Senate floor will help achieve a balance between the need to insure greater fairness and equity in our tax law while at the same time provide reasonable investment incentives.

Under the Finance Committee provision the minimum tax rate would be increased from 10 to 15 percent. The $30,000 exemption and the deduction for other taxes paid which are in the existing minimum tax would be replaced by a single exemption of the greater of $5,000 or other taxes paid.

In addition, the following new items of tax preference would be included in the tax base:

First. The excess of investment interest over investment income.

Second. The excess of itemized deductions, other than deductions for medical expenses and casualty loses, over 60 percent of adjusted gross income—less any excess investment interest included as an itemized deduction.

Third. Intangible drilling costs in excess of the costs deductible had they been capitalized and in excess of related income from oil and gas wells.

Fourth. Real estate construction period interest.

Fifth. Accelerated depreciation on all personal property subject to a lease.

Mr. President, the Finance Committee proposal is a reasonable compromise between two competing tax theories.

Our concept is that there should be a minimum tax on all preference income, however defined; that is, instead of excluding some types of income from tax entirely, they should be subject to some minimum "add-on" tax. This is the theory that underlies the minimum tax changes in the House bill.

A second theory is that there is no need to impose a minimum tax rate on preference income generally, but that an undesirable situation occurs when too much of a taxpayer's income comes from tax-preferred sources, so that in these cases some minimum tax should be imposed; that is, there should be some minimum tax rate on a taxpayer's total income. This theory implies that the minimum tax should be an alternative tax, not an additional tax.

The Senate Finance Committee adopted an "add-on" minimum tax, but provided a deduction for regular taxes paid and this is a constructive compromise between the two competing tax theories.

Mr. President, I would now like to briefly describe the adverse economic impact that the amendment before us would have because of its harsh effect on capital gains.

First, it will discourage greater savings and investment.

Second, it will increase the "lock-in" of capital in our economy and reduce essential liquidity in our financial markets.

Third, it will discourage the risk-taking spirit in America which is needed to provide capital for the creation of the "new IBM" and the "new Xerox."

Let us look at savings and investment.

As our economy recovers from the recession, we need economic and tax policies that will encourage industrial expansion and modernization, boost productivity and prevent inflationary bottlenecks and capacity shortages from developing in the future. This is essential to keep prices down for the American consumer. Increased productivity will enable employers to raise wages without raising prices to customers. Stable economic growth that puts more goods on the shelf is our economy's best defense against inflation.

Our capital requirements are very large and require much greater public attention. Unfortunately today, there is substantial evidence that the United States has not been keeping pace with other industrialized nations with respect to economic growth and capital investment.

An important starting point in a discussion of capital formation is the pattern of economic growth. The average annual rate of real economic growth during the 1960's for the 20 nations belonging to the Organization of Economic Cooperation and Development—OECD—ranged from a high of 11.1 percent for Japan, to a median of about 5 percent for Australia, the Netherlands, and Norway, to a low of 2.8 percent for the United Kingdom. The United States, during this time experienced an average growth rate of 4 percent a year—17th among the 20 nations.

Of the many factors that influence economic growth rates, none is more important than the level of capital investment. A strong rate of new capital investment is required to generate sustained economic growth. However, during the 1960's, the United States had the worst record of capital investment among the major industrialized nations of the free world. A study prepared by the Department of the Treasury indicates that total U.S. fixed investment as a share of National output during the time period of 1960 through 1973 was 17.5 percent. The U.S. figure ranks last among a group of 11 major industrial nations; our investment rate was 7.2 percentage points below the average commitment of the entire group. An increased capital gains tax will only aggravate that situation.

Now let us look at the lock-in of capital.

An increased capital gains tax would also increase the so-called lock-in of assets held for a long period of time and hamper efficient allocation of capital resources. Under our present law, individuals are discouraged from selling securities that have been held for some time.

With millions of investors making tax decisions, rather than investment decisions, a substantial amount of available capital is being put to less than optimum use. We do not live in a static economy. The capital needs of different sectors of our economy change. One function of the stock market is to direct capital to where it is needed most and can earn the greatest return. Increased capital gains taxes would hinder this flow.

Let us look at the risk-taking spirit and economic growth.

Our economy has been experiencing a scarcity of investment capital for smaller sized businesses with major growth potential. This capital is sometimes referred to as venture capital. This amendment would aggravate the shortage of venture capital to the detriment of the entire economy.

Few people realize the importance of venture capital in financing new business and industry, promoting healthy competition and spurring non-inflationary economic growth.

Without a ready source of venture capital, many of today's industrial and commercial giants may have never gotten off the ground.

And, we may never know how many potential "Xeroxes" or "Polaroids" have failed to get started over the past few years for a lack of venture capital. We may never know how many jobs were never created, how much economic growth was never realized.

It is pretty basic, though, that we can not maintain a healthy, competitive and growing economy unless there is enough capital available for the risk takers and entrepeneurs who want to develop their ideas into businesses.

That capital—venture capital—is in very short supply these days.

Let us look at some example of the importance of venture capital to our entire economy.

Venture capital was essential to the creation of transistors. It is the transistor which made possible the large central computer industry and the military instrumentation industry.

The development of the minicomputer industry depended on the availability of venture capital. The minicomputer industry not only provides substantial jobs and tax revenues but has also been a

major factor in improving the productivity of industry.

Everyone is familiar with pocket calculators. Pocket calculators are solely the product of American technology and venture capital.

A venture capital enterprise funded by risk investments developed the know-how for miniaturized semiconductors called MOS's. With this know-how and technology, an entire new industry was created and America still leads the world in the field. The total initial risk capital investment was relatively small, especially when compared to recent total industry sales.

Indeed, venture capital has had an important impact on any number of high-growth industries—semiconductors, minicomputers, all kinds of other computer-related products, hand-held calculators, automatic editing typewriters, CATV, hi-fi's, new medical instruments and a wide variety of others.

Even frozen orange juice was developed through venture capital. A great many jobs have been brought back to the United States from Japan through the development of the small chips that are used now in hand-held calculators and this type of advance is now being applied to electronic watches. These were developments by small companies that were not subject to the restrictions of a large company environmental and that could attract the bright young scientist, production manager and marketing people to move the product into the marketplace. And it was also the result of venture capitalists who were willing to risk their capital to build new companies to better serve the public.

We should reject the amendment presently before the Senate because of its adverse impact on venture capital.

Mr. President, this amendment will also increase the tax burden on many independent oil and gas producers who do 90 percent of the wildcat drilling and this would certainly be counterproductive to our efforts to achieve energy self-sufficiency.

In 1970, the United States was only 23 percent dependent on foreign sources of oil. Today our reliance has doubled. We are over 40 percent dependent on foreign sources of oil and it is estimated that our dependence may increase to close to 60 percent by 1980. Since the 1973 embargo, our reliance on Middle East oil has increased more than 50 percent. Between 1970 and the present, domestic production of petroleum liquids declined by over 1 million barrels a day. Additional tax burdens will only aggravate the situation and further jeopardize our national security.

Drilling is an extremely high risk business. Only one exploratory well in nine produces anything. Eight out of nine exploratory wells are dry holes. In addition, at least 20 percent of developmental wells are dry holes. Due to the extreme risk, private foundations are not allowed under Federal law to invest in oil and gas activities. In addition, trust funds of widows or orphans cannot be invested in drilling, again because of the extreme risk of these investments.

In order to prevent increasing dependence on overseas oil, our tax laws must continue to encourage risk taking in the oil and gas business. This amendment would dry up desperately needed risk capital for domestic oil and gas exploration and development. This will result in substantial cutbacks in wildcat drilling at a time when increased drilling is essential for our energy needs.

The repeal of percentage depletion for major producers and the oil price rollback have already had adverse consequences. Currently, fewer rigs are operating than at any time in 1975. In April, there were less than 1,500 rigs actively drilling, compared to over 1,800 last December when the oil price rollback was enacted. Similarly, seismic crew activity, which is necessary to locate future exploratory wells, has shown a substantial decline. The number of active crews has declined continuously from the peak in mid-1974 of about 330 active crews to only about 250 crews this year.

For these reasons, I urge my colleagues to reject the amendment now before the Senate.

Mr. President, will the Senator yield further for a question?

Mr. MONDALE. I would be glad to yield.

Mr. BENTSEN. Let me say to the distinguished Senator from Rhode Island, when you are talking about an actor or folk singer making $3 million, he pays a maximum tax of 50 percent.

Then, if you are talking about capital gains, we are talking about a maximum capital gains including the preference tax of about 37.5 percent. So it is something of an advantage over the personal income.

Mr. PASTORE. But he is only paying on one-half.

Mr. BENTSEN. That would be all of it.

Mr. PASTORE. The whole amount?

Mr. BENTSEN. He is a 70-percent taxpayer. Then what you do is figure on the one-half he would be paying 35 percent, plus preferences, you see, so overall you would figure on the entire amount he would be paying about 37.5 percent. That is with the preference.

Mr. PASTORE. On the total amount?

Mr. BENTSEN. Yes.

Mr. MONDALE. But if it were not for the minimum tax we are talking about, he would not pay anything on the half that is excluded. That is what is at issue here. No one is changing the capital gains. The question is what do you do with this long list of preferred income, including that excluded under the capital gains law. Half of the income that comes in, if you are an individual taxpayer, from capital gains, is excluded from taxes, unless you put it in that preferred income pool and therefore pay something on it.

That is why we think we need this minimum tax and need to give it some bite.

Mr. BENTSEN. If I may make a further comment. Under the pending amendment it would be advantageous to the taxpayer to convert all his income into preference income and simply pay the 15 percent minimum tax and not pay any regular income tax.

That is the direction they will move, and I think that is wrong.

I think we ought to allow a credit for the regular taxes paid for the taxpayer that says, "OK, I will pay some taxes."

We will never have public faith and confidence in the tax system if we have people making $200,000, $300,000, $400,000 or $500,000 of cash flow who pay no tax.

Sure, the high-income American must pay tax, we have to see that he does. But to say to the taxpayer already paying a lot of taxes, that we will not give him any credit for that, I think, is totally counterproductive.

Mr. MONDALE. I do not want to repeat again, but I will repeat one thing, because we have come full circle on this.

The reason for the minimum tax was that we have these reports about hundreds of Americans of great wealth who are able to escape taxes entirely.

We can do one or two things. Remove the loopholes—or leave them, and say that the money that escapes taxes, the money that goes into this preference income pocket, at least something should be paid on that income.

The Senate Finance Committee says we should give them credit for taxes paid on earned income, against the money in the preferred income.

If we do, we do not raise any money. What Americans are trying to do is figure out some kind of tax that rich people can pay and that can be accepted by those who oppose taxes on rich folks.

This is our best attempt. It does not hit them very hard.

We are not antibusiness. There is a 10 percent investment tax credit in this bill. There is a billion dollar recycling credit in this bill. We do not touch the accelerated depreciation rate. We do not touch the foreign tax credit. We substantially leave DISC. There are billions of dollars of probusiness incentives in this bill now that we are not complaining about.

What we are trying to pick off are the preferences we think go beyond the pale in order to finance the continuation of those minimum individual cuts that are so essential.

Mr. STONE. Will the Senator yield for a question?

Mr. MONDALE. Yes. I yield.

Mr. STONE. The Senator does not hit DISC on this amendment, but he does on another, and he does not hit the foreign tax credit on this one, but with another?

Mr. MONDALE. There are no amendments that change the foreign tax credit that I know of.

Mr. STONE. Deferred income?

Mr. MONDALE. But there is an amendment to hit deferral income, to be offered later.

Mr. STONE. And DISC?

Mr. MONDALE. We keep DISC, but both the committee and the reformers agree to leave DISC for so-called supplemental exports.

Mr. PASTORE. Will the Senator yield for a question? Just one more question?

Mr. LONG. A question.

Mr. PASTORE. Is not the shortest and best way to eliminate the preferred list? Why do we not remove the preferred list so we will not have these tax loopholes?

That would be the quickest and best answer.

Mr. MONDALE. That was the first

argument of the reformers and they said:

Oh, don't do this, that would be wrong, we will agree and compromise on what we call the minimum tax on preferred income.

Now we want to tax preferred income with that minimum tax and they say, "Don't do that."

There is no one in America, at University of Minnesota Law School, at Harvard Law School or at Brookings Institute—no statistician, no accountant in America, who has been able to figure out a plan to tax the rich without receiving enormous opposition.

There is no theory they will accept.

Mr. DOLE. What happens to the Senator's plan if he shelters all his income? How much tax is paid?

Mr. MONDALE. We are not talking about absurd propositions here, but about a tax bill that is balanced, where people of wealth will pay something toward support of their Government.

Mr. DOLE. Is the Senator not going to encourage people to shelter all their income and just pay a 15 percent minimum tax?

Mr. MONDALE. I do not think so.

Mr. DOLE. Why not?

Mr. MONDALE. The question of the LAL is another issue.

Mr. BROCK. Will the Senator let me present a third alternative here?

Mr. MONDALE. I want to make one point. We have finally got the figures on Senator JOHNSTON's hypothetical.

Under the Finance Committee bill, that person would pay $600 more in taxes than under our bill.

Mr. BROCK addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. LONG. Mr. President, might I just say one word before the Senator gets started? The manager of the bill has not had a chance to speak at all toward the committee position. Then I will yield back to the Senator.

Will the Senator be so kind?

Mr. BROCK. All right.

Mr. LONG. I appreciate it very much.

Mr. President, the hour is now 5:55 p.m. This is the first time those of us who speak for the committee position have had the opportunity to make a speech for the committee side.

Let me just say briefly what is wrong with the Mondale amendment.

I regret that we do not have more Senators here at the time, but I know how it is and we will have to do the best we can.

Mr. President, there is on that blackboard a case of what I call tax crucifixion, and it exists under present law.

Here is what it amounts to. Let us assume a person buys a piece of property for $200,000 in 1955.

Now, the currency has depreciated in value to where, if we had $400,000, we would still be losing in terms of real value because we would need today more than $400,000 to have the same purchasing power we had with the $200,000 invested in that property in 1955.

For tax purposes, this man has a capital gain of $200,000. Let us assume he has ordinary income of $100,000.

There is computed there on that blackboard how he would compute his tax, as it stands.

He would owe, under existing law, $123,090 of taxes in a situation where in economic terms he had made only $100,000.

So he pays a tax of 129 percent on his economic income.

Under the committee proposal, this man would be given a deduction for the $129,000 in taxes he has paid to the Federal Government. So, at least, we do not make the tax crucifixion any worse.

Under the Mondale amendment, we would add another $13,500 taxes on that man for a total of $136,590 total taxes, on a situation where in economic terms, taking inflation into account, the man has made $100,000, a tax of 136 percent in economic terms.

Mr. MONDALE. Will the Senator yield?

Mr. LONG. Mr. President, that is the difference between taking into account the taxes we have already paid and not taking into account the taxes we have already paid.

I just submit that anybody who tries to talk to that man and explain to him why it should be that way will find that man is very resentful, and for good reasons.

In economic terms, he made $100,000 and we charge him $136,590, or we charge him a tax in economic terms of $36,590 more than he made.

Mr. MONDALE. Will the Senator yield?

Mr. LONG. In a moment, I will.

Here is the second type of situation. Let us assume we have a case where a man has taxable income of zero; therefore, he pays no regular tax, although he has $300,000 of tax preference items.

In that case, Mr. President, the committee bill would tax that person $44,875 and the Mondale proposal would tax him $43,500. So the committee bill would tax him more in a situation where we really should. So as to the fellows that we do not want to hit, we avoid hitting those people in a great number of cases. In some cases we do hit them.

Time and time again, by failing to take into account the large amount of taxes a man has already paid, we would crucify those people unreasonably.

The Senator from Texas made the next point: Under the committee approach a person is rewarded, in effect, by the policy adopted by the committee, for the regular taxable income that he earns. He is not crucified; he is not penalized for having salary income, for having wages income, for having ordinary dividend income, all of which is fully taxed.

He is crucified under the Mondale amendment because if he gets all of his money in preference income, just changing the way of business so he gets it all by preference income, then he only pays a 15 percent tax. That is fine, a great way of doing business. The emphasis on the Mondale amendment would be to go in for more preferences, not less. It would reward the preferences and discourage people from making their money in ways that are ordinarily taxable income. It would discourage them from making their income as dividend income, as interest income, or as wages or salaries. Instead, this would place all the emphasis on getting more tax shelters and trying to change their way of doing business so it becomes a tax shelter.

The very items that Mondale would tax are the things they would be encouraged to go into because if they do business that way, they would only pay a 15-percent tax and in that way they would not be penalized by the large amount of earnings that one made which would be subject to the regular taxes one would pay.

That is not a fair way to do business but that is where the emphasis would be. I yield to the Senator.

Mr. MONDALE. If the Senator is concerned about the impact of inflation investment and the attractiveness of investments, why is it the Finance Committee bill strikes the middle income investor and his gains harder than does the reform amendment? How can the Senator justify a tax that bites harder at the middle income investment and less——

Mr. LONG. If the Senator will yield.

Mr. MONDALE. Let me finish this point because it is a fatal flaw in the Finance Committee bill.

Mr. LONG. Hold on a minute. I will not yield further but I shall yield in a minute.

The Senate picks examples where people have large amounts of capital gains income and relatively small amounts of other income. If he picks that particular situation, it tends to prove his point. But that is not the ordinary situation.

Mr. MONDALE. Under the Finance Committee bill, everyone who earns $20,000 or less in capital gains pays more under the Finance Committee bill than they do under ours.

Mr. LONG. Let me tell the Senator why. It is because the Senator would exempt $10,000. We would make it $5,000. Let me say why we would make it $5,000, Mr. President. We would make it $5,000 for a very simple reason: until we get this minimum income tax down to where a lot of people know what it is, until we reach enough people so they will know what we are talking about, we are going to continue to hear about the high rollers, the fat cats, the rich, the vested interests, and the robber barons, just anything they can think of. This will be the one thing that any orator must shout from the housetops about in the union hall until we fix it up so middle-income people get a chance to find out what the minimum tax is. What do we do? Just apply the same principle a little further down. If the principle is right, it is right.

If the principle is right, it ought to be fair to bring it on down to where people are making $35,000 and $40,000. Let a U.S. Senator know what it is by paying some of it. Let a Congressman learn what it is by paying some of it. When they have capital gains or the same tax preferences that somebody else has in a high bracket, let them get a small taste of it. Instead of having just 100,000 people getting the bite of this thing, why not have a half million people, have a half

million people on the same equitable principle of justice and fairness just paying a little, if only a couple of hundred dollars? We will see how it works.

We will let a half million people, 500,000 people, in these whole United States pay some of that tax. We will not hear as much of this thing about the high rollers, the fat cats, the robber barons, and all that. Just let enough people pay it so that when we make a speech before a civic club at least there is somebody in that audience who is paying that tax and who knows what we are talking about.

I find, Mr. President, that makes for better statesmanship.

I was the floor manager of the last tax reform bill that had that name on it in 1969. In introductory material to send out, I proudly stated that I was the manager of the 1969 tax reform bill, which included the first minimum tax. I helped to put that into effect.

Mr. President, after I had talked to about three or four groups of businessmen, I said, "Take that out of that introduction. We don't want to talk about that any more." We reached enough people with that bill where we did not want to talk to a business group, a Kiwanis Club or a Rotary Club, or some group like that, and bring that matter up. We found that we got to a lot more people than we thought we got to with that one.

Rather than just continue to clobber and clobber and clobber these kinds of people, the man who in economic terms made $100,000 and paid $123,000 tax, who paid 23 percent more in taxes than in economic income, rather than just clobber him again and again because he is in a high tax bracket, fix it so people, so Congressmen and people who make about the same amount as a Congressman, Senators, and judges, the kinds of people we see from day to day, feel the bite of it, get a taste of it. Even if it is not a big amount, let them pay.

If it is people with income of $35,000 or $40,000, for whom the Senator has great sympathy, let them pay a couple of hundred dollars in that tax and see how the principle works. Let the taxpayer see if it is fair for Mr. MONDALE to deny him any deduction whatever for the large amount of tax he has already paid. Then, Mr. President, it will be a different story. We will see a little statesmanship when Senators and Congressmen pay that tax. Then we will not hear quite as much about high rollers, the fat cats, the robber barons, whatever else they will be called, people who have worked very hard, have provided a lot of jobs, a lot of opportunities, and did the best they could to try to make something out of themselves and their family, who tried to earn a little something and save something they could leave behind for their children. That is just common justice and simple fairness.

Mr. President, until we do amend this tax until it applies to at least a half-million people out of 200 million people in this country, we are going to continue to hear this sort of thing that, "You have to tax these people because they are getting away with goodness knows what," when in practical terms more than half of them who are taxed are paying too much already.

Mr. BROCK. Will the Senator permit me to continue?

Mr. LONG. I yield.

Mr. BROCK. Mr. President, I am almost reluctant to try to get the floor again and say anything. The Senator was so gracious in suggesting that we have a vote so that all Members could come over here but we have talked so much that most Members have left.

I will try one more time to explain to this body that there are three proposals before it, what they contain and how they work. They are not difficult to comprehend. We can talk about how complicated they are, if we want to confuse everybody, but they are not difficult to understand.

Two of them are add-on taxes. One is an alternative tax. That is mine. The two add-on taxes, the Finance Committee and the Mondale proposal, work like this:

They say, "We do not care what your taxes are. Calculate your preference items and tax them at 15 percent."

The Finance Committee makes one change from the Mondale approach. It just says you can deduct any normal taxes you pay. But, basically, that is the only difference between the two. There is a little difference in the exemption but not enough to make any difference and nobody cares about it, frankly. It is not that important. The important thing is that the tax committee says you can deduct the taxes you pay and MONDALE says you cannot.

Basically, both of them are surtaxes on an existing taxpayer. That is all they are. They are not a minimum tax. It is not honest, it is not fair, it is not right to call them a minimum tax when, in fact, they are not. They are a surtax.

You have just got to face that question if you want to study this issue and understand what you are voting on. And if you do not want to deal with the alternative facts, what is the alternative?

I say take that taxable income that you calculated in your return, add in all the preference items, and multiply it by 60 percent—not 15 percent, 60 percent—and put that up against your income tax table and see whether the tax you would pay at that expanded income tax rate is higher than the income tax you would pay under the normal system in operation today.

Why do I say alternatively, not both? Because there are a lot of people today like Senator JOHNSTON, who sell their homes, who do not have all these things to take advantage of, and both the Mondale amendment and the Finance Committee proposal kick them in the neck. They are just plain ordinary folks, and they are getting toothed by a committee that knows they do not understand how the tax system works.

I say let alone the guy who is paying his fair share of taxes; he is being buffeted enough. He is already getting it in the neck by a government that is incompetent to manage its affairs and has to spend more money than it takes in and thus is hitting him with inflation on top of heavy taxes. If he is paying a fair share of taxes, why kick him in the teeth again, all the while you talk about executive suites, fat cats, and the super rich? He is not anything like super rich.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. BROCK. Not yet; I am just getting warmed up.

It just gets under my skin to be faced with a refusal to answer these questions when the answers are so simple and obvious. If we are going to deal with an abuse, deal with it, for goodness sake, but do not hit the average guy, who is not a part of the abuse. Let him alone. Let him pay his taxes.

Calculate the tax two ways. If he is abusing the tax, the alternative catches him up.

You say, "Wait a minute, you cannot do that."

If he is not abusing the tax, then let him alone, that is all. But both of these alternatives say, "We do not care whether you are super rich or not; that is just a word we use in debate. We do not care whether you are executive suite; those are just words we use in the union hall. We do not care whether you are abusing or not, that is just rhetoric. But we are going to slap you with a new tax, because we cannot find any other way to get to capital gains. Because that is what we are after. We cannot find any other way to sock it to capital formation, and that is what we really want to do."

There was no other answer. The Senator from Florida did not get an answer, and yet it is a surtax. The Senator fom Louisiana did not get an answer, either, but it is going to hit that little family that sells its home it has been 30 years paying the mortgage on. The Senator from Texas did not get an answer, either. But that is who it is going to hit. All these super rich, executive suite fat cats are going to shelter every cotton-picking penny of their income, because that is what the Mondale amendment is all about.

What else? You have got to be kidding. If the Mondale amendment passes, in order to shelter 100 percent and pay 15 percent taxes—that is what the amendment does. Talk about a sweetheart deal for the filthy rich; boy, have we got it in this one. It is a beaut.

The only way you are going to deal with that abuse is with an alternative tax, and you and I know it. The question is whether you want to vote on the merits or on politics.

I do not understand why we cannot come to grips with the situation and say, "Are we really trying to raise revenue"—that is part of the debate—"or develop a tax system that is fair to the American people?" Those are two different things.

If we are not going to do something that is fair, forget it; I do not care what the revenue consequences are. Once you are fair, once you do equity, once you are honest with your approach, then we can talk about the amount of revenue that is necessary, and adjust the rates accordingly.

But do not throw that garbage at me about fat cats in executive suites, or this claptrap about the super rich, when the effective tax rate under Mondale is 4 per-

cent. I know better, and everyone else who studies the computations does.

I do not know why we have even talked about the other parts of the bill. They have nothing to do with this debate. I do not know why we cannot come to grips and debate this thing honestly. Are we going to have a fair system, an honest system, a system that applies across the board, or are we going to continue to try to con the American people while we say, "Boy, are we going to sock it to the fat cats," when everybody in this room knows everyone of those 244 people that pay no taxes today can continue to pay no taxes tomorrow, next year, or the year after that, if that amendment passes; because all you have to do is buy tax exempt bonds. And if that return is too low, then let them buy corporates, because now we have a real sweet opportunity, creating tax preferences and taxing them at 15 percent.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. BROCK. Yes.

Mr. LONG. The Senator knows, does he not, that there is an alarming trend among corporations to keep expanding debt relative to equity as a source of financing? It is becoming dangerous to the whole economy.

Look at the figures on the debt limit bill, that we made available on those reports. Because corporate dividend income is taxed twice, and interest income paid by corporations is taxed only once, it becomes advantageous for everyone to invest in bonds, where the corporation pays its obligations by borrowing money, not by selling stock. Insofar as they can borrow money, they borrow it, because insofar as they can compute that as interest, they are taxed only one time. The Senator is familiar with that?

Mr. BROCK. Yes, I am.

Mr. LONG. And the corporate income structure, by virtue of that situation, has expanded to the point that a bad year of business conditions, just one, could cause the country, to be faced with vast numbers of our blue chip corporations forced into bankruptcy or receivership. The Senator knows that.

Mr. BROCK. Anybody who has studied the figures and sees the increasing dependence upon debt in this country has to be terrified. The asset to debt ratio is three times greater than it was 20 years ago, and that is a frightening thing.

Mr. LONG. This minimum tax that is being proposed here would put even more pressure on the economy for corporations and people to do business by way of corporate borrowing rather than by selling stock; would it not?

Mr. BROCK. Sure.

Mr. LONG. Because it increases the tax on corporate income, and does not affect the deduction they would have for interest paid on corporate bonds?

Mr. BROCK. That is true.

Mr. LONG. So the trend toward more and more of an unbalanced debt-equity ratio, where the debt almost equals the entire value of the corporation, would continue to be accentuated, when we really ought to be trying to do just exactly the opposite.

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

Mr. BROCK. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I have listened with a good deal of interest to the Senator's explanation. The fact remains, as I understand, if you raise that 60 percent to 65 percent, the total amounts of revenues which are actually raised under the Brock amendment come up to about $1.8 billion, which is virtually the same as under the Mondale amendment.

Mr. BROCK. That is correct.

Mr. KENNEDY. You go about it somewhat differently in terms of the formula, but I am satisfied, that the proposal we put forward is simpler, more easily understood, and less complicated. Although people can differ with that, I do think if the Senator had gone to the 65 percent, there would not really be very much difference between what he proposes and the proposal of the Senator from Minnesota.

As to the 60 percent, there is a dramatic difference, obviously, in the total revenues that are raised. His, as I understand it, raises about $100 million, versus the $800 million of the Mondale amendment.

Mr. BROCK. $100 million over the Finance Committee's amount.

Mr. KENNEDY. $100 million over. But the difference in terms of total revenues that are raised, is $100 million over the Finance Committee and $700 million less than our amendment.

So at this point, I would be opposed to it because it does not raise adequate revenues. I think it is more complex, and it does not raise enough revenues. But I would say, if the Senator raises that 60 percent figure to 65 percent, then we are in the same ball park. I would hope that at least we could reach some point of accommodation and we would not, necessarily, have to be spending all of our time at sword's point. We could fashion something that is really going to provide both the revenues and the sense of tax equity and justice.

I hope that he and others will understand that those who are opposed to this proposal, and I am opposed to it, do not do so out of failure to appreciate the approach or the concept, but because it does not raise the revenues.

Would the Senator consider raising that to a 65-percent level? We are only asking to go from 60 to 65 percent. It is only 5 percentage points. It is about $700 million.

Mr. BROCK. I think that is the more important figure. It is only $700 million in new taxes on the American people. Frankly, the decision——

Mr. KENNEDY. I think maybe we understand then a little clearer what the real motivation is.

Mr. BROCK. No. The real motivation is to have an honest tax and not one misleading by being called a minimum tax when in fact it is not.

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

Mr. BROCK. Yes, I yield.

Mr. KENNEDY. It is honest at 60 percent and not honest at 65 percent?

Mr. BROCK. Come on.

Mr. LONG. I am advised by our staff technicians, at least by the ablest of our staff technicians, that a quick calculation indicates that at that rate the maximum tax on capital gains would then be 45.5 percent.

Mr. BROCK. That is a little high.

Mr. LONG. It is especially in view of the fact that often capital gains, as I indicated, is not a profit at all. In other words, in the example I gave, in economic terms, frequently something held over a long period of time with what appeared to be a big capital gain is really a loss in economic terms because inflation has completely eroded the purchasing power of money. In other words, often the tax that we levy on a long-term capital gain works out to be a penalty, assessed on that taxpayer for the fact that the Government failed to maintain the purchasing power of his currency; therefore, the Government will bear down and get him, if we had the way of the Senator from Massachusetts, get him for a 45.5-percent penalty for the fact that the Government failed to maintain the purchasing power of his money for him.

Mr. BROCK. The Senator is correct. What the Senator is saying and the point the Senator from Tennessee was trying to make is I frankly think this 60-percent figure is too high. The reason I had to come up with it was because I had to have an adequate revenue estimate to at least exceed the Finance Committee's amount. But in all candor the case I have been trying to make is not on the merit of revenue but on the merit of the concept itself, and I think it is so terribly wrong to call this proposal of the Senator from Minnesota a minimum tax or even the proposal of the Finance Committee a minimum tax when in fact it is not; it is a surtax. I think we ought to at least call it what it is. Mine is a true minimum tax in that it is an alternative. A taxpayer pays one or the other, but he does not pay both.

I yield to the Senator from Nebraska.

Mr. CURTIS. I thank our distinguished colleague and commend him for his presentation. He has offered a proposal that I hope the Senate will very carefully consider and adopt.

I wish to ask a question or two.

As has already been stated, his amendment would raise a little more money than the committee amendment.

Mr. BROCK. That is correct.

Mr. CURTIS. And while it falls somewhat short of the Mondale amendment, it does retain several very important principles. I ask this: Does it retain the principle of progressive rates on income?

Mr. BROCK. Yes. That is the flaw I find in both the Mondale and the Finance Committee proposals. They are flat rates, and it does seem to me that we have accepted as a basic premise of our tax system progressivity so that those who have large economic income pay a larger share.

Mr. CURTIS. Yes. In other words,

under either the committee bill or the Mondale amendment, if someone has a small amount of preference income, it is taxed at 15 percent.

Mr. BROCK. That is correct.

Mr. CURTIS. But if it runs into the millions of dollars, it is still taxed at 15 percent?

Mr. BROCK. The Senator is correct.

Mr. CURTIS. Is my understanding correct of his proposal that what he says is this: The Senator takes the regular income and he adds on all the preferences which are tax free; is that right?

Mr. BROCK. That is right.

Mr. CURTIS. He takes 60 percent of the total and applies the regular tax rates to that; is that correct?

Mr. BROCK. The progressive tax rate schedule; that is correct.

Mr. CURTIS. Yes. Then, if he computes that and he computed the regular tax, the taxpayer has to pay the higher of the two.

Mr. BROCK. Whichever is higher; that is right.

Mr. CURTIS. Yes.

I commend the Senator, and I also commend him for not going above the 60-percent level. In fact, I share the view. I wish it were 50 percent. We should not devise a particular tax with the idea that it must get a certain sum of money because, if we do, then we change it here and there and we get uneconomic results, results that discourage business, and results that end in unfairness.

I wonder if the Senator will yield for a unanimous-consent request?

Mr. BROCK. Yes.

Mr. CURTIS. Mr. President, I have at the desk an amendment to the Mondale amendment. Should the Brock substitute prevail, there would be no need for my amendment. Therefore, I can save the time of Senators by not presenting it now. But I ask unanimous consent that, if the Brock amendment is rejected, thereafter I be recognized to present my amendment to the Mondale amendment.

Mr. MONDALE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JAVITS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Objection is heard.

Mr. CURTIS. Very well.

One more question, if I may. Is there anything about the Senator's proposal that increases someone's tax if he gives to charity?

Mr. BROCK. No. I appreciate the Senator raising that point. I completely forgot to mention it. In the Mondale approach, and I think in the committee approach as well—certainly in the Mondale one—there is a provision which does great violence to charitable giving. My amendment specifically and explicitly excludes any negative impact upon charitable contributions. We have done too much violence now to our public and private charitable institutions.

Mr. CURTIS. This is worse than anything that has happened because if one gives to charity he increases his tax.

Mr. BROCK. That is correct.

Mr. CURTIS. He increases the added surtax of the Mondale proposal by giving to charity.

Mr. BROCK. The Senator is correct. We simply must encourage the voluntary sector of our society by greater charitable contributions.

Mr. CURTIS. I thank our colleague.

Mr. BROCK. May I conclude, Mr. President, by admitting quite honestly I never thought I would be in the Chamber advocating a $1 billion tax increase. It is a whole lot easier to do other things. But I must say that I think we have a problem in this country, and I think we can deal with it if we deal with it with a little less rhetoric and a little more candor with each other. That is the effort I have tried to make, and I hope my colleagues will bear that in mind. I appreciate their attention.

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

Mr. BROCK. I yield.

Mr. FONG. The preferences we have been talking about have been put in the law because there are certain benefits from them to the body politic. Is that correct?

Mr. BROCK. That is correct.

Mr. FONG. For example, capital gains. If you do not give the investor a chance to make some money, he will not invest. Therefore, from the standpoint of public policy, we allow him a capital gains preference.

Mr. BROCK. That is correct.

Mr. FONG. I point out that almost no other country taxes capital gains at all. In France, I understand there is a big fight in their assembly now, to see whether or not they will have a capital gains tax. But in most countries there is no capital gains tax.

Mr. BROCK. That is correct.

Mr. FONG. The reason for that is to encourage investment.

Mr. BROCK. That is right.

Mr. FONG. When investment is encouraged, peope buy things, and that gives employment. Is that correct?

Mr. BROCK. Absolutely.

Mr. FONG. Because of that factor, where the preference tax encourages a man to invest, it creates employment. Therefore, it is a matter of public policy, and the reason why we give them a preference.

Mr. BROCK. That is correct.

Mr. FONG. Then take the matter of accelerated depreciation. Why did we have accelerated depreciation? Was it because the business climate was in the doldrums?

Mr. BROCK. What we are trying to do is to encourage manufacturers, businesses, to take the tax savings and plow them into new equipment and create more jobs and more production.

Mr. FONG. Public policy says that if we want more employment, we have to give businessmen an incentive, and accelerated depreciation gave them that incentive.

Mr. BROCK That is right.

Mr. FONG. Then we had accelerated amortization. That was for the same purpose. Is that correct?

Mr. BROCK. Absolutely.

Mr. FONG. To create more jobs.

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

Mr. BROCK. I think I have the floor.

Mr. BUMPERS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. BROCK. If we can complete the series of questions, I will yield the floor.

Mr. FONG. I have just a few more questions.

The PRESIDING OFFICER. The Senator from Tennessee has the floor.

Mr. FONG. With respect to pollution devices, we gave a preference for those companies which spent their money installing pollution devices. That is a preference.

Mr. BROCK. That is correct.

Mr. FONG. On one hand, we give them these preferences, and we say these preferences are for the purpose of encouraging people to invest and create employment, so that the unemployment rate will drop. On the other hand, we have this minimum tax. We are taking it back.

Mr. BROCK. That is right.

Mr. FONG. With one hand we give and with the other hand we take it back.

Mr. BROCK. That is the way we have described Government for the last several years. One hand does not know what the other hand is doing.

Mr. FONG. We have to raise some revenues; therefore, we take back a few dollars. But if you take back too much money, you are going to discourage investment. Is that correct?

Mr. BROCK. You have no further incentives.

Mr. FONG. If a man were a rich man, why should he put his money into real estate? Why put money into these capital expenditures, when it could be put into tax-exempt bonds?

Mr. BROCK. That is exactly what the Senator will do if the amendment of the Senator from Minnesota is adopted. If the Senator from Hawaii has any sense, he will put it in tax-exempt bonds or other items where he is limited to 15 percent taxes.

Mr. FONG. Suppose I had $10 million and I put my money in tax-exempt bonds. I could get 5 percent. I would receive an income of $500,000. Could I be taxed by the Federal Government?

Mr. BROCK. No.

Mr. FONG. Not one cent. Is that correct?

Mr. BROCK. That is correct.

Mr. FONG. Every cent of that $500,000 would be free of taxes.

Mr. BROCK. That is correct.

Mr. FONG. So why should I put money into any risk investment if I could get $500,000 tax-free income?

Mr. BROCK. I think I could probably get along on that. I would think the Senator could, too.

Mr. FONG. We all could do that. But will the amendment of the Senator from Minnesota (Mr. MONDALE) reach that kind of situation?

Mr. BROCK. No. The Senator would still pay no tax.

Mr. FONG. So we cannot catch a man who is putting his money in tax-exempt bonds.

Mr. BROCK. No. The Mondale amendment would hit only the productive type who wants to create jobs.

Mr. FONG. Then, I say, we can call that amendment an amendment to discourage investment.

Mr. BROCK. That is right.

Mr. FONG. It is like the LAL, which is given a very rhetorical name, a catchy phrase, limitation on artificial losses. But, actually, it is a provision to discourage investment, is it not?

Mr. BROCK. I think so.

Mr. FONG. I thank the Senator.

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

Mr. BROCK. I yield the floor.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. The Senate is not in order.

AMENDMENT NO. 95

Mr. ALLEN. Mr. President, on behalf of the distinguished Senator from Florida (Mr. STONE) and myself, I have at the desk a perfecting amendment to the Mondale amendment, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) proposes unprinted amendment numbered 95, intended to be proposed to unprinted amendment numbered 93 by Mr. Mondale:

On the last line of page 1, strike out "$10,000." and insert in lieu thereof the following:

"$10,000, or the liability for tax for the taxable year, whichever is the greater."

Mr. BUMPERS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. ALLEN. I yield, provided I do not lose my right to the floor.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, will the Chair state the unanimous-consent agreement that was entered into last evening?

The PRESIDING OFFICER. The extent of the agreement was that final disposition of committee amendment No. 13 will occur no later than 11 o'clock this evening. That was the extent of the unanimous-consent agreement.

Mr. BUMPERS. Did that not also include an agreement that all amendments would be given 30 minutes?

The PRESIDING OFFICER. The Chair understands that there was, in effect, a gentlemen's agreement which was not part of the unanimous-consent agreement.

Mr. BUMPERS. Mr. President, I see that it is now 6:35. That means that there are nine 30-minute periods between now and the appointed hour to vote. So if there are 12 amendments here, 3 of them may not be considered. Is that correct?

The PRESIDING OFFICER. According to the Senate procedure, the so-called gentlemen's agreement with respect to limitation of debate is not enforceable and has no parliamentary standing. Every Senator has the right to call up his amendment even if there is not time for debate on amendments.

Mr. BUMPERS. I thank the Chair.

Mr. ALLEN. Mr. President, this amendment would amend the Mondale substitute in one particular. What we are trying to do here is to provide that everyone shall pay a minimum tax, and that is fine. I think we all support that principle. This would not change at all the thrust of the Mondale substitute to bring corporations under the increase in the minimum tax provided by the Mondale substitute.

What this amendment does, though, is to provide that whatever a taxpayer pays in normal tax on nonpreference income would be allowed as a deduction, not against the amount of the minimum tax but against the preferences—the preference income.

In other words, if a man should pay or a corporation should pay $25,000 in taxes on the nonpreference income and had preference income of $100,000, on which the tax normally, under both provisions, would be $15,000, it would allow this $25,000 in tax that is paid to be a deduction from the preference income.

That is the present law, actually, and it is also the provision that is in the committee bill. This would leave the corporation covered, but it would respect the principle that everyone should pay some tax. The only people who would get the benefit of this would be those who pay tax on nonpreference income. Whatever they pay for tax on nonpreference income would come off, not of the minimum tax, but the amount of the preference income. It has equity in it because it would guarantee that everyone would be paying a minimum tax. It could conceivably wipe out all of the preference income, but if they paid this tax over their nonpreference income, they should be allowed to take that amount off of the amount of the preference income and reduce the tax in that fashion. So, really, all that would be, in the illustration I gave, is 15 percent of the $25,000 that they paid on nonpreferential income. That would be the only benefit under this amendment.

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

Mr. ALLEN. Yes, I am glad to yield.

Mr. STONE. Is not a minimum tax supposed to tax somebody who is not paying a tax?

Mr. ALLEN. That is right.

Mr. STONE. Is not the Senator's amendment, which has been joined in by the Senator from Florida, simply trying to say that if you pay a tax, you get a deduction from this other, otherwise required, tax?

Mr. ALLEN. Yes, it is not deducted, as the Senator knows, from the tax liability. It is merely deducted from the preference income, much less than if it were credited against the minimum tax.

Mr. STONE. So it is a compromise position which equates the corporation treatment with the individual treatment. They have to pay this increase of 10 to 15 percent if they stay in business.

Mr. ALLEN. It is not touched at all.

Mr. STONE. But it does say if you pay a tax, you do not have to pay that same tax over again or have an added tax put on it.

Mr. ALLEN. That is right. It is offset against preference income. It is not offset against taxes, which would be a much larger offset; all it does is offset against preference income.

Mr. President, I call for the yeas and nays on my amendment.

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

The yeas and nays were ordered.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. ALLEN. I yield to the distinguished Senator from Arkansas.

Mr. BUMPERS. I want to ask about the $25,000. First of all, I think the last statement the Senator made was that $25,000 simply reduces the preference income by that amount.

Mr. ALLEN. That is correct.

Mr. BUMPERS. If I have $100,000 in preference income and I have paid $25,000 in taxes, that would reduce my preference income to $75,000, which would then be taxed at the rate of the Mondale amendment, which would be 15 percent.

Mr. ALLEN. That is correct.

Mr. BUMPERS. That would apply to both corporations and individuals?

Mr. ALLEN. That is correct.

Mr. BUMPERS. There is a $10,000 exclusion under the Mondale amendment. Would that also be deducted from the $75,000——

Mr. ALLEN. No, it would not. It is the $10,000 or the amount that he paid in taxes, whichever is greater. It would not be both.

Mr. BUMPERS. Well, up to $25,000; the amount of taxes he paid up to $25,000?

Mr. ALLEN. What the Mondale amendment does is allow a $10,000 exemption, so this would not change that. If the amount of tax paid is more than $10,000, we would use that formula to take off the preference income. If it is less than $10,000, there would be no application of it, because we would use the $10,000 exemption that the Mondale substitute calls for.

Mr. BUMPERS. Maybe I was mistaken. I understood that the Senator's amendment provided for a reduction of preference income by the amount of taxes paid up to $25,000.

Mr. ALLEN. No; it is not an added exemption. It just takes the $10,000 figure of the Mondale substitute and says that will be taken off of preference income or the amount of taxes, whichever is greater.

Mr. BUMPERS. And the Senator's amendment does not limit the amount of $25,000 of taxes?

Mr. ALLEN. Oh, no, I just gave that as an example.

Mr. BUMPERS. I see.

I thank the Senator.

Mr. MONDALE. Mr. President, I wish to speak to this amendment for a moment.

This amendment takes the Senate Committee on Finance posture that taxes paid on taxable income can be used to shield taxes paid on preferred income, then takes our amendment's position that not $5,000, but $10,000, should be exempted.

Mr. ALLEN. Will the Senator yield?

Mr. MONDALE. Yes.

Mr. ALLEN. It does not shield taxes. It comes off of preference income. It does not come off of taxes.

Mr. MONDALE. That is correct, but it is identical to the pending amendment which we have offered. It seems to me the problem is that, by doing it this way, the amendment offered by the Senator from Alabama collects, we estimate, about $300 million less in individual income taxes through a minimum tax—a tax on preferred income—than does the Senate Finance Committee bill.

Mr. STONE. Will the Senator yield for one moment?

Mr. MONDALE. Yes, I yield.

Mr. STONE. The Senator seems to imply, in his question of the Senator from Alabama, that a tax is being used as a shield. The Senator does not mean to imply that a tax is a tax shelter, does he?

Mr. MONDALE. I hope the Senator from Florida realizes that we have, apparently, a different opinion of how we view this preferred income. The Senate Committee on Finance took the position that this list of 13 preferences constituted income that had not been taxed. That is the position of the Committee on Finance. That is my position.

The Senator from Florida wants to take the position that somehow, it has been taxed, though it has not been taxed. Let me give some examples.

Let us take the bad debt reserves. There is a fiction, and I underline the word, "fiction," in the tax laws that a financial institution has so much in bad debts, even though it did not have that much in bad debts. That is a fiction. This tax measure says that, to the extent that the theoretical bad debts exceed the actual bad debts, that income was not taxed and, therefore, should go into the preferred income pot.

Similarly, take percentage of depletion. Percentage depletion is a fiction. There is only so much oil that can be taken out of a well, so much ore that will come out of a mine, and you can only deplete 100 percent of it. But under the tax laws, we have established a fiction called percentage depletion which might permit you to deplete a well 19 times.

What the Committee on Finance decided was that the difference between what you can deplete in fact and the theory of percentage depletion in the tax laws is income that was not taxed and, therefore, will be called preferred income.

Similarly, for example, we let the railroads take a 5-year fast writeoff on railroad rolling stock. No one thinks that rolling stock is going to be done in 5 years, that it is going to be depreciated to the point of uselessness. That railroad rolling stock will last for years. But the tax law has a fiction that says, for the purpose of taxes, you can write it off in 5 years against other income.

There is a list of 13 such preferences set forth in the Finance Committee bill that we simply put on this bill. The Senator from Florida apparently believes that that income has been taxed. It is his privilege to believe that; but, in my opinion and the opinion of the Senate Committee on Finance, and the opinion of Congress when it set up the minimum tax based on preferred income, that income was not taxed but excluded, based on these various tax fictions. Since it has not been taxed and since, through the use of this fiction, wealthy taxpayers have been able to avoid all or most of their taxes, it seemed to make sense, since we would not fill the loopholes in the first place, to assess a modest tax against them. That is all this is about.

Mr. STONE. If the Senator will just yield.

Mr. MONDALE. I wish to finish my point; then I shall be glad to yield.

The amendment offered by the Senator from Alabama, by taking the higher exemption in my amendment and the deductibility of tax theory found by the Committee on Finance, has the result of reducing—we do not have the exact figures—we estimate about $300 million below the Senate Committee on Finance on individual preferences. On that theory, I hope that the Senate will turn this amendment down.

Mr. STONE. Will the Senator yield?

Mr. MONDALE. Yes.

Mr. STONE. The Senator from Florida gave no examples such as the Senator from Minnesota has just given. What the Senator from Florida discussed with the Senator from Minnesota is capital gains, which, as the Senator from Minnesota knows, makes up at least 75 percent of the base of his preferred tax

Mr. MONDALE. That is correct.

Mr. STONE. What the Senator from Florida would like to convey and ask the Senator from Minnesota as if he does not agree that when he talks about 50 percent of capital gains not being taxed he merely talks about the way you compute a capital gain. You take 50 percent of your gain and you tax it at the ordinary income rate, and you do not tax the other. That is how you get the capital gains rate. You are not exempting half of that gain. Is not that the case? It is simply the way you get a capital gain rate.

Mr. MONDALE. Read the tax law. What does it say?

Mr. STONE. That is what it says.

Mr. MONDALE. No; that is not what it says. It says, if you are an individual taxpayer and you have got $100,000 of gain, you forget about $50,000, it does not appear in the tax base. It is only the other $50,000 that shows up in your tax bill.

Mr. STONE. And then——

Mr. MONDALE. Let me finish now.

I want to further remind the Senator that it was the Senate Finance Committee, and Congress since 1969, that have taken my position that that is excluded preferred income that ought to go into that preferred income part. It is not just my idea, the Congress since 1969 has taken the position I profess.

Now, the Senator from Florida would say, "Oh, no, although it is exempted from taxes in these 13 points, because we have a fiction that we do so, we should nevertheless consider it having been taxed because some other income was taxed."

Well, the Senator can have his way and make his arguments. I hope he does not have his way.

Mr. STONE. The Senator from Minnesota intends by this analysis to assert that a capital gains, half of which is taxed at the ordinary rate, ought to all be taxed at the ordinry income rate.

Mr. MONDALE. Oh, no.

Mr. STONE. Well, that is the theory the Senator is advancing.

Mr. MONDALE. Absolutely not. My position is this: This minimum tax against preferred income should be assessed because these preferences permit persons of great wealth, great earnings, to avoid all or most of their taxes, and if you permit these big hitters, the movie stars and football players and the big corporate executives—who make $200,000 or $300,000 a year and pay taxes on that—to take the taxes paid on other income and use it to deduct against the minimum tax, you end up with a minimum tax that is a shell and amounts to nothing. It is a nominal tax of no significance whatsoever.

Mr. STONE. Let me ask the Senator just one question: Does the Senator believe that there is a basic difference between ordinary earnings and capital gains?

Mr. MONDALE. Always, yes, and I have always supported that.

Mr. STONE. What is the difference?

Mr. MONDALE. There is a big difference.

Mr. STONE. What?

Mr. MONDALE. The idea behind a preferential rate for capital gains is to encourage the investment of money in those investments; that is the idea.

Mr. STONE. Is it not that there is a capital asset being sold whereas in ordinary income there is not?

Mr. MONDALE. That is correct.

Mr. STONE. Is there not, therefore, a definite basis for having a different way of computing the tax?

Mr. MONDALE. There are all kinds of ways of computing the tax.

Mr. STONE. That is all the Senator from Florida was trying to establish with the Senator from Minnesota.

Mr. MONDALE. But the Senator from Florida goes beyond that point——

Mr. STONE. That is all I wanted to establish.

Mr. MONDALE. To argue that the Senate Finance Committee was wrong when it concluded that excluded income for capital gains should go into the preferred income pool. He is arguing that Congress has been wrong since 1969, when it has concluded that the excluded proportion of capital gains should not go into the preferred pool.

Under some new theory, the Senator from Florida is arguing that somehow that part was excluded from taxes.

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

Mr. MONDALE. Mr. President, it is now 7 o'clock, and we have, I think, 13 or 14 amendments.

In my opinion, this amendment, which would bring in about $300 million less——

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I am going to do something else in a minute.

Mr. ALLEN. That is an incorrect statement.

Mr. MONDALE. I will yield for one question.

Mr. ALLEN. Well, the Senator says bring in $300 million less than the Finance Committee bill. That is obviously incorrect because all this bill is doing is adopting the $10,000 exemption that the distinguished Senator from Minnesota says is so much better than the $5,000 exemption that the Finance Committee has, because by having the $10,000 exemption, it helps the little man. The Finance Committee's bill does not help the little man by having a $5,000 exemption, and all it does is to amend the Senator's bill by taking his $10,000 figure and giving that exemption or the amount of his taxes, whichever is greater, and it does not come off of the taxes as the Senator indicated just a moment ago. All it comes off of are tax preferences.

Mr. MONDALE. I think the Senator is in error because the amendment does one other thing; it permits taxes paid on taxable income to be deducted from the preferred income pot.

Mr. ALLEN. That is correct.

Mr. MONDALE. And that, coupled with the $10,000 exemption——

Mr. ALLEN. You do not have both. It is whichever is larger.

Mr. MONDALE. Nor do you in the Finance Committee's bill.

Mr. ALLEN. That is correct.

Mr. MONDALE. Mr. President, I move to lay on the table the amendment of the Senator from Alabama and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota to lay on the table the amendment of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. McCLELLAN). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Michigan (Mr. PHILIP A. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. McCLELLAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) and the Senator from Indiana (Mr. BAYH) are absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. McCLURE), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 33, nays 53, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—33

Abourezk	Hart, Gary	McIntyre
Biden	Hartke	Mondale
Brooke	Haskell	Moss
Cannon	Hathaway	Muskie
Case	Huddleston	Nelson
Clark	Humphrey	Pastore
Cranston	Javits	Proxmire
Culver	Kennedy	Ribicoff
Eagleton	Leahy	Roth
Ford	Mathias	Schweiker
Glenn	McGovern	Stevenson

NAYS—53

Allen	Garn	Pell
Baker	Gravel	Randolph
Bartlett	Griffin	Scott, Hugh
Beall	Hansen	Scott, William L.
Bellmon	Helms	Sparkman
Bentsen	Hollings	Stafford
Brock	Hruska	Stennis
Bumpers	Jackson	Stevens
Byrd, Harry F., Jr.	Johnston	Stone
Byrd, Robert C.	Laxalt	Taft
Chiles	Long	Talmadge
Curtis	Magnuson	Thurmond
Dole	McGee	Tower
Domenici	Metcalf	Weicker
Durkin	Montoya	Williams
Eastland	Morgan	Young
Fannin	Nunn	
Fong	Packwood	
	Pearson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, for.

NOT VOTING—13

Bayh	Hart, Philip A.	Percy
Buckley	Hatfield	Symington
Burdick	Inouye	Tunney
Church	McClellan	
Goldwater	McClure	

So the motion to lay on the table was rejected.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. WEICKER. Mr. President, regular order.

The PRESIDING OFFICER. The clerk will call the roll for a quorum because no Senator has responded to the rollcall.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 3295

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the filing of the conference report on S. 3295, a bill to extend the authorization for annual contributions under the U.S. Housing Act of 1937, to extend certain housing programs under the National Housing Act, and for other purposes, be vitiated and the conferees be authorized to reconvene with the conferees of the House. This has been cleared with other Members of the committee, including the minority.

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

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Herb Spira, tax counsel of the Small Business Committee, be granted the privileges of the floor during the course of the consideration of and votes on the pending legislation.

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

Mr. LONG. Mr. President, I want to make this point——

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

The PRESIDING OFFICER. The Senate will be in order.

Mr. LONG. Those on my side, in good faith, entered into a unanimous-consent agreement last night under which we got the worst of it, the way I count it, on these previous rollcalls; our side had seven more absentees than the other side.

Furthermore, the other side had the floor up until 5 o'clock today, and the manager of the bill did not have a chance to get the floor even to speak on the matter. Then practically no one was here up until 5 o'clock.

When we spot the other side that much advantage, they ought to be willing to vote, rather than delay matters when it looks like the other side might be able to carry a rollcall. Otherwise, we will have to keep that in mind if someone wants to enter into a unanimous-consent agreement, because after we gave them all those advantages, they refused to vote every time the other side seems to have the advantage.

I did not do that the other night, when the advantage was the other way.

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

I think the agreement made was that this amendment would be finished no later than 11 o'clock this evening. I do not think we have violated that unanimous-consent agreement. I would also remind the Senator that when the Hathaway amendment was up last night, to accommodate the Senator from Louisiana, we agreed to put it over until Monday.

Mr. LONG. Senator, you did not have to accommodate me at that time. I have power to talk as long as you want to, if all you want to do is to talk 5 or 6 hours. I have talked as much as 11 hours on occasion, until the floor manager, Mr. STENNIS, begged me not to talk any more.

We were trying to accommodate the other side, to the degree that they seemed

to be trying to accommodate us. We are willing to cooperate. But at a time when a motion to table has failed, and it is pretty obvious the amendment would be agreed to, and it is not subject to amendment, if you are unwilling to go to a vote under those circumstances, we want to keep that in mind. We will just have to keep it in mind next time they want us to enter into a unanimous-consent agreement.

Mr. MONDALE. Mr. President, no one here is trying to delay matters. In good faith, we thought there might be the possibility of some compromise, and in good faith we called for a quorum call, and it has only been in progress 2 or 3 minutes.

Mr. LONG. I hope we can vote on the amendment.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that during the consideration of this bill and an amendment I am about to offer it, Mr. Carl Coan of the Housing Subcommittee staff be accorded the privilege of the floor.

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

Mr. FANNIN. Mr. President, I ask unanimous consent that Mike Hammond of Senator BUCKLEY's staff be accorded the privilege of the floor.

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

Mr. THURMOND. Mr. President, I make the same request in behalf of Bill Coates of my staff.

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

Mr. SPARKMAN. Mr. President, I ask unanimous consent to offer my amendment on residential construction, which is pending at the desk, at a later time, provided the pending amendments by Senator MONDALE and Senator BROCK are not displaced.

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

Mr. KENNEDY. 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.

The PRESIDING OFFICER. The Senate is not in order. Senators will kindly come to order.

The rollcall was resumed.

Mr. ROBERT C. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

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

EXTENSION OF TIME FOR FILING COMMITTEE REPORT

Mr. ROBERT C. BYRD. I ask unanimous consent that the Committee on Appropriations have until 6 o'clock tomorrow evening to file the report on the Interior appropriations bill.

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

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Do I have the right, under the rules, to withdraw my amendment?

Mr. ALLEN. The yeas and nays have been requested.

The PRESIDING OFFICER. Since there has been no affirmative action on the Senator's amendment, and the yeas and nays have not been ordered, the Senator does have a right to withdraw it.

Mr. BROCK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Minnesota yield for that purpose?

Mr. MONDALE. No; I do not. Mr. President, I withdraw my amendment.

Mr. BROCK. Mr. President, I make a point of order.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 96

Mr. MONDALE. Mr. President, I send a substitute amendment to the desk, I ask unanimous consent that the reading of the amendment be dispensed with, and I will describe it.

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

Mr. MONDALE's amendment is as follows:

In lieu of the text intended to be inserted by the committee amendment to Title III, insert the following:

TITLE III—MINIMUM TAX AND MAXIMUM TAX

"SEC. 301. MINIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting before section 56 the following new section:

"SEC. 55. MINIMUM TAX FOR INDIVIDUALS.

"(a) IMPOSITION OF TAX.—In the case of a taxpayer, other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), in addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of such taxpayer, a tax equal to 15 percent of the amount (if any) by which—

"(1) the sum of the items of tax preference, exceeds

"(2) the exemption provided by subsection (c).

"(b) DEFERRAL OF TAX LIABILITY IN CASE OF CERTAIN NET OPERATING LOSSES.—

"(1) IN GENERAL.—If for any taxable year a person—

"(A) has a net operating loss any portion of which (under section 172) remains as a net operating loss carryover to a succeeding taxable year, and

"(B) has items of tax preference in excess of the exemption provided by subsection (c), then an amount equal to the lesser of the tax imposed by subsection (a) or 15 percent of the amount of the net operating loss carryover described in subparagraph (A) shall be treated as tax liability, not imposed for the taxable year, but as imposed for the succeeding taxable year or years pursuant to paragraph (2).

"(2) YEAR OF LIABILITY.—In any taxable year in which any portion of the net operating loss carryover attributable to the excess described in paragraph (1)(B) reduces taxable income, the amount of tax liability described in paragraph (1) shall be treated as tax liability imposed in such taxable year in an amount equal to 15 percent of such reduction.

"(3) PRIORITY OF APPLICATION.—For purposes of paragraph (2), if any portion of the net operating loss carryover described in paragraph (1)(A) is not attributable to the excess described in paragraph (1)(B), such portion shall be considered as being applied in reducing taxable income before such other portion.

"(c) EXEMPTION.—Except as provided in section 58(a), the exemption provided by this subsection shall be $10,000.

(b) AMENDMENTS OF SECTION 56.—Section 56 (relating to the imposition of the minimum tax) is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"SEC. 56. MINIMUM TAX FOR CORPORATIONS.",

(2) by striking out "person" in subsections (a) and (b)(1) and inserting in lieu thereof "corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)",

(3) by striking out clauses (ii), (v), (vi), and (vii) of subsection (a)(2)(A),

(4) by redesignating clauses (iii) and (iv) of subsection (a)(2)(A) as clauses (ii) and (iii), and by striking out the comma at the end of clause (iii) (as so redesignated) and inserting in lieu thereof "; and",

(5) by striking out subparagraphs (B), (E), (F), and (G) of subsection (c)(1),

(6) by redesignating subparagraph (C) of subsection (c)(1) as subparagraph (B) and inserting "and" at the end thereof, and

(7) by redesignating subparagraph (D) of subsection (c)(1) as subparagraph (C), and inserting "exceed" at the end thereof.

(c) AMENDMENTS OF SECTION 57.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter after paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COSTS.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during

such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), (4), (11), (12), and (13) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraph (4) and (10) shall not apply to taxpayers other than such corporations. Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C).".

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction provided by section 213,

"(5) the deduction for casualty losses described in section 165(c)(3), and

"(6) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(e), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income.".

(3) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (13) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12).".

(4) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1, 1976 and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term 'investment interest expense' does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in section 1250(a)(1)(C) which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was, on or before December 31, 1981, binding on the taxpayer.

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'investment expense' shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a)."

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual who files a separate return for the taxable year, section 55(c) shall be applied by substituting $5,000 for $10,000 each place it appears.",

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) section 55(c) shall be applied by substituting for $10,000 each place it appears the amount which bears the same ratio to $10,000 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.",

(3) by striking out "For purposes of section 56" each place it appears in subsection (g) and inserting in lieu thereof "For purposes of this part", and

(4) by adding at the end thereof the following new subsection:

"(h) REGULATION TO INCLUDE TAX BENEFIT RULE.—The Secretary shall prescribe regulations under which items of tax preference shall be adjusted where the tax treatment giving rise to such items does not result in the reduction of the taxpayer's tax under this subtitle for any taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 5(a) (relating to cross references relating to tax on individuals) is amended to read as follows:

"(5) For minimum tax for individuals, see section 55.".

(2) Paragraph (3) of section 46(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(3) Paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(4) Subsection (d) of section 443 (relating to adjustment is exclusion for computing minimum tax for tax preferences) is amended by striking out "the $30,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58," and inserting in lieu thereof "the $10,000 amount specified in section 55 (relating to minimum tax for individuals), modified as provided by section 58, or the $30,000 amount specified in section 56 (relating to minimum tax for corporation.)".

(5) Subsection (d) of section 511 (relating to tax preferences) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(6) Subsection (a) of section 901 (relating to allowance of credit of taxes of foreign countries and of possessions of the United States) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credits against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(9) Section 6362(b)(2)(A) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55".

(f) TERMINATION OF LIMITATION ON INTEREST ON INVESTMENT INDEBTEDNESS.—

(1) APPLICATION OF SECTION 163(d).—Section 163(d) (relating to limitation on interest on investment indebtedness) shall not apply to interest (other than interest described in the last sentence of section 57(a) and in section 58(b)(5)) paid or accrued in taxable years after December 31, 1976.

(2) CARRYOVER OF DISALLOWED INVESTMENT INTEREST.—Notwithstanding the provisions of paragraph (1), a taxpayer may deduct in any taxable year any amount of investment interest disallowed under section 163(d)(1) only if such interest is allowable as a deduction for such year under section 163(d)(2).

(g) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 55. Minimum tax for individuals.
"Sec. 56. Minimum tax for corporations.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), the amount of any tax carryover under section 56(c) of the Internal Revenue Code

of 1954 from a taxable year beginning before January 1, 1977, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

SEC. 302. MAXIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Section 1348 (relating to 50-percent maximum rate on earned income) is amended to read as follows:

Mr. MONDALE. Mr. President, after talking with many Senators this evening, it has become clear there is more resistance to the minimum tax as applied to corporations than to individuals. Originally we had planned to offer them separately, and it seems to me to make sense to have a clean vote on each. But the argument has been that savings and loan associations, financial institutions, the timber industry, and others would be hit harder than would be appropriate under the provisions of the corporate part of the minimum tax that I have proposed.

I think that is wrong, but in any event, there seems to be a strong feeling to that effect.

Therefore, I offer this amendment, which simply incorporates the individual minimum tax and denies the deductibility of taxes paid on taxable income, and I would hope that would be acceptable.

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.

Several Senators addressed the Chair.

UP AMENDMENT NO. 97

Mr. ALLEN. Mr. President, I offer as a substitute for this amendment the Mondale substitute as amended by the amendment which I sought to offer.

The PRESIDING OFFICER. Will the Senator kindly send that amendment to the desk?

Mr. ALLEN. It is up there. If it is withdrawn, I will use it. And I modify the amendment to include the amendment that I offered, and that failed to be tabled.

Mr. ALLEN's amendment is as follows:

On the last line of page 1, strike out "$10,000." and insert in lieu thereof the following:

"$10,000, or the liability for tax for the taxable year, whichever is the greater."

In lieu of the language proposed to be inserted by the Committee amendment, insert the following:

MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX FOR INDIVIDUALS.—

(a) IN GENERAL. Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended:

(a) By amending section 56(a) to read as follows:

"(a) GENERAL RULE.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceed $10,000.".

(b) CONFORMING CHANGES.—

(1) Section 56(b) of such Code (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out "$30,000" in paragraph (1)(B) and inserting in lieu thereof "$10,000", and

(B) by striking out "10 percent" in paragraphs (1) and (2) and inserting in lieu thereof "15 percent".

(2) Section 56(c) (relating to tax carryovers) is repealed.

(c) ADDITIONAL TAX PREFERENCE ITEMS.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the dae on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COST.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C)."

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amendedby adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which such sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction provided by section 213,

"(5) the deduction for casualty losses described in section 165(c)(3), and

"(6) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(c), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income."

(3) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—The amount of any item of tax preference taken into account for purposes of section 55 for any taxable year shall be reduced by the amount of any portion of such item which constitutes a deduction which for such taxable year or any prior taxable year was placed in a deferred deduction account under section 466(b)."

(4) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection.

"(f) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (12) of subsection (a) and for purposes of section 468(e) (relating to accelerated deductions in the case of LAL oil and gas property).

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12) and section 468(e)."

(5) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraphs:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable such taxpayer for any taxable year with respect to all such partnerships is the ag-

gregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1, 1976, and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term 'investment interest expense' does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in section 1250(a)(1)(C) which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was on or before December 31, 1981, and at all times thereafter binding on the taxpayer."

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: 'For purposes of this subparagraph, the term 'investment expense' shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a).'"

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended by striking out "$30,000" wherever it appears and inserting in lieu thereof "$10,000", and by striking out "$15,000" wherever it appears and inserting in lieu thereof "$5,000".

(e) CONFORMING AMENDMENT.—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975, and in the case of a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code) for taxable years beginning after December 31, 1975.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporation, the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975, and in the case of a corporation which is not an electing small business corporation (as defined in section 1371 (b)) or a personal holding company (as defined in section 524), the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before July 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after June 30, 1976.

(3) In the case of a taxpayer which is a bank (as defined in section 581 of the Internal Revenue Code of 1954), the amendments made by this section apply only to taxable years beginning after December 31, 1977.

(4) SPECIAL RULE FOR TAXABLE YEAR 1976 IN THE CASE OF A CORPORATION.—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation the tax imposed by section 56 of such Code for taxable years beginning after December 31, 1975, and before January 1, 1977, is an amount equal to the sum of—

(A) the amount of the tax which would have been imposed for such taxable year under such section as such section was in effect on the day before the date of enactment of the Tax Reform Act of 1976, and

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

The PRESIDING OFFICER (Mr. STONE). The amendment will be so modified and the clerk will report.

Mr. LONG. 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. KENNEDY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is this an appropriate substitute, the Allen amendment for the Mondale amendment? Is it not a substitute for a substitute?

Mr. ALLEN. No; substitute for the amendment.

The PRESIDING OFFICER. The Senator is correct, the amendment would be an amendment in the third degree and, therefore, not in order.

Mr. ALLEN. I raise a point of order, Mr. President.

Mr. BROCK. Mr. President, parliamentary inquiry.

Mr. ALLEN. I raised a point of order, Mr. President, and ask for a ruling.

Mr. BROCK. Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROCK. Under the unanimous-consent agreement, was not the Senator from Tennessee given permission to amend the Mondale amendment?

The PRESIDING OFFICER. The Senator is correct, but that amendment was withdrawn.

Mr. BROCK. Mr. President, no, that amendment was not even offered at the time. The consent agreement related to the amendment of the Senator from Minnesota and not to any particular amendment but to the amendment he was going to offer. Then if that is the case I have a right to offer my amendment as a substitute.

The PRESIDING OFFICER. Would the Senator restate his point?

Mr. BROCK. I would be delighted to, Mr. President. It was clearly the intent of the Senate in the unanimous-consent agreement offered by the Senator from West Virginia, if I recall correctly, that the Senator from Minnesota would be allowed to offer an amendment, although technically that amendment would be in the second degree. The Senate agreed last night by unanimous consent that the Senator from Tennessee would be protected and allowed to offer a substitute to the amendment of the Senator from Minnesota. I insist upon my rights.

Mr. MONDALE. If the Senator will yield, the Senator is right, in my opinion. I ask unanimous consent that the Senator from Tennessee be accorded that right at this time.

The PRESIDING OFFICER. Is there objection?

Mr. HANSEN. Mr. President, I do not think it is necessary for unanimous consent to be requested. I think that the Senator from Tennessee has the right.

Mr. MONDALE. That is fine.

Mr. HANSEN. No one need unanimous consent that he be given it.

Mr. BROCK. The Senator from Tennessee asked to be protected.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair did not hear what the Senator just said.

Mr. BROCK. The Senator from Tennessee asked the Chair to abide by the intent and spirit of the unanimous-consent request.

The PRESIDING OFFICER. The unanimous-consent agreement gave the right to the Senator from Tennessee to offer an amendment to the amendment offered by the Senator from Minnesota. That has transpired.

Mr. BROCK. No, but the Senator from Minnesota has now offered it in modified form and by some device the Senator from Tennessee could be precluded from an agreement that was made by unanimous consent.

The PRESIDING OFFICER. The Senator is correct. He could be precluded. The order was carried out.

Mr. CURTIS. May I make a point of order?

Mr. KENNEDY. May I ask unanimous consent it be in order?

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CURTIS. Mr. President, I call up my amendment to the Mondale amendment.

The PRESIDING OFFICER. The amendment would be in the third degree and not in order.

Mr. ALLEN addressed the Chair.

Mr. MONDALE. I make a point of order.

UP AMENDMENT NO. 98

Mr. ALLEN. Mr. President, I offer my amendment which is the Mondale reform amendment as modified by my amendment in which I joined with the distinguished Senator from Florida as an amendment to the bill itself, I believe title III.

The PRESIDING OFFICER. The Chair advises that that would not be in order, either, as a substitute.

Mr. ALLEN. I am not offering it as a substitute. I am offering it as an amendment of the bill.

Mr. LONG. The House bill.

The PRESIDING OFFICER. The Chair will explain that the committee amendment would strike title III of the House bill and substitute new language, that would be in the first degree, and the Mondale amendment to insert other language in lieu of the language proposed to be inserted by the committee amendment would be in the second degree; therefore, the Senator would have a right to perfect the original House language but not offer a substitute for it.

Mr. ALLEN. I am asking to perfect it. That is what I asked, Mr. President.

The PRESIDING OFFICER. The Senator, though, is offering a substitute for the whole title.

Mr. ALLEN. No, I am not. I am seeking to perfect the language of the House bill and offer it for that purpose.

The PRESIDING OFFICER. Will the Senator suspend?

In the opening language of the proposed amendment the wording is that it is a substitute for the whole title.

Mr. ALLEN. I modify that to put it as an amendment to the House bill.

The PRESIDING OFFICER. Would the Senator kindly word that and send it to the desk?

Mr. ALLEN. The Parliamentarian can word it, what I offered it for. I modify it in that fashion. I offer it as perfecting language to the House bill.

The PRESIDING OFFICER. The Chair is in doubt as to where the Senator wants to bring into title III of the House bill this proposed amendment.

Mr. ALLEN. At the appropriate place, Mr. President.

[Laughter.]

Mr. LONG. Just add it at the end.

Mr. ALLEN. At the end of title III, then.

The PRESIDING OFFICER. In the form in which it is currently drafted it is a substitute. How does the Senator wish to modify his language?

Mr. ALLEN. I wish to amend title III of the House bill to perfect it by adding the Mondale reform amendment as modified by the Allen-Stone amendment.

The PRESIDING OFFICER. In addition to the House title III?

Mr. ALLEN. Yes; perfect it.

The PRESIDING OFFICER. Now the amendment would be in order.

Mr. ALLEN. I thank the Chair.

The PRESIDING OFFICER. And takes precedence.

Mr. ALLEN. Mr. President, I do not know just what is happening here. The amendment of the Senator from Alabama will be the first amendment to be considered, will it not?

The PRESIDING OFFICER. The Senator is correct.

The amendment (UP Amendment No. 98) is as follows:

On the last line of page 1, strike out "$10,000." and insert in lieu thereof the following:

"$10,000 or the liability for tax for the taxable year, whichever is the greater."

In lieu of the language proposed to be inserted by the Committee amendment, insert the following:

MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL. Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended:

(a) By amending section 56(a) to read as follows:

"(a) GENERAL RULE.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceed $10,000, or the liability for tax for the taxable year, whichever is the greater.".

(b) CONFORMING CHANGES.—

(1) Section 56(b) of such Code (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out "$30,000" in paragraph (1)(B) and inserting in lieu thereof "$10,000", and

(B) by striking out "10 percent" in paragraphs (1) and (2) and inserting in lieu thereof "15 percent".

(2) Section 56(c) (relating to tax carryovers) is repealed.

(c) ADDITIONAL TAX PREFERENCE ITEMS.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COST.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C)."

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction provided by section 213,

"(5) the deduction for casualty losses described in section 165(c)(3), and

"(6) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(e), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable years shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income."

(3) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—The amount of any item of tax preference taken into account for purposes of section 55 for any taxable year shall be reduced by the amount of any portion of such item which constitutes a deduction which for such taxable year or any prior taxable year was placed in a deferred deduction account under section 466(b)."

(4) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(f) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (12) of subsection (a) and for purposes of section 468(e) (relating to accelerated deductions in the case of LAL oil and gas property)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12) and section 468(e).

(5) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraphs:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid of accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1, 1976, and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term 'investment interest expense' does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in section 1250(a)(1)(C) which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was, on or before December 31, 1981, binding on the taxpayer."

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: 'For purposes of this subparagraph, the term 'investment expense' shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a).'"

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended by striking out "$30,000" wherever it appears and inserting in lieu thereof "$10,000", and by striking out "$15,000" wherever it appears and inserting in lieu thereof "$5,000".

(e) CONFORMING AMENDMENT.—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975, and in the case of a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code) for taxable years beginning after December 31, 1975.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporaton, the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976 shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975, and in the case of a corporation which is not an electing small business corporation (as defined in section 1371 (b)) or a personal holding company (as defined in section 524), the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before July 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after June 30, 1976.

(3) In the case of a taxpayer which is a bank (as defined in section 581 of the Internal Revenue Code of 1954), the amendments made by this section apply only to taxable years beginning after December 31, 1977.

(4) SPECIAL RULE FOR TAXABLE YEAR 1976 IN THE CASE OF A CORPORATION.—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation the tax imposed by section 56 of such Code for taxable years beginning after December 31, 1975, and before January 1, 1977, is an amount equal to the sum of—

(A) the amount of the tax which would have been imposed for such taxable year under such section as such section was in effect on the day before the date of enactment of the Tax Reform Act of 1976, and

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

Mr. ALLEN. Now, Mr. President, the Senator from Alabama has offered an amendment, which seemed fair to him and it seemed fair to something over 50 of the Senators, that would allow a taxpayer to credit against preference income the amount that the taxpayer had paid as a tax on normal income. The distinguished Senator from Minnesota (Mr. MONDALE) moved to table that amendment, and it failed with some 15 to 20 votes difference. Then here in the Chamber, here in the well, the former proponents of the Mondale amendment, which is now the amendment of the Senator from Alabama, asked the Senator from Alabama if he would agree to a small modification of his amendment, to provide $10,000 exclusion for individuals and $5,000 for corporations, and I said, yes, subject to clearing it with the coauthor of the amendment.

Then the roll was ordered to be called. Mr. ABOUREZK did not answer. The Senator from Alabama standing here and hearing the rollcall, thinking we had an agreement on modification, did not answer the roll and as a result the quorum call was ordered. Then, when the quorum call was called off they withdraw the Mondale amendment in an effort to prevent a vote on the Stone-Allen amendment.

So, Mr. President, the time is drawing near when we are going to have to have a vote on the final amendment. It would seem to the Senator from Alabama that we should go back to the amendment which was pending which failed to be tabled where we were, I thought, at an agreement on the amendment.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. ALLEN. I yield.

Mr. LONG. Is it not true that all the Senator from Alabama had to do was to answer the roll and say "yea," in answer to his own amendment?

Mr. ALLEN. That is correct.

Mr. LONG. And the Senate would have agreed to his amendment right then and there. But he withheld his vote in order to accommodate those who were seeking to get him to agree to modify his amendment.

Mr. ALLEN. That is correct.

Mr. LONG. Having withheld his vote, thinking he was agreeing to a minor modification of the Mondale amendment as amended by the Allen amendment, it is now proposed that he be denied the right to offer the Allen amendment. That is why he is moving to offer it as an amendment to the bill.

Mr. ALLEN. That is exactly right.

Mr. LONG. The way it worked out—and I am sure those who sought to prevail upon the Senator to cooperate with them certainly did not mean to take unfair advantage of him—but the way it worked out is that the Senator has been led to sacrifice his rights to have his amendment voted on, by virtue of being asked to compromise. He was willing to compromise, as a man of reason, and having done so, it is now the situation that those who made the proposal withdraw their amendment and seek to shut him off from offering his amendment.

Mr. ALLEN. That is a correct statement.

Mr. LONG. So the only way we can vote for the Allen amendment, if we want to vote for it, is to support what the Senator is proposing.

Mr. ALLEN. That is correct.

Mr. LONG. So we would have a chance to vote for what was the Mondale amendment as amended by the Allen amendment.

Mr. ALLEN. But ironically, that would be the Senator from Alabama taking over this great reform amendment that the Senator from Minnesota has withdrawn. He has abandoned the reform amendment, and the Senator from Alabama, believing in tax reform, has picked up the amendment. [Laughter.] And he is seeking to get the Senate to agree to this reform amendment.

Mr. LONG. As I understand it, the Senator sat there and heard both sides of the debate. He was one of the few Senators who did so. Having heard both sides of the debate, he was persuaded by the ringing oratory——

Mr. ALLEN. The oratory of the Senator from Louisiana.

Mr. LONG. He was persuaded by the ringing oratory in this Chamber that Mr. MONDALE was correct with regard to taxing those rich corporations that do not pay any taxes.

Mr. ALLEN. That is right.

Mr. LONG. And he was also convinced that Mr. MONDALE was right as to the little people whom he would not tax.

Mr. ALLEN. That is right.

Mr. LONG. And he was also persuaded that the Senator from Louisiana was right, that after a man had paid a ton of taxes, his taxes should be taken into consideration.

Mr. ALLEN. That is right. What puzzles the Senator from Alabama is that the Senator from Minnesota was turning his back on his own amendment. [Laughter.]

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

Mr. ALLEN. I will yield the floor.

Mr. MONDALE. I do not recognize my amendment, after the Senator from Alabama has finished with it. My name is on it, but I do not recognize it. [Laughter.]

Mr. ALLEN. The Senator's name is no longer on it. The name of the Senator from Alabama is on it now.

Mr. MONDALE. I am glad to hear that.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Would an amendment to the amendment of the Senator from Alabama be in order?

The PRESIDING OFFICER. Yes, it would. It would be in the second degree and in order.

UP AMENDMENT NO. 99

Mr. MONDALE. I move my amendment previously sent to the desk, applying solely to individual minimum taxes, as an amendment to the Allen amendment, and I ask for the yeas and nays.

Before I do, it seems to me that there is a concern in the Senate about dealing with the minimum tax as it applies to individuals differently from the way it applies to corporations, because of the lumber industry, because of the savings and loan industry, and the rest. I think it makes sense to vote on them separately.

The PRESIDING OFFICER. Will the Senator kindly send a copy of the amendment he now offers to the desk?

Mr. MONDALE. It is the same as the amendment——

The PRESIDING OFFICER. That has been used, and the Chair is in need of another amendment.

Mr. MONDALE. Does anybody have another amendment? [Laughter.]

It is the only copy that the Senator from Minnesota possesses.

Mr. BROCK. Mr. President, I have an amendment I would like to send to the desk.

Mr. MONDALE. Is that amendment pending?

The PRESIDING OFFICER. The Chair needs to be advised as to exactly where the amendment now being offered has to come in, if it is an amendment to the Allen amendment. Where in the Allen amendment——

Mr. MONDALE. It is a substitute to the Allen amendment.

The PRESIDING OFFICER. It is a substitute?

Mr. MONDALE. That is right. 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. BROCK. Mr. President, has the amendment been reported?

The PRESIDING OFFICER. The Clerk will state the amendment.

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

The PRESIDING OFFICER. The clerk will report it first.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. MONDALE), for himself and others, proposes unprinted amendment numbered 99 as a substitute to the Allen amendment.

The PRESIDING OFFICER. Is there objection to dispensing with the reading? Without objection, it is so ordered.

The amendment is as follows:

In lieu of the text intended to be inserted by the Committee amendment to title III, insert the following:

TITLE III—MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting before section 56 the following new section:

"SEC. 55. MINIMUM TAX FOR INDIVIDUALS.

"(a) IMPOSITION OF TAX.—In the case of a taxpayer, other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), in addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of such taxpayer, a tax equal to 15 percent of the amount (if any) by which—

"(1) the sum of the items of tax preference, exceeds

"(2) the exemption provided by subsection (c).

"(b) DEFERRAL OF TAX LIABILITY IN CASE OF CERTAIN NET OPERATING LOSSES.—

"(1) IN GENERAL.—If for any taxable year a person—

"(A) has a net operating loss any portion of which (under section 172) remains as a net operating loss carryover to a succeeding taxable year, and

"(B) has items of tax preference in excess of the exemption provided by subsection (c), then an amount equal to the lesser of the tax imposed by subsection (a) or 15 percent of the amount of the net operating loss carryover described in subparagraph (A) shall be treated as tax liability, not imposed for the taxable year, but as imposed for the succeeding taxable year or years pursuant to paragraph (2).

"(2) YEAR OF LIABILITY.—In any taxable year in which any portion of the net operating loss carryover attributable to the excess described in paragraph (1)(B) reduces taxable income, the amount of tax liability described in paragraph (1) shall be treated as tax liability imposed in such taxable year in an amount equal to 15 percent of such reduction.

"(3) PRIORITY OF APPLICATION.—For purposes of paragraph (2), if any portion of the net operating loss carryover described in paragraph (1)(A) is not attributable to the excess described in paragraph (1)(B), such portion shall be considered as being applied in reducing taxable income before such other portion.

"(c) EXEMPTION.—Except as provided in section 58(a), the exemption provided by this subsection shall be $10,000.

(b) AMENDMENTS OF SECTION 56.—Section 56 (relating to the imposition of the minimum tax) is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"SEC. 56. MINIMUM TAX FOR CORPORATIONS.",

(2) by striking out "person" in subsections (a) and (b)(1) and inserting in lieu thereof "corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542)",

(3) by striking out clauses (ii), (v), (vi), and (vii) of subsection (a)(2)(A),

(4) by redesignating clauses (iii) and (iv) of subsection (a)(2)(A) as clauses (ii) and (iii), and by striking out the comma at the end of clause (iii) (as so redesignated) and inserting in lieu thereof "; and",

(5) by striking out subparagraphs (B), (E), (F), and (G) of subsection (c)(1),

(6) by redesignating subparagraph (C) of subsection (c)(1) as subparagraph (B) and inserting "and" at the end thereof, and

(7) by redesignating subparagraph (D) of subsection (c)(1) as subparagraph (C), and by inserting "exceed" at the end thereof.

(c) AMENDMENTS OF SECTION 57.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter after paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COSTS.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (c) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), (4), (11), (12), and (13) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraphs (4) and (10) shall not apply to taxpayers other than such corporations. Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C).".

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction provided by section 213,

"(5) the deduction for casualty losses described in section 165(c)(3), and

"(6) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(e), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income.".

(3) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (13) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12).".

(4) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1976 and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term "investment interest expense" does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in section 1250(a)(1)(C) which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was, on or before December 31, 1981, binding on the taxpayer.

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'investment expense' shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a)."

(d) AMENDMENTS OF SECTION 58.—Section 57 (relating to rules for application of part) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual who files a separate return for the taxable year, section 55(c) shall be applied by substituting $5,000 for $10,000 each place it appears.",

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) section 55(c) shall be applied by substituting for $10,000 each place it appears the amount which bears the same ratio to $10,000 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.",

(3) by striking out "For purposes of section 56" each place it appears in subsection (g) and inserting in lieu thereof "For purposes of this part", and

(4) by adding at the end thereof the following new subsection:

"(h) REGULATIONS TO INCLUDE TAX BENEFIT RULE.—The Secretary shall prescribe regulations under which items of tax preference shall be adjusted where the tax treatment giving rise to such items does not result in the reduction of the taxpayer's tax under this subtitle for any taxable year."

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 5(a) (relating to cross references relating to tax on individuals) is amended to read as follows:

"(5) For minimum tax for individuals, see section 55.".

(2) Paragraph (3) of section 46(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(3) Paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(4) Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "the $30,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58," and inserting in lieu thereof "the $10,000 amount specified in section 55 (relating to minimum tax for individuals), modified as provided by section 58, or the $30,000 amount specified in section 56 (relating to minimum tax for corporation.)".

(5) Subsection (d) of section 511 (relating to tax preferences) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(6) Subsection (a) of section 901 (relating to allowance of credit of taxes of foreign countries and of possessions of the United States) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credits against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(9) Section 6362(b)(2)(A) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55".

(f) TERMINATION OF LIMITATION ON INTEREST ON INVESTMENT INDEBTEDNESS.—

(1) APPLICATION OF SECTION 163(d).—Section 163(d) (relating to limitation on interest on investment indebtedness) shall not apply to interest (other than interest described in the last sentence of section 57(a) and in section 58(b)(5)) paid or accrued in taxable years after December 31, 1976.

(2) CARRYOVER OF DISALLOWED INVESTMENT INTEREST.—Notwithstanding the provisions of paragraph (1), a taxpayer may deduct in any taxable year any amount of investment interest disallowed under section 163(d)(1) only if such interest is allowable as a deduction for such year under section 163(d)(2).

(g) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 55. Minimum tax for individuals.
"Sec. 56. Minimum tax for corporations."

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1977, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975.

SEC. 302. MAXIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Section 1348 (relating to 50-percent maximum rate on earned income) is amended to read as follows:

Mr. BROCK. Mr. President, reserving the right to object, the Senator from Tennessee intends to protect his prerogatives. If we do not want to read all these amendments, I suggest it might be possible to work our way out of this morass we are in.

The Senator from Minnesota and the Senator from Massachusetts were very gracious in offering a unanimous-consent agreement that I be allowed to offer my amendment.

Mr. MONDALE. And I would join in that request.

Mr. BROCK. I appreciate that very much.

I should like to read to this body the words of the chairman of the Finance Committee last evening, when we were offering the unanimous-consent request:

Mr. LONG. I would suggest that the consent agreement be amended to agree that

Mr. MONDALE will be recognized to offer his amendment and that it be in order to amend the Mondale amendment. He will offer the committee amendment, as I understand it, and an amendment to that amendment will lie.

Mr. President, under those circumstances I ask the Chair again, now that the Mondale amendment is offered and it is not the specific amendment that was offered because no Mondale amendment was offered, would not the Senator from Tennessee have an opportunity to offer an amendment to the Mondale amendment?

The PRESIDING OFFICER. The Chair rules that the unanimous-consent agreement allowed and entitled the Senator from Tennessee to offer his amendment, but that was not done.

The unanimous-consent agreement did not guarantee the Senator from Tennessee that he could continue to offer that amendment to additional amendments, whether of the same form or not, offered by the Senator from Minnesota. It only provided that the first Mondale amendment would be so considered.

Mr. BROCK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BROCK. Is an appeal to the Chair debatable?

The PRESIDING OFFICER. An appeal is debatable.

Mr. BROCK. I appeal the ruling of the Chair, and I ask for recognition.

The PRESIDING OFFICER. The Senator has not made a point of order. Does the Senator make that the point of order?

Mr. BROCK. I thought the Chair was ruling on a point of order.

Mr. PASTORE. Why does not the Senator ask unanimous consent that his amendment be offered?

Mr. BROCK. Mr. President, I ask unanimous consent that I be allowed to offer my amendment as a substitute to the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, which amendment are we talking about—the amendment of the Senator from Alabama?

The PRESIDING OFFICER. The Senator is asking unanimous consent to offer his amendment as a substitute to the pending Mondale amendment.

Does the Senator ask unanimous consent to offer his amendment as a substitute for the first or the second Mondale amendment, both of which are pending? There are two—the original Mondale amendment as a substitute for the committee amendment and the currently pending Mondale amendment to the Allen amendment.

Mr. BROCK. I am not so sure which is which.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

Mr. BROCK. I thought I would have to offer it to the second one, to be logical.

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

Mr. CURTIS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. Is the first amendment offered by the distinguished Senator from Minnesota (Mr. MONDALE) still pending?

The PRESIDING OFFICER. Yes.

Mr. CURTIS. Then an amendment can be offered to that, in accord with the unanimous consent agreed to last night?

The PRESIDING OFFICER. Will the Senator repeat that?

Mr. CURTIS. If it is still pending, then can an amendment be offered to it in accord with the unanimous-consent agreement of last night?

The PRESIDING OFFICER. No; that amendment was withdrawn. This amendment is the pending one. The Senator from Tennessee has already obtained unanimous consent to offer it right now.

Mr. CURTIS. But, Mr. President, you have just stated that the first Mondale amendment was still pending.

The PRESIDING OFFICER. Not "was" still pending; "is" now pending.

Mr. BROCK. The first one offered since he withdrew the first one.

The PRESIDING OFFICER. In the terms of the Senator from Nebraska, what is now pending by the Senator from Minnesota are his second and his third amendments. Those are the two now pending.

Mr. CURTIS. I thought the one that he got up and offered in the first instance was the first one.

The PRESIDING OFFICER. That was withdrawn.

Mr. CURTIS. As I understand it, the Chair rules that the first one is not the first one; is that right?

The PRESIDING OFFICER. That is right.

The condition that the Senate is now in is this: there are four pending amendments: The committee amendment; the Mondale substitute amendment for the language to be inserted by the committee amendment; the Allen perfecting amendment to the House language; and the currently pending Mondale substitute therefor. By unanimous consent, what is now pending is the amendment—it is not yet pending, but the Senator from Tennessee has obtained consent to offer his amendment as a substitute for a Mondale amendment.

Mr. ALLEN. Mr. President, the Senator withdrew his amendment.

Mr. PASTORE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island will state it.

Mr. PASTORE. Under the unanimous-consent agreement, does it mean all these amendments have to be voted on before 11 o'clock?

The PRESIDING OFFICER. At 11 o'clock, debate on this title will end and a vote will be held on these amendments.

Mr. PASTORE. On all pending amendments?

The PRESIDING OFFICER. All pending amendments.

Mr. PASTORE. All right, you had better get busy, boys. [Laughter.]

Mr. MONTOYA addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. MONTOYA. As I understand the parliamentary situation, Senator MONDALE offered an amendment and Senator ALLEN offered an amendment to the amendment.

The PRESIDING OFFICER. Which was ruled out of order.

Mr. MONTOYA. Then Senator MONDALE withdrew his amendment. Then we started all over again by having the Senator from Alabama offer the text of the original Mondale amendment as he proposed to amend it as his own amendment. So that, pending before the Senate was the new Allen amendment, divorced of the Mondale name.

Now, Senator MONDALE has offered a substitute to the new Allen amendment.

The PRESIDING OFFICER. That is correct.

Mr. MONTOYA. And that is the parliamentary situation now.

The PRESIDING OFFICER. Not quite.

Mr. MONTOYA. Then the Senator from Tennessee, under a unanimous-consent request, proposes to offer a substitute to the pending two amendments. Is that the parliamentary situation?

The PRESIDING OFFICER. That is not correct, no.

Mr. MONTOYA. Will the Chair inform me what the situation is?

The PRESIDING OFFICER. The Chair will restate the condition. Let us start from the point at which the Senator from Minnesota withdrew his amendment.

At that point, there were no pending amendments. By withdrawing that amendment, the Brock substitute and the Allen perfecting amendment both fell. At that point, the Senator from Minnesota offered a new amendment as a substitute for the committee amendment, the committee language to be inserted.

Mr. LONG addressed the Chair.

Mr. ALLEN. Mr. President, Senator MONDALE did not offer that.

Mr. LONG. Mr. President, I think we ought to quit playing games with one another. Mr. MONDALE had an amendment pending. He tried to table an amendment of Mr. ALLEN, and could not table it. Now, he does not want us to vote on Mr. ALLEN's amendment—Mr. ALLEN joined by Mr. STONE. So what does he do? He withdraws his amendment. Having withdrawn his, Mr. ALLEN then offered an amendment to the bill. Then Mr. MONDALE offered an amendment to Mr. ALLEN's amendment, which would bar a vote on the Allen amendment, if agreed to.

Then, to be sure Mr. ALLEN does not get a chance to get his amendment voted on, Mr. MONDALE also offers a substitute to the committee amendment to cut us out in both amendments.

I do not think one Senator has a right to deny everybody else a right to vote on their amendments.

Here is a way we can work this out, so we can vote on all of these Mondale amendments and the Allen amendment as well: All we have to do is give somebody else a chance to vote on theirs. If

you like the Mondale amendment, you can vote to substitute that for the committee amendment and for the House language. If you like the Allen amendment, all you have to do is vote to table the other Mondale amendment so that the Allen amendment can be voted on as an amendment to the bill.

Therefore, I move to table the Mondale amendment to the Allen amendment. 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. BROCK. May I make a parliamentary inquiry?

Mr. LONG. Also, Mr. President, we would be able to vote on the Brock amendment, too.

The PRESIDING OFFICER. The Chairman inquires of the Senator from Louisiana: Which Mondale amendment does he move to table?

Mr. LONG. I moved to table the Mondale amendment to the Allen amendment. That is the one that would be voted on first, is that not correct?

The PRESIDING OFFICER. That is correct.

Mr. LONG. If that is voted on first, that will then leave the Allen amendment to be voted on. When the Allen amendment has been voted on, we can then vote on the Brock amendment. We can vote on the Mondale amendment with or without the Brock amendment; we can vote on the committee amendment. Then we can see what the Senate wants to do with all these proposals.

Mr. ALLEN. Will the Senator yield?

Mr. LONG. Yes, I yield.

Mr. ALLEN. Mr. President, I suggest this modification: Let the Senator from Tennessee file his amendment. Then we can move to table the Mondale amendment. That will take the Brock amendment with it.

Mr. LONG. No, I want to——

Mr. BROCK. I am not sure I appreciate that.

Mr. LONG. Did we not get unanimous consent to permit Senator BROCK to offer his amendment to the Mondale amendment?

Mr. CURTIS. Regular order, Mr. President, let us get to the vote.

The PRESIDING OFFICER. The regular order is that the motion to table is not debatable. The yeas and nays have been ordered.

Mr. BROCK. Mr. President, I make a point of order that the Senator from Tennessee has unanimous consent to offer his amendment.

The PRESIDING OFFICER. He does.

Mr. BROCK. Does that not take preference if I want to offer it at this point?

The PRESIDING OFFICER. The Senator can offer it if he chooses, now or after this vote.

Mr. BROCK. Very well, I shall wait.

The PRESIDING OFFICER. The motion to table is the question. The question is on agreeing to the motion to table the Mondale amendment to the Allen amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. MCCLELLAN). If he were present and voting he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Michigan (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

The result was announced—yeas 45, nays 39, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—45

Allen	Garn	Pearson
Baker	Gravel	Randolph
Bartlett	Griffin	Scott, Hugh
Beall	Hansen	Scott, William L.
Bellmon	Helms	Sparkman
Bentsen	Hollings	Stennis
Brock	Hruska	Stevens
Byrd, Harry F., Jr.	Johnston	Stone
Byrd, Robert C.	Laxalt	Taft
Curtis	Long	Talmadge
Dole	Magnuson	Thurmond
Domenici	McGee	Tower
Eastland	Montoya	Williams
Fannin	Morgan	Young
Fong	Nunn	
	Packwood	

NAYS—39

Abourezk	Eagleton	McIntyre
Bayh	Ford	Mondale
Biden	Glenn	Moss
Brooke	Hart, Gary	Muskie
Bumpers	Hartke	Nelson
Cannon	Haskell	Pastore
Case	Hathaway	Pell
Chiles	Humphrey	Proxmire
Church	Jackson	Ribicoff
Clark	Javits	Roth
Cranston	Kennedy	Schweiker
Culver	Leahy	Stafford
Durkin	Mathias	Stevenson

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—15

Buckley	Huddleston	Metcalf
Burdick	Inouye	Percy
Goldwater	McClellan	Symington
Hart, Philip A.	McClure	Tunney
Hatfield	McGovern	Weicker

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Alabama.

Mr. JAVITS addressed the Chair.

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

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

Mr. LONG. Mr. President, we have had some discussion, and I think we all agree that the next logical step to resolve the controversy that we have been debating all day is that we just agree to the Allen amendment to the bill, which is now offered as an amendment to the bill, that we just agree to it. I have discussed it with those on the other side, and we agree that should be the next step. We think that the votes are there for it. I would suggest that we just ask unanimous consent that we vote on that by a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. BROCK. Mr. President, I am not sure what this means. I want it explained.

Mr. LONG. All it means is that the Allen amendment is pending, the Allen amendment to the House bill, and that is the next vote, to vote on the Allen amendment to the bill. After that we then vote on the substitutes. We first vote on the Brock substitute, on the Mondale substitute, and then, if that carries, we then vote on the amendment, as amended, to the committee amendment. Then we vote on the committee amendment as a substitute for the House bill. So all we need to do now, the next thing to do, is to agree to the Allen amendment to the bill.

Mr. BROCK. Reserving the right to object.

Mr. LONG. The yeas and nays have been ordered and objection is heard, but let us just vote on the Allen amendment.

The PRESIDING OFFICER. The question is on the Allen amendment. The yeas and nays have been ordered.

Mr. BROCK and Mr. PASTORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BROCK. Mr. President, I, again, am a simple person and I want to understand what this all means. As I understand the Senator from Louisiana, the Allen amendment, as presently pending at the desk, is an amendment to the House bill. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BROCK. The Mondale amendment, to which the Allen amendment was perfecting language, was also an amendment to the House bill. Is that correct?

The PRESIDING OFFICER. Is the Senator asking about the Mondale amendment which has been tabled?

Mr. BROCK. No, sir. I am asking about the Mondale amendment that is pending because the Allen amendment was perfecting language to the Mondale amendment.

The PRESIDING OFFICER. The Mondale amendment now pending is a substitute for the committee substitute.

Mr. BROCK. Then, Mr. President, how could the Allen amendment be perfecting language to the Mondale substitute to the committee language?

The PRESIDING OFFICER. It is not.

Mr. BROCK. It is, because that is exactly the way it was presented to this body.

Mr. LONG. Not now.

Mr. BROCK. It has not been modified and it was presented as perfecting language.

I will ask the clerk to read the RECORD, if we need to, Mr. President, but I want to know for sure what we are amending.

The PRESIDING OFFICER. The Allen amendment proposes to perfect the House text.

Mr. BROCK. And the Mondale amendment, which is also pending as the next order of business, as I understand it, would follow. Whether or not the Allen amendment is agreed to has no effect on the Mondale amendment, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BROCK. If the Mondale amendment is agreed to, the Mondale amendment is a substitute for the committee amendment, and the committee amendment is a substitute for the House language.

The PRESIDING OFFICER. That is correct.

Mr. BROCK. Therefore, if the Mondale amendment is agreed to, as an amendment, it then carries the Allen amendment down with it?

The PRESIDING OFFICER. That is correct.

Mr. BROCK. If the Allen amendment is agreed to now.

The PRESIDING OFFICER. If the committee amendment, as a substitute, is also agreed to, as amended.

The yeas and nays have been ordered on the Allen amendment. The question is on agreeing to the Allen amendment, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, would it be possible to have a 10-minute rollcall vote? I ask unanimous consent that all rollcall votes hereafter be 10-minute votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 56, nays 30, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—56

Allen	Ford	Pearson
Baker	Garn	Randolph
Bartlett	Glenn	Roth
Beall	Gravel	Scott, Hugh
Bellmon	Griffin	Scott, William L.
Bentsen	Hansen	Sparkman
Brock	Hart, Gary	Stafford
Byrd, Harry F., Jr.	Helms	Stennis
Byrd, Robert C.	Hollings	Stevens
Cannon	Hruska	Stevenson
Chiles	Jackson	Stone
Church	Johnston	Taft
Curtis	Laxalt	Talmadge
Dole	Long	Thurmond
Domenici	Magnuson	Tower
Durkin	McGee	Williams
Eastland	Montoya	Young
Fannin	Morgan	
Fong	Nunn	
	Packwood	

NAYS—30

Abourezk	Hart, Philip A.	McIntyre
Bayh	Hartke	Mondale
Biden	Haskell	Moss
Brooke	Hathaway	Muskie
Bumpers	Humphrey	Nelson
Case	Javits	Pastore
Clark	Kennedy	Pell
Cranston	Leahy	Proxmire
Culver	Mansfield	Ribicoff
Eagleton	Mathias	Schweiker

NOT VOTING—14

Buckley	Inouye	Percy
Burdick	McClellan	Symington
Goldwater	McClure	Tunney
Hatfield	McGovern	Weicker
Huddleston	Metcalf	

So the amendment was agreed to.

UP AMENDMENT NO. 100

Mr. BROCK. Mr. President, I call up my amendment under the unanimous-consent agreement to the Mondale amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BROCK) proposes an amendment:

Mr. BROCK. 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:

In lieu of the language proposed to be inserted by the Senator from Minnesota, Mr. MONDALE, insert the following:

SEC. 101. MINIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting immediately before section 56 the following new section:

"SEC. 55. MINIMUM TAX FOR INDIVIDUALS.

"(a) IMPOSITION OF TAX.—In the case of a taxpayer other than a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), in lieu of the tax imposed by sections 1 and 511, there is hereby imposed a tax (if such tax is greater than the tax imposed by such sections) equal to the tax which would be imposed by sections 1 and 511 if the taxpayer's taxable income were an amount equal to his minimum taxable income.

"(b) EXPANDED INCOME; MINIMUM TAXABLE INCOME.—For purposes of this section—

"(1) EXPANDED INCOME.—The term 'expanded income' means the sum of—

"(A) the taxable income for the taxable year,

"(B) the charitable contribution adjustment, plus

"(C) an amount equal to the items of tax preference.

"(2) MINIMUM TAXABLE INCOME.—The term 'minimum taxable income' means—

"(A) 60 percent of the excess of expanded income over the exemption, if any, provided by subsection (c), reduced by—

"(B) the charitable contribution adjustment.

"(c) EXEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and in section 58(a), the exemption provided by this subsection is $7,500.

"(2) REDUCTION WHERE EXPANDED INCOME EXCEEDS $20,000.—The $7,500 figure set forth in paragraph (1) shall be reduced by one-half of the excess of the taxpayer's expanded income (determined without regard to the charitable adjustment) for the taxable year over $20,000.

"(d) CARRYOVER OF DEFERRAL PREFERENCES.

"(1) IN GENERAL.—In a year in which a taxpayer is liable for the minimum tax such taxpayer shall be allowed a carryforward for an amount of deferral tax preferences (as defined in paragraph (3)) for such year equal to the smaller of—

"(A) the excess of minimum taxable income over the taxable income for such year, or

"(B) the amount of deferral preferences for such taxable year.

"(2) ALLOWANCE OF DEDUCTION.—Deferral preferences allowed as carryforwards under paragraph (1) shall be allowed as a deduction for purposes of computing the tax imposed by sections 1 and 511 in the first succeeding taxable year to the extent that—

"(A) the amount of taxable income for the taxable year exceeds

"(B) the amount of minimum taxable income for such year.

"(3) DEFERRAL PREFERENCES DEFINED.—The term 'deferral preferences' means the following items of tax preference:

"(A) excess investment interest,

"(B) accelerated depreciation on real property,

"(C) accelerated depreciation on property subject to a lease,

"(D) amortization of railroad rolling stock,

"(E) excess itemized deductions,

"(F) construction period interest,

"(G) capital gains,

"(H) depletion, and

"(I) intangible drilling costs.

"(e) NET OPERATING LOSS RULES.—If for any taxable year a taxpayer has no taxable income or has a net operating loss (as defined in section 172(c)) or a net operating loss deduction under section 172(a), the taxpayer's expanded income and minimum taxable income shall be computed in the manner as the Secretary shall by regulations provide.

"(f) CHARITABLE CONSTRUCTION ADJUSTMENT.—The term 'charitable contribution adjustment' means the amount of the deduction allowed under section 170 for the taxable year."

(b) AMENDMENTS OF SECTION 56.—Section 56 (relating to the imposition of the minimum tax) is amended—

(1) by striking out "person" in subsections (a) and (b)(1) and inserting in lieu thereof "corporation which is not an elective small corporation (as defined in section 1371 (b)) or a personal holding company (as defined in section 542)",

(2) by striking out clauses (ii) and (v) of subsection (a)(2)(A),

(3) by redesignating clauses (iii) and (iv) of subsection (a)(2)(A) as clauses (ii) and (iii) and by striking out ", and" at the end

of clause (iii) (as so redesignated) and inserting in lieu thereof "; and",

(4) by striking out subparagraphs (B) and (E) of subsection (c)(1),

(5) by redesignating subparagraph (C) of subsection (c)(1) as subparagraph (B) and inserting "and" at the end thereof, and

(6) by redesignating subparagraph (D) of subsection (c)(1) as subparagraph (C), and by striking out "and" at the end of such subparagraph and inserting in lieu thereof "exceed".

(c) AMENDMENTS OF SECTION 57.—Section 57 (relating to items of tax preference) is amended—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter after paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)) the amount of excess construction period interest. For purposes of this paragraph, the term—

"(A) 'excess construction period interest' means the amount of construction period interest in excess of the real property income for the taxable year;

"(B) 'construction period interest' means the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, construction, or carry any item of real property, to the extent such interest is attributable to the construction period for such item of property and is allowed as a deduction under this chapter for the taxable year;

"(C) 'real property income' means for any taxable year the gross income from real property (including the sale or exchange thereof) and from services rendered in connection with real property, in excess of the sum of deductions (other than construction period interest) for such year attributable for such income;

"(D) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale; and

"(E) 'construct' includes reconstruct and erect."

"(13) INTANGIBLE DRILLING COSTS.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), (4), (11), (12), and (13) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraphs (4) and (10) shall not apply to taxpayers other than such corporations. Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C).".

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction for charitable contributions provided by section 170,

"(5) the deduction provided by section 213,

"(6) the deduction for casualty losses described in section 165(c)(3), and

"(7) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(e), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income.".

(3) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (12) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) Election.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12).".

"(5) TRANSITIONAL RULE FOR LOW-INCOME HOUSING.—For purposes of paragraph (3)(D), the term "investment interest expense" does not include 50 percent of any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C).

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'investment expense' shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a)."

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended—

(1) by amending subsection (a) to read as follows:

"(a) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual who files a separate return for the taxable year, section 55(c) shall be applied by substituting $3,750 for $7,500 each place it appears.",

(2) by striking out paragraph 2 of subsection (c) to read as follows:

"(1) EXEMPTION FOR TRUSTS.—Section 55 (c) shall be applied by substituting for $7,500 each place it appears the amount which bears the same ratio to $7,500 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum.

"(2) CHARACTER OF AMOUNTS.—In applying the second sentence of section 652(b) and the second sentence of section 662(b) for purposes of this part, the allocation of items of deduction shall be made under regulations prescribed by the Secretary which shall contain such rules as may be necessary to carry out the purposes of this part.

"(3) DISTRIBUTION DEDUCTION.—Under regulations prescribed by the Secretary, the minimum taxable income of an estate or trust shall be reduced by the deduction allowed to such estate or trust under section 651 or 661.".

(e) TAXES TAKEN INTO ACCOUNT IN CASE OF ACCUMULATION DISTRIBUTIONS BY TRUSTS.—Section 666(b) (relating to total taxes deemed distributed) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and subsection (c), if the taxes imposed on the trust for any taxable year are imposed by section 55 (relating to minimum tax on individuals), the taxes deemed imposed on the trust for such taxable year shall be the taxes which would have been imposed on the trust for such taxable year by section 1 if this title did not contain section 55."

(f) MODIFICATION OF NET OPERATING LOSS IN CASE OF INDIVIDUALS SUBJECT TO MINIMUM TAX.—Section 172(d)(4) is amended by adding at the end thereof the following new sentence: "If a tax under section 55 is imposed on the taxpayer, the deductions allowable under this paragraph shall not exceed the amount of any such deductions which are allowable under section 62 plus the amount of the taxpayer's investment expenses (but not in excess of investment income).

(g) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 5(a) (relating to cross references relating to tax on individuals) is amended to read as follows:

"(5) For minimum tax for individuals, see section 55.".

(2) Paragraph (3) of section 46(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(3) Paragraph (3) of section 50A(a) (defining liability for tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(4) Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "the $30,000 amount specified in section 56 (relating to minimum

tax for tax preferences), modified as provided by section 58," and inserting in lieu thereof "the $5,000 amount specified in section 55 (relating to minimum tax for individuals), modified as provided by section 58, or the $30,000 amount specified in section 56 (relating to minimum tax for corporation)".

(5) Subsection (d) of section 511 (relating to tax preferences) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(6) Subsection (a) of section 901 (relating to allowance of credit of taxes of foreign countries and of possessions of the United States) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credits against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(9) Section 6362(b)(2)(A) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55".

(h) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 55. Minimum tax for individuals.

"Sec. 56. Minimum tax for corporations."

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975.

Mr. BROCK. For the benefit of our colleagues I shall take 3 minutes if possible.

Mr. CURTIS. May we have order, Mr. President?

Mr. TALMADGE. May we have order, Mr. President.

The PRESIDING OFFICER. Will Senators kindly withdraw who wish to converse? The Senate will be in order.

The Senator from Tennessee is recognized.

Mr. BROCK. Mr. President, first of all, to be sure that everyone understands this is essentially the amendment we have been arguing today pertaining to the alternative tax. There is a modification that the senior Senator from New York has suggested which I have applied to allow the exclusion of construction period interest in excess of construction income. That is the only change.

But let me try to simply say in three or four sentences what this amendment is all about.

Those amendments before us from the Finance Committee and the Senator from Minnesota are add-on taxes, surtaxes, and they have the effect of taxing primarily people who now pay taxes. The problem I have with that is that it does not reach those people who do not pay taxes. My amendment is an alternative tax. Let me show why there is an important difference.

If a taxpayer's taxable income is $100,000, and he has $100,000 in capital gains we really all come out with about the same figures. Mine is a little bit higher tax rate, $51,500 against $51,000 for the Mondale amendment and $49,000 for the committee. If a taxpayer does not have any earned income at all but only has $100,000 in capital gains, we come out again fairly close to each other: committee is $31,750; Mondale is $31,000, and mine is $31,000.

Where there is a difference, and it is an important difference, if a taxpayer has all preference income, Mondale taxes on $100,000 preference income only at $13,500—that is an effective rate of 13.5 percent—the committee taxes at $14,000 and mine taxes at the rate of $31,000. Why? Because I am trying to reach that particular group that is not paying taxes today. That is all.

It is very simple to say that is the group we ought to reach. I am trying to do it in a progressive sense because I think that is the essence of our tax system, not a flat rate.

MONDALE and the committee both propose a 15-percent tax rate, which is a flat rate, no progression at all. Mine applies the normal tax table at 60 percent. And that is the difference.

I think it makes an enormous difference in terms of equity and simplicity for Congress to adopt the alternative.

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

Mr. BROCK. I yield.

Mr. PASTORE. Is the Senator actually saying, in essence, that his proposal will render more money?

Mr. BROCK. From the affected groups, yes. In total it will not raise as much as MONDALE originally proposed. It will raise more than MONDALE, as amended by the exclusion of the corporate and by ALLEN.

Mr. PASTORE. But it does raise more than the committee version?

Mr. BROCK. Of course it does. It does so I think in a much fairer fashion.

Mr. CURTIS. Mr. President, will the Senator yield for a brief question?

Mr. BROCK. I yield.

Mr. CURTIS. Will the Senator explain the advantage of his alternative tax from the standpoint of charitable deductions?

Mr. BROCK. Again, the Mondale amendment will tax charitable contributions, and I think that is a terribly dangerous thing to do in a free society. My amendment explicitly exempts or eliminates any taxation on charitable contributions because I think we need to support the voluntary segment of the society of ours, churches, schools, and the rest. I think it would be a great exercise of irresponsibility to impose new taxes on our charitable institutions. They are too important to us, so I do specifically exclude them. Of course, the other proposals do not.

Mr. President, I have no further comment.

Mr. LONG. Mr. President, I regret——

Mr. TALMADGE. May we have order?

Mr. LONG. I regret I cannot support this amendment. As to this amendment, I know the sponsors tried desperately to try to figure out some way that they would not have a very adverse effect on charity, so they left out the charitable contribution as one of the items that has to be dealt with, as we have done even in existing law. So the result of this is that this still leaves it possible, by virtue of a person making a charitable contribution to his own private foundation, let us say, of as much as 40 percent of his adjusted income, for a person to escape paying any income tax. When we started out in this whole area of tax revision in 1969 the first thing we had to deal with was the unlimited charitable contribution because, by giving their money to their own private foundation, which oftentimes is on the appreciated assets, these people would gain a tremendous tax advantage for something on which they had never paid any taxes. Then by giving this to private foundations they would avoid paying us any tax at all. We closed down on that by saying that you can only claim a charitable deduction for 50 percent of income. But if they make a charitable contribution of as much as 40 percent and then they have the other 60 percent in the tax preference, they would owe us no income tax.

What I thought we were trying to do was fix it so, as we have on this committee bill, to where it is almost inconceivable to figure out some way that somebody could get by without paying us any income taxes.

This amendment would again open up the possibility of having 100, 200, or 300 people reported in here with adjusted gross income of $200,000 paying no income tax. I do not think we want that.

Point No. 2 is this amendment says that you can take 40 percent of these deferred items and you have to carry over the other 60 percent. Now you carry that over into future years. That then puts us in for a very long and complicated process where the individual is carrying over these deductions, year and year and year in advance, and it will enormously complicate both the bookkeeping for the taxpayers and also for the Government, which must try to keep up with all these carryover preferences that people will be carrying forward for 1, 2, 3, 4, 5, 6, even 10 years, of these preferences that they were not able to use up but they can still carry over.

Mr. BROCK. Mr. President, will the Senator yield only for a point?

Mr. LONG. I yield.

Mr. BROCK. First, let us be sure the figures are correct. Second, it cannot be appreciated property; it has to be cash, as the Senator knows. So there is not a potential for abuse. And third, talking about holding these things over from year to year, that is throughout the tax code and in the committees own bill. There are carryovers.

Mr. LONG. Most of these carryovers are in the corporate law. There are not a great deal of carryovers in the personal taxation.

Mr. BROCK. They should have the same opportunity that corporations have.

Mr. LONG. That makes it enormously complicated.

The Senator is right about saying it could not be a private foundation, but any public foundation or public charity or university would have the benefit of making the contribution of up to 50 percent of income and, by doing so, reducing their taxes. By making a large charitable contribution, a person can put himself in position that even though he had a large adjusted gross income and the contribution is, let us say, 40 percent of the adjusted gross income, he can re-

duce his tax to zero; and I do not think we want to leave the possibility of people who make these charitable contributions avoiding paying taxes.

In addition, let me read what it says:

The amount of carryover is the smaller of the deferral tax preferences in excess of the minimum taxable income over the regular taxable income.

When one undertakes to do that, you have to have one tax, then you have another tax, and then you have these carryovers. It is very complicated. In fact, I am confident that it is an extremely difficult thing for people to understand. It is enough of a complication to have corporations with carryover credit. At least, they have regular accountants handling their business for them day in and day out. But individuals would have to have bookkeepers constantly carrying their books.

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

Mr. LONG. I yield.

Mr. PASTORE. The thing that mystifies me is this: What is so wrong if an individual does make a charitable contribution? He is disposing of his wealth—whether you pay it in taxes or to a charity. Unless it is a private foundation, what is so wrong with this?

That is the trouble with many of our universities and hospitals and charitable institutions: They are not being supported, for the simple reason that people cannot deduct it.

It strikes me that if that is the only complaint, that a man is avoiding taxes because he is giving it to charity, what is so wrong with that? I think that is in the fashion of brotherly love. If we are talking about that, I think we are talking about the eternal commandment.

Mr. LONG. The other 60 percent is itemized deductions. So when you take the itemized deductions together with the charitable contribution, you wind up paying no tax.

Mr. BROCK. That is not anywhere in my amendment. I do not know where the Senator is reading that.

Mr. LONG. That is in the Senator's amendment.

Mr. BROCK. No. My amendment says we take the preference items and multiply it by 60 percent, and that is what you pay the tax on. The Senator from Rhode Island is correct. You have to give cash. There cannot be any abuse. You cannot give appreciated property. How are we going to support these people?

Mr. LONG. One of the Senator's items here is itemized deductions in excess of 60 percent. If we take 40 percent for charity, which the Senator leaves out—the Senator does not count that.

Mr. BROCK. That is right.

Mr. LONG. Then we take itemized deductions of 60 percent, and they pay no tax.

Mr. BROCK. Can the Senator show me anybody who has itemized deductions for 60 percent and is giving 40 percent to charity?

Mr. LONG. That is why the great majority of the 244 taxpayers pay no tax, because they have itemized deductions of 100 percent.

Mr. BROCK. They are paying no tax because the Senator from Louisiana's add-on tax does not reach them and mine does.

Mr. LONG. It does not reach them, and we are trying to fix it so it does. But the Senator leaves out of itemized deductions charitable contribution. Ordinarily that would be in there, but he leaves it out. So when he leaves that out of itemized deductions and then his other items in excess of 60 percent——

Mr. BROCK. If you can itemize your deductions and they are legitimate for 60 percent and you give away 40 percent, you have no income. There is nothing left. You cannot itemize something unless it is an out-of-pocket expense.

Mr. LONG. You would not have a tax preference because the itemized deductions, exclusive of the charitable contribution, do not exceed 60 percent.

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

Mr. LONG. Therefore, there would be no tax.

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

Mr. LONG. I yield.

Mr. TALMADGE. Is it not a fact that on the Senator's amendment, for each $100 a person contributes to charity, he can claim an exemption of $167?

Mr. BROCK. No.

Mr. LONG. As I understand it, there is an allowance on a charitable contribution up to $167. So it could work out that way.

Mr. TALMADGE. If he contributes $100, he is entitled to a charitable contribution of $167.

Mr. LONG. For purposes of the minimum tax only.

I ask the Senator this: What is done about interest on construction loans in his amendment?

Mr. BROCK. We allow them to deduct it.

Mr. LONG. The Senator would allow the deduction of interest on construction loans. That is the big item with which they have been able to escape the minimum tax. The Senator would allow them to deduct it, and that is the one big oversight both the House and the Senate took hold of this time, because we completely overlooked it the last time.

Mr. BROCK. Why not say it is only $25 million worth of impact?

Mr. LONG. I do not care if it is only $1 million worth of impact.

Mr. BROCK. Then, it is not the biggest thing in the budget.

Mr. LONG. It amounts to $25 million of one of the chief items that is used to avoid paying any tax, which the Senator leaves out.

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

Mr. PASTORE. May we have order, Mr. President?

Mr. LONG. I yield.

Mr. RIBICOFF. One of the great problems we have is that the members of the Finance Committee are confused, so we can imagine what is happening to the entire body.

We are talking generalities, and it is impossible to focus on the end result as to the taxpayer.

We have three measures before us: We have the Finance Committee proposal—let us say the Long proposals; we have the Mondale proposal; we have the Brock proposal. I wonder whether Senator LONG, Senator BROCK, and Senator MONDALE can give us the bottom line on the following proposition: A person has earned income of $50,000. He has preference income of $50,000.

Mr. BROCK. Capital gains or noncapital gains?

Mr. RIBICOFF. Straight. Preference income. Then, the other case, where a person has no earned income but preference income of $100,000.

I think the only way we are going to be able to determine which measure we want to vote for is if we can approximate the impact on the same example to the same taxpayer. Then we can make up our minds where we want to go.

Mr. PASTORE. In dollars.

Mr. RIBICOFF. In dollars, yes, not percentage.

Mr. LONG. We need a moment for the technicians to arrive at that.

Mr. President, have the yeas and nays been ordered on the Brock amendment?

The PRESIDING OFFICER (Mr. LEAHY). They have not been ordered.

Mr. LONG. 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. ALLEN. Mr. President, have the yeas and nays been ordered on the Mondale amendment?

The PRESIDING OFFICER. They have been ordered on the Mondale amendment.

Mr. LONG. Mr. President, let me make this clear: Between the Allen amendment, which is the Mondale amendment as amended, and the Brock amendment, both appear to raise about the same amount of money. But the Brock amendment would permit people to escape totally paying any income tax. I am not complaining about their making a 40-percent charitable contribution and not paying on that. What I am complaining about is their being able to escape tax on the other 60 percent, which would include such things as interest. That is in this Senator's amendment.

Now, there are other itemized deductions which can be within that 60 percent that amount to, in our case, situations where someone should pay some tax.

If you want to stop this thing of people making a lot of money and paying no income tax, then you want to vote for something which says they do pay us a substantial amount of tax. The Mondale amendment, as amended by the Allen amendment, closes out that possibility.

Mr. PASTORE. Will the Senator yield?

Mr. LONG. Yes; I yield.

Mr. PASTORE. Will the Senator give us an example of what the Senator means by a construction loan. What is a construction loan?

Mr. LONG. During the period that a building is being constructed, interest is being paid on that. That is an allowable deduction. One can argue that it ought to be capitalized and be a part of the cost of the building when completed,

but it is not. Under the law, you can deduct your interest expense on a construction loan to build a building.

Let us say that you build an office building and during the period of construction, you have a major interest expense. With the minimum tax, we have undertaken to take these excess interest expenses and disallow them where they exceed interest income or other investment income, in order to see that people do not escape tax.

But we overlooked this interest on a construction loan during the period that a building is being constructed. It is just an oversight but it is one of the chief things that people who are putting together these packages for syndicates and things of that sort have seized upon—interest during the period of construction. That interest on construction loans, we think, should not be permitted to escape tax and it is one of the favorite items, that we just did not know about when we passed the last tax reform law; it is one of the favorite items of those who put together packages to try to avoid paying taxes or keep taxes down.

With regard to some of the itemized deductions such as itemized interest, we run into the same problem that we have dealt with in the committee amendment and that would also be dealt with in the Mondale amendment. So in either case, we take care of that. But those are among the itemized deductions with regard to which the Senator says there is no minimum tax—at least, this alternative tax does not apply unless they equal 60 percent of adjusted gross income. So that, when we put the whole package together, while it does have some merit—and I do not say it does not have merit, I just say that comparing the two, we raised about the same amount of money, one an add-on tax and the other an alternative tax.

The alternative tax still leaves the door open for people to get by without paying any tax, and the complaint will persist. It does leave some potential for tax abuse that we close out with the Mondale approach or the committee approach or the Mondale approach as amended by the Allen approach.

Mr. PASTORE. Will the Senator yield?

Mr. LONG. Yes.

Mr. PASTORE. Under the existing law, today, without reference to the bill we are considering now, is the interest on a construction loan a deductible item?

Mr. LONG. It is, and it is not subject to minimum tax.

Mr. PASTORE. So what we are doing is closing that loophole with the committee bill?

Mr. LONG. Yes, the committee bill does that and so does the Mondale amendment.

Mr. PASTORE. The Senator is saying that the Brock amendment leaves it open?

Mr. LONG. The Brock amendment leaves it open. Also, it leaves open the potential with regard to other itemized deductions.

Mr. BROOKE. Will the Senator yield for a question? Does the Brock amendment make any distinction between residential property and commercial property?

Mr. LONG. No, it does not.

Mr. BROOKE. It would cut all, residential or commercial, and subsidized housing as well? The Senator from Tennessee would exempt interest on construction loans for subsidized housing, for residential housing, and for commercial housing. Is that correct?

Mr. LONG. There is a transitional rule providing up until 1981 for low income housing.

Mr. BROOKE. So they would be protected.

Mr. LONG. Largely so, up until 1981.

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

Mr. LONG. Construction interest would be exempted entirely.

Mr. BELLMON. Will the Senator yield?

Mr. LONG. Yes.

Mr. BELLMON. I have been trying to get the point of all this argument. What we are trying to do is make the 240, or however many it is, high income taxpayers, who pay no income tax, pay income tax. Is that what we are supposed to be doing?

Mr. LONG. That is what I thought.

Mr. BELLMON. Could we accomplish that if the high income taxpayer gets tax exempt municipal bonds?

Mr. LONG. So far as I know, there is not a single one of those 244 taxpayers we have been talking about who would escape paying at least a minimum tax, and a substantial minimum tax, a 15 percent tax, applied to a substantial amount of his income, under the committee bill or under the Mondale amendment or under the Allen substitute for the Mondale amendment.

Mr. MONDALE. Will the Senator yield?

Mr. LONG. Yes.

Mr. MONDALE. It is also a fact, I say to the Senator from Oklahoma, that the interest on municipal bonds is not involved here at all because it does not show up in the adjusted gross revenue figures. So the income figures of those taxpayers in no way reflects interest on tax-exempt bonds.

Mr. LONG. That is right. None of these bills does anything about interest on those State and municipal bonds, that is correct. But in view of the fact that that is not reported as income anyhow, when we are talking about the 244, the only one of those 244 that could escape taxes would be those who had paid taxes to a foreign government which exceeded the taxes they would owe to this Government. I do not know of anybody who quarrels with that result.

Mr. JAVITS. Mr. President, this construction interest question, I think, is not a big issue, but it is to many small builders. The Senators should know that it involves $25 million, so let us get the thing in focus.

Second, Mr. President, it is only safeguarded by this amendment if it is beyond the related income for real estate, so that there is no windfall benefit to any builder.

Third, Mr. President, it represents actual cash disbursed. This is no contrived deduction. This is actual cash disbursed for interest during construction. It seems to me that, with those limitations, it is very indispensable to the small builder and he should not be penalized unless it is in excess of his income which relates to building. If it does result in that excess, then he should be penalized by the amendment.

The PRESIDING OFFICER. May we have order in the Chamber so the Senator from New York may be heard?

Mr. JAVITS. One other thing, Mr. President: It is very clear, too, that the very treatment of oil and gas which the committee allowed is exactly along this line. This is an exact analogy. They have done it for oil and gas, but they will not do it for the construction people, especially at a time when we are so low and so poor and so backward on construction in this country, which is absolutely indispensable to the builder and to construction later. That is why I offered the amendment to Senator BROCK and that is why he accepted it. I would have done it independently, except that his amendment is not subject to amendment and I wish to vote for it.

Mr. BROCK. I thank the Senator.

Mr. DOMENICI. Mr. President, may I ask a question?

Mr. RIBICOFF. Before we vote, I would like the answer to the inquiry that I made to the three Senators.

Mr. LONG. Let me give the answer to the Senator.

In the first case the Senator gave, based on the figures he gave, under the Brock amendment, the taxpayer would pay $22,300 the first year.

Under the Mondale amendment, he would pay $23,060.

Under the committee amendment, he would pay $22,001. That is the committee amendment.

They are all about the same thing. But here is the big difference: All these preferences that he failed to get under the Mondale amendment or the Finance Committee amendment he loses them, and that is the end of it.

Under the Brock amendment he carries them all forward into the next year. and if he cannot use them then he carries them forward into the next year, so he does not lose those tax advantages, he just postpones for a year taking full advantage of them.

Mr. BROCK. Wait a minute. Give him the figures.

Mr. RIBICOFF. Now, the case where there is a $100,000 preference income without any earnings.

Mr. LONG. The Brock would pay $22,000, the Mondale amendment $13,500, the Finance Committee $15,000.

Mr. BROCK. The Senator has made my point.

Mr. RIBICOFF. Mondale was what, sir?

Mr. BROCK. Thirteen thousand, five hundred dollars.

Mr. LONG. Thirteen thousand, five hundred dollars.

Mr. RIBICOFF. And the committee?

Mr. BROCK. Twenty-two thousand dollars. The Senator has just made my point.

Mr. RIBICOFF. The committee amendment?

Mr. BROCK. $15,000. I thought it was $14,500.

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

Mr. LONG. Yes, but keep in mind, under the Brock amendment they would pay more, but they still have all that carryforward.

Mr. BROCK. What carryforward? They are paying tax.

Mr. LONG. Keep in mind the Brock amendment says of your preferences, the preferences cannot exceed 60 percent of your adjusted gross income. Now, the other 40 percent, if they are deferred preferences, that you cannot use this year you carry all that forward, and you get to use it next year.

Now, it is true that next year—in other words, the deferred items are carried forward. Next year you get to use them. So by the time you get into the second and third year you catch up.

Mr. RIBICOFF. I am just curious. May I ask the chairman, here we have a fight that has been going on for a few days between the so-called reformers and the so-called stand-patters. But, as I look at these figures, there is very little difference between the Mondale proposal and the committee proposal. Why the big fight between the committee proposal and the Mondale proposal, setting aside the Brock proposal because there is a variable, but you are almost identical in the figures between the committee and the Mondale proposals.

Mr. LONG. Well, may I say to the Senator, that just happened to work out the same. There are many cases where there are differences.

Incidentally, with regard to this situation, where all of this income is preference income, that is a very, very, very rare situation admittedly. It makes the first year look good, but that is the very rare situation with all preference income. In most cases people have a substantial amount of earned income, salary income, and various others. For example, even if you are talking about a capital gain, that is not all preference income. Half of it is subject to tax.

Mr. MONDALE. Mr. President, will the Senator yield at that point because I would like to point out the differences?

If you would take your example and raise the income you would find that the Finance Committee bill tax on preference income drops off dramatically because of the size of the tax on the taxable income which quickly phases out the tax imposed by the Finance Committee, the result being that the amendment I proposed on individual preferred income raises about $300 million more than the Finance Committe bill does.

The second point is that my original amendment included corporations under the same rule as individuals, and that picked up approximately $500 million. But it is not in this amendment.

Mr. BROCK. May I point out, let us take the second step: the Brock amendment is progressive throughout the scale whereas the Mondale amendment has the flat rate. It does do a little better job at the higher income level than the committee bill does, but it still levels off at a flat 15 percent. Mine follows the tax table right across the board, so it is progressive, and it does, frankly, deal with the shelter problem more specifically.

Mr. RIBICOFF. I wonder if——

Mr. LONG. When the Senator spoke about the Mondale amendment being progressive, it is progressive so far as preference income is concerned. But when you add the preference income to the other income it is not progressive and then the Finance Committee bill becomes more progressive.

Mr. RIBICOFF. I wonder, Mr. Chairman, could he enlighten us as to how many returns we are affecting by these amendments, how many returns will be giving more money to the Federal Treasury.

Mr. BROCK. I may say to the Senator I have those exact figures, if the Senator wants them, from the Treasury. Under the House bill—all returns now, and this is not just the target types, nontaxable, but all returns—the House minimum tax is 134,000 returns; the Finance Committee is 554,000; the Brock amendment is 165,000, and Mondale is 323,000.

If I may just explain why the Brock amendment, as an alternative tax, only targeted those people who are using a high degree of preference items; in other words, they have a high excluded inoome group in relation to their earned income. As the Senator says, I only try to target toward that group, so I do not hit the people who are paying a full share of taxes. The others do.

Mr. RIBICOFF. If the objective of the complaint has been that thousands of taxpayers are avoiding their fair share of taxes, then is it not a factor as to how many additional taxpayers are impacted by the different amendments?

Mr. BROCK. Yes.

Mr. RIBICOFF. The Senator from Tennessee indicates that the committee proposal impacts more additional taxpayers than either the Mondale approach or the Brock approach.

Mr. BROCK. It does more taxpayers because it is hitting legitimate taxpayers as well, a broad sword. It cuts without any logical consideration of use of tax preferences or the abuse.

Let us talk about where the abuse area is, and this will give you a little different picture. In the group which declares no income at all, in other words, they are at zero, which is the area where you have the principal abuse, the Brock alternative raises $54 million from the target group; Mondale raises only $13 million, and the Finance Committee only $13 million, the House $11 million, by the way.

On the all-income, Brock raises $136 million, Mondale $55 million, and the Finance Committee $64 million. Again, as to the target areas, my amendment is more productive.

Mr. MONDALE. I think the distinction is this, if the Senator will yield, Mr. President. In the case where there is substantial preference income but no taxable income, Senator BROCK's amendment hits harder than any other amendment because it takes 60 percent of that income and applies the normal tax rate. But in the case which is what we are trying to get at, where a person has large taxable income and also substantial preferred income, he is able, in effect, to take 60 percent of the tax paid on the taxable income and deduct it from preferred income so that you will find that in my amendment the tax is much higher on those who have both high taxable income and preferred income.

Under Senator BROCK's amendment the tax is higher on those who have very little taxable income and high preferred income; and the reason my amendment picks up $300 million more than his is that there are many more people in the category that we tax higher than in the category that he taxes higher.

Mr. BROCK. They are paying taxes now, may I say to the Senator.

Mr. LONG. Do I have the floor, Mr. President? I believe I had the floor.

Mr. BROCK. I think I had the floor.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Tennessee has the floor.

Mr. BROCK. Yes. I yield.

Mr. LONG. Here is the answer to the question the Senator asked. Here are what your three choices are basically the way the votes have been going. I would assume that we are going to vote tonight either for the Mondale amendment as amended by the Allen amendment, which I am calling the Allen amendment for the present time, or we are going to vote for the original Mondale amendment or vote for the Brock amendment.

Now, the Brock amendment would tax 158,000 taxpayers. The Mondale amendment, without the Allen amendment, would tax 316,000 taxpayers; and the Allen amendment would tax 270,000 taxpayers. It falls between the two.

Mr. RIBICOFF. The thought occurs to me, Mr. President, as I have been listening to this colloquy, it strikes me that with the Allen amendment to the Mondale amendment there is not much difference between the committee proposal and the Mondale amendment as modified by the Allen amendment.

Mr. BROCK. The Senator is exactly right.

Mr. RIBICOFF. I am just wondering whether during a quorum call for 10 minutes the distinguished Senator from Minnesota and the distinguished Senator from Louisiana, with a little assist from the Senator from Tennessee, can come up with a formula that everybody would be satisfied with.

Mr. BROCK. Mr. President, I have the floor and, if I may, let me just say I would love to work it out. The problem is there are fundamental differences between the concept of the Mondale and Long approaches as opposed to mine.

Mr. RIBICOFF. That is right.

Mr. BROCK. Mine is an alternative tax and theirs is an add-on.

Mr. RIBICOFF. That is right. But I do not think there is much difference between the chairman's proposal and Senator MONDALE's proposal both with respect to the amount of money raised and also the impact on the taxpayers and the number of taxpayers affected.

Mr. BROCK. They are almost identical with the Allen amendment.

Mr. RIBICOFF. There does not seem to be much difference.

Mr. LONG. The big difference is that the Allen amendment injected this. The Allen amendment, as I saw it, sought to

take what would be the most appealing feature of the committee amendment and added that most appealing factor to the Mondale, because the Mondale amendment would allow $10,000 exemption at the bottom. The committee amendment would allow $5,000. So that takes a lot of fairly low, middle-income taxpayers out of the prospect of being in it.

Then the Mondale amendment applied its corporations, and so the Allen amendment applied its corporations. So they would fall under it just like the individuals would.

Then the committee thought where a person had paid a large amount of taxes, that should be taken into consideration.

So it permits one to reduce the amount of preference items on which we are going to be taxed for minimum tax purposes, by the amount of taxes already paid.

So that by taking into consideration the taxes one has already paid, it carries out the philosophy that the minimum tax should be directed toward a person who made a lot of income in the real sense, but paid very little tax.

Mr. MONDALE. Will the Senator yield?

Mr. LONG. Yes.

Mr. MONDALE. I understand the Senator from Arkansas may be proposing an amendment here that might resolve it.

Mr. BUMPERS. Will the Senator yield me 1 minute?

Mr. BROCK. I have the floor still.

I yield to the Senator from Minnesota.

Mr. MONDALE. What troubles me about the Allen amendment which modifies mine is the complete deductibility of taxes paid on taxable income against preferred income.

The Senator from Arkansas, as I understand it, is going to propose a compromise that might settle this, in which he proposes one can take, as I understand it, 50 percent of his taxable income and deduct it from taxes paid on taxable income from his preferred income.

That would, it seems to me, give us a compromise where, in a sense, the two original proposals, the one we introduced and the one from the Finance Committee, which they reported out, would move toward a compromise.

Mr. LONG. What the Senator is talking about now was what the House committee reported. It was voted out on the floor.

I assume, if we agree to the Allen amendment, we will have that proposition made to us in the spirit of compromise in the event this matter goes to conference.

I do not want to say we would agree or not agree. I think we ought to go to conference with an open mind and work for what we think would be the best bill.

But if we are really, in a sense——

Mr. BROCK. Mr. President, I yield the floor, the Senator might as well have it.

Mr. LONG. If we are really saying——

Mr. BUMPERS. Mr. President, the Senator from Tennessee yielded the floor. I ask for recognition.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I want to make an observation here, then I will be happy to yield the floor.

I do not have much to say. The amendment I want to offer will not be in order unless the Mondale amendment is defeated.

I anticipate that, and I intend to offer this amendment. But if we stay on the Brock amendment and the Mondale substitute until 11 o'clock, all I will have the opportunity to do is submit it and will not have the opportunity to explain what it is about.

I do not know if there is any design or strategy along that line, or not. But I understand in the gentlemen's agreement last night, we would vote at 11 and the people who had amendments would have the opportunity to present them and have at least 30 minutes.

If we talk at the rate we are going now, people will not have an opportunity to offer an amendment. Mine might not be accepted, but I would like 5 minutes to explain it.

Mr. CRANSTON. Will the Senator yield?

Mr. BUMPERS. I yield without losing my right to the floor.

Mr. CRANSTON. Will the Senator briefly explain the substance of the amendment now so we can consider it as we vote on the other amendment?

Mr. BUMPERS. If I can have undivided attention for about 5 minutes, I think I can do it.

Mr. PASTORE. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order so the Senator from Arkansas can be heard.

Mr. BROCK. Will the Senator yield for a quick comment?

Mr. BUMPERS. I am happy to.

Mr. BROCK. I want the Senate to understand that I am ready to vote on my amendment now, or any time we are ready. I have no further conversation. I think people understand the amendment. I think we ought to.

Mr. BUMPERS. Mr. President, would it be in order to ask unanimous consent that we vote on the Brock amendment and that I be recognized immediately after the rollcall vote?

Mr. LONG. I object to the unanimous-consent request. It is all right for the Senator to be recognized, but I object to the request.

Mr. BUMPERS. Mr. President, I would like to have 5 minutes' time to explain my proposal.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BUMPERS. There are three or four things about this I do not like and I suppose every Senator here has an objection to at least one part of the bill.

I resent the fact that the corporations are not included in the Finance Committee section. I think it is grossly unfair and I would like to see that left in.

My amendment, the Mondale substitute, with the Allen amendment modified, to this extent, that taxpayers will receive credit against preference income to the extent of 50 percent of the taxes they have paid, rather than 100 percent, as the Senator from Alabama has proposed.

Second, it has an item on it, which I have not discussed with any proponents of the Mondale amendment, to exempt timber.

The reason I put that in there is that I feel that what is going to happen here, a lot in my State, for example, 2,015 individual unincorporated tree farmers, who own tree farms of 1,000 acres or less, are going to get hit so hard by this they are going to have a strong incentive to convert their tree farms and timberland to other purposes.

I admit my interest in this is parochial, but I will also agree that over half the Senators represented in this body have a similar number of small tree farmers who will be faced with the same proposition.

I have always been a proponent of land use planning. I have always thought taxation and tax incentives were a legitimate way to address it.

What I want to do is keep the rest of my State from going the way eastern Arkansas has gone, where we used to have fabulous wetlands and now it is all converted to soybeans.

The rest of my State will be rapidly converted from the tree farming, to row cropping or some developments.

We are taking 1 million acres of arable, cultivated land out of cultivation every year in the United States and will continue to do so as long as the pressure is on people to sell land for development.

I am saying, those people ought to be excluded. I admit my parochial interest, but I think it is a legitimate one.

Finally, there is a very serious flaw in this, as was pointed out in the brochure put out by Senator MONDALE, to show that people who live in single-family dwellings and have some limited retirement income, and who happen to sell that single-family dwelling, will be treated very unjustly under this bill.

So it exempts as preference income capital gains from sales of single-family dwellings. That could include, I admit, $150,000 condominiums. There are so many different cases.

We are trying to get big people, the really super rich. We wind up hurting innocent people that other Senators and myself never had any intention of doing any harm to.

Finally, a philosophical note: I have heard comments made in this Chamber many times in the past week that, "I believe in tax reform. But I have not yet seen the kind of reform I can vote for. It is not in this bill. It is waiting for something else."

The Senator from Maine made the point the other day that this body has three or four alternatives. One, we can do nothing but accept the committee report, which means if we adopt an extension of the $35 individual income tax credit we are voting to increase the deficit by $1.8 billion.

Alternatively, we can cut spending by $1.8 billion. Based on my observations, that is not likely to happen.

What I am saying is I think it is time for us to vote the way we say back home. I doubt there are three Members of this body who have not said in a speech in the past year that he believes in tax re-

form. Yet there is no reform here. Unless we do something to raise at least some of the revenue, admittedly my amendment will not raise all of it, unless we raise some revenue, those of us who go back home and talk about tax reform and talk about a balanced budget are going to be delivering the rhetoric only to our constituents.

Several Senators addressed the Chair.

Mr. BUMPERS. Mr. President, I have said essentially all I care to say on my amendment, but I would like to say finally I would like the opportunity to present it under the gentleman's agreement which the floor manager agreed to last evening.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the Senator has left out one of the most obvious things that we ought to do in terms of budgetary responsibility. We agreed the last time we had one of these big tax cuts that we were going to undertake for every $1 of additional tax cut to cut spending by $1. That was a commitment I thought we made at the end of the last session. So we came back and tried to do business in that fashion.

Mr. ROTH tried to offer an amendment when the Muskie amendment was offered, which would upset the balance of this bill by $1,700,000,000, to say that we would reduce spending by that much. A point of order was made against it and he was not permitted to offer it even though I gave consent to waive the point of order when Mr. MUSKIE offered an amendment subject to the same point.

We are going to have the debt limit bill out here in a few days and we will have that amendment on that debt limit. If need be, we will refer it to the Budget Committee first, or we can waive that point of order.

On the debt limit bill, we will propose to take the President up on his proposition that if this tax cut bill exceeds the budget target estimates, any additional tax cuts beyond the target would be accompanied by spending cuts to offset that. That was the kind of commitment we made to the President last year.

As far as I am concerned, all those escape clauses, ifs, ands, buts, wherefors, and so forth did not impress me. I was sincere about taking the President up with the proposition that we ought to accompany further tax cuts with spending cuts. I think we ought to do it. When we bring that debt limit bill out here if my vote will do it, and I think the majority of the Finance Committee will vote that way, we are going to vote to put something like the Roth amendment on it to say that any further tax cuts, including anything in this bill over that target, will be accompanied by spending cuts.

So the Senators can vote for all the tax cuts they want to, but they better be prepared to vote for spending cuts along with it.

Mr. CURTIS. Mr. President, I will serve notice that I will make a point of order against any amendment not in writing. People have to live under this law. We can be satisfied here to vote to approve some oratory. We can shout for tax reform, to take it off somebody and put it on somebody else, when everybody knows the only tax relief comes from cutting spending.

The Committee on Finance has worked for weeks and months on this bill. We had to fight for 3 or 4 days to get a chance to present our bill, because of an attack by a committee that has not held any hearings on the tax bill.

Here tonight we have amendment piled on amendment. Somebody describes what it is supposed to be.

Mr. President, that is not a workmanlike way to do this. There will be no more amendments offered tonight unless they are in writing.

I also wish to say that I have one in writing, very brief, and I hope to call it up. [Laughter.]

Mr. BENTSEN. Mr. President, those who say that no tax reform bill is before the Senate fail to remember that the Senate Finance Committee spent about 40 days in hearings and markup and have reported a major tax reform bill that raises several billion dollars through tax reform.

When we talk about the minimum tax, the Finance Committee increased the minimum tax rate by 50 percent.

Mr. LONG. It is 500 percent. It is revenue.

Mr. BENTSEN. I understand. The minimum tax rate would be increased from 10 percent to 15 percent.

Mr. LONG. In terms of revenue, it is a 500-percent increase.

Mr. BENTSEN. In addition, the Finance Committee added several new items to the minimum tax base.

We said, "All of your interest expense in excess of investment income would be subject to the minimum tax."

We said, "Accelerated depreciation on all leased personal property would be subject to the minimum tax."

We said, "Intangible drilling costs in excess of oil and gas income go under the minimum tax."

All of these things we did in this bill.

Just remember, when we label this reform, this is actually reform of the 1969 Tax Reform Act in which Congress labored long and hard to try to really close up some of these tax loopholes.

Let me say to my friends, on this particular bill I think the Finance Committee has come out with a reasonable bill, a fair bill, for the taxpayers of this country, and one that raises a substantial amount of money through tax reform. I think it should be given consideration from that standpoint.

Mr. BROCK. Mr. President, I modified my amendment earlier to include an amendment by the Senator from New York with which I agreed, and I raised the point that it included construction interest. I did not, inadvertently, mention the fact that it included investment interest as well. I do not want anybody to misunderstand me. It does include both. I suggested to the Senator from New York that I might withdraw it, but I gathered that there might be objection to that. I want everyone to know that we do allow the deduction of investment interest as an expense.

Mr. LONG. Mr. President, I congratulate the Senator on making that statement. I knew that was the point of the amendment but I doubt if all Senators knew it.

Now that the point did come up, this point should be made: That means that in the Senator's amendment, in his alternative tax, he would leave out two items that we think very much belong in the minimum tax. One is interest on construction loans, which I have already discussed, and the other is investment interest in excess of investment income. So those are two major items that we think ought to be in the preference items and they are not included in the Senator's amendment. I think the Mondale approach or the Allen approach or the committee approach would be the better approach for that reason. Therefore, I hope that the Brock amendment will not be agreed to.

Mr. BROCK. The investment interest only applied in special cases so it is a very, very limited application and there is virtually no revenue impact at all.

I am prepared to vote, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 18, nays 68, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—18

Baker	Garn	Laxalt
Beall	Gravel	Morgan
Brock	Griffin	Packwood
Curtis	Helms	Pastore
Domenici	Hruska	Stevens
Fannin	Javits	Taft

NAYS—68

Abourezk	Case	Hansen
Allen	Chiles	Hart, Gary
Bartlett	Church	Hart, Philip A.
Bayh	Clark	Hartke
Bellmon	Cranston	Haskell
Bentsen	Culver	Hathaway
Biden	Dole	Hollings
Brooke	Durkin	Humphrey
Bumpers	Eagleton	Jackson
Byrd, Harry F., Jr.	Eastland	Johnston
Byrd, Robert C.	Fong	Kennedy
Cannon	Ford	Leahy
	Glenn	Long

Magnuson	Pearson	Stafford
Mansfield	Pell	Stennis
Mathias	Proxmire	Stevenson
McGee	Randolph	Stone
McIntyre	Ribicoff	Talmadge
Mondale	Roth	Thurmond
Montoya	Schweiker	Tower
Moss	Scott, Hugh	Williams
Muskie	Scott, William L.	Young
Nelson	Sparkman	
Nunn		

NOT VOTING—14

Buckley	Inouye	Percy
Burdick	McClellan	Symington
Goldwater	McClure	Tunney
Hatfield	McGovern	Weicker
Huddleston	Metcalf	

So Mr. BROCK's amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment by the Senator from Minnesota.

Mr. CURTIS and Mr. LONG addressed the chair.

The PRESIDING OFFICER. The Senator from Nebraska.

UP AMENDMENT NO. 101

Mr. CURTIS. I offer an amendment to the committee amendment and send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes unprinted amendment No. 101.

On page 136, insert after line 23 the following new paragraph:

"(7) the deduction for charitable contributions provided by section 170."

Mr. CURTIS. Mr. President, I can explain this, I think, in 5 minutes if I may have order.

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

The PRESIDING OFFICER. May we have order in the Chamber? Senators will please clear the well. Senators could continue their conversations in the cloakroom and expedite matters. The Senator from Nebraska will withhold a moment until we get order.

The Senator from Nebraska.

Mr. CURTIS. Mr. President, the purpose of a minimum tax is sort of a catch-all for people who have taken too many deductions and availed themselves of too many preferences in the tax. The committee bill, as written, provides that, if your deductions, payments of interest, and other payments amount to more than 60 percent of your adjusted gross income, that excess is taxed under the minimum tax.

We excepted from that a medical deduction and a casualty loss. That was right.

What I propose is to put charitable deductions in the same category as medical deductions and casualty losses. If we do not, an individual can have 60 percent of his adjusted gross income in very legitimate deductions for interest paid, taxes paid, and other items, and as the bill is written if he would give $10,000 to a hospital he would be taxed $1,500 for making it because that excess of deductions is an item in the minimum tax; the rate under the committee bill is 15 percent.

It is not wrong to give away your property. The private and church colleges in my State carry over 30 percent of the load of higher education. They need the little contributions. But they also need the big contributions from the people that can make them. The same is true of every hospital and the building of every library. And here we should not by an inadvertence, I believe, tax a charitable gift and that is what we are doing.

Mr. President, it would be my hope that the committee would accept the amendment.

Mr. LONG. Mr. President, the Senator's amendment that we are talking about applies only to the minimum tax. That is all we are talking about, the 15 percent minimum tax.

In the effort to be sure that people could not of their own volition and their own choice just avoid paying any income tax and have us trying to explain that all the time, we had to do something about the charitable deduction and the itemized deduction.

Here is what we said. We said that, if your itemized deductions equal 60 percent of your adjusted gross income, then you owe the minimum income tax on the difference, on the other 40 percent, or the excess over the 60 percent.

That was to be sure that it was not within a taxpayer's power by making a charitable contribution to completely wipe out his tax.

They can make a charitable contribution if they want to of up to 50 percent, but there would be a small tax, a 15-percent tax, on the excess of itemized deductions over 60 percent of income, because we thought that these people who have a lot of itemized deductions should not be able to totally and wholly escape paying any tax to this Government.

We did make an exception with regard to high medical expenses for the simple reason that those are not within the control of the taxpayer; it is not within his control to get sick and run up $100,000 of medical expenses. That happened in spite of his effort to the contrary. And the same thing is true of casualty losses. If somebody burned his house down and he was not insured or only insured only in part, he did not want it that way, and that happened with him even though he was doing everything he could to keep it from happening. So in no situations where a person suffered some kind of a disaster either to his health or to his property, and totally beyond his control, he finds himself paying no tax, that we can understand.

But if we leave the charitable contribution to where, together with other deductions, it can be deducted in excess of 60 percent of income and do not consider it along with these other itemized deductions, then we leave it completely within the power of a taxpayer, knowing he is going to have to pay some tax, to make a charitable contribution and make himself a nontaxpayer. I think with all this work we have done to try to see to it that taxpayers will pay some tax, little though that may be, we should not fix it so he can use that charitable deduction so he pays no tax at all. That taken together with 60 percent of his other adjusted gross income is accounted for by itemized deductions.

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

Mr. LONG. I yield.

Mr. JACKSON. I think the Senator is making a very important point. The fact is—and correct me if I am wrong—that under existing law, if an ordinary taxpayer gives away more than 50 percent of the adjusted gross income, he has to pay a tax. Is that not right?

Mr. LONG. That is right.

Mr. CURTIS. That is not the law.

Mr. JACKSON. I am talking about ordinary people who do not come within the minimum tax. The law today is that you cannot give away more than 50 percent of your adjusted gross income unless you pay tax on that figure.

Mr. LONG. That is the regular tax.

Mr. JACKSON. The regular tax.

Mr. CURTIS. You get a carry forward in practically all the instances.

Mr. JACKSON. Oh, no.

Mr. CURTIS. Oh, yes, you do.

Mr. JACKSON. I say to the Senator that I ran up against this on my own personal income. I gave away right up to the maximum, all my honoraria, and I was within $500 of the amount that you could give. I had to start paying the tax on what you could give away. That is the law today.

Is the Senator going to say to ordinary taxpayers, "You are going to pay a tax, but if you are subject to the minimum tax, you are going to be able to give it away without paying a tax"? It cannot be done with ordinary people. Is that correct?

Mr. LONG. Yes, but let us understand this. There are a considerable number of taxpayers who avoid paying any tax at all to this Government, with the largest single item being the charitable contribution.

This is how that tends to work: One can give, let us say, 50 percent and fully deduct that. If he has an adjusted gross income of $100,000, he can give 50 percent, and that is fully deductible. Then he can take itemized deductions for the other 50 percent, and he owes no regular income tax.

Mr. JACKSON. But not on charitable contributions.

Mr. LONG. If you add the two together, if you take the charitable contributions for half and then these other itemized deductions—casualty losses, interest expenses, business expenses, the other deductions—you can get up to 100 percent and you owe no tax.

Mr. JACKSON. But you cannot do it on charitable contributions.

Mr. LONG. You cannot do it all with charitable contributions. You can only do half of it with charitable contributions.

What we propose to say in the minimum tax is that if you take 50 percent of the charitable contributions, you cannot totally wipe out your tax liability by the charitable contributions route, even if you do couple it with other deductions. You would still owe a tax on some of it.

In other words, let us say you have $100,000 of adjusted gross income. You can take itemized deductions up to 60 percent, so that is $60,000 against the $100,000. You would still owe a minimum tax of 15 percent against the other $40,000 if you have that much in itemized deductions.

The point here is that there at least

would be something that would be subject to that 15 percent tax, so this person would not have the option of totally eliminating his tax liability.

I speak as one who has tried to live with this thing, and I think I have taken more brutality from the press than anybody else for trying to show a sympathetic concern for taxpayers. After all the beatings some of us have taken about taxpayers—244, or whatever number—who make $200,000 or more of adjusted gross income and pay no tax, it seems to me that we should stop the matter of people having that potential. We do leave that potential where it happens because of a disaster by way of a casualty loss or a high medical expense; but as to the other, where a person by his own volition, his own willful decision, can completely wipe out his tax liability, we should not leave that.

Mr. JACKSON. Is not the logic of the Senator from Nebraska's position that if you are going to allow an unlimited amount of charitable contributions for those who are in the special category to which he is addressing himself, then you must allow an unlimited amount of deductions for charitable purposes—it is that simple—on adjusted gross income?

Mr. LONG. What this would mean is that, for purposes of the minimum tax, it is unlimited.

Mr. JACKSON. It is unlimited under that doctrine, but it is not unlimited if you are just an ordinary taxpayer. You are stuck with 50 percent.

Mr. LONG. That is a somewhat different situation. But I think the question is this: We have worked hard to try to fix it so that we are not going to have this list of 100, 200, or 300, and then people complain, "Why do you have more people now paying no tax, when they have adjusted gross income of $200,000, than before?" It seems to me that we should fix it that they pay us something.

There are some givers. I saw Dr. Schuler on television the other day talking about a man who wanted to give $1 million to his church, and the man said he could not give that much. He made other plans to give a certain amount, and he could only give a certain amount. Basically, he meant that if he gave any more than that, he could not get the deduction.

After a while, Dr. Schuler said:

> Would you please just think about it and pray on it and consult with God about whether it might be possible to find a way to give more?

What he had in mind was that maybe the man might be willing to come up with that $1 million, even though he did have to pay tax.

After that, what happened? I saw it on television. That man decided to give the $1 million, even though he would pay Uncle Sam some tax. Is that not wonderful? It disproves the tradition that those who make the contribution do not pay Uncle Sam any tax. Think of the great contribution that is to God and country. [Laughter.]

Of course, the man still has a carryover, Mr. President. [Laughter.]

Mr. CURTIS. Mr. President, I should like to have the attention of the distinguished Senator from Washington.

I am sure that if someone reaches their 50-percent limit on deductions for charity and they make a greater gift than that, they can carry it over to the next year. I know that is the law. I offered that amendment in the Finance Committee, and it was accepted.

I also know this to be a fact: If we leave the committee proposal as it is and a committee goes around and tries to get $10,000 for a hospital, they have to go to somebody who has it. If he has itemized deductions—which, after all, is no crime—taxes paid, interest paid, and other things, he will say, "Well, what will this cost me, to give $10,000?" He will be told, "It will cost you $1500." So he has to write two checks amounting to $11,500.

At one time, we had an unlimited charitable contribution in this country. It came about because of dedicated Christian workers, nuns, who had taken poverty vows and then came into some property and they gave it all away.

In the hurricane of 1969, in the stampede for tax reform, most of which has been repealed because it was unworkable, we enacted a lot of oratory that was no good. We knocked out the unlimited charitable contribution. In order to get it, you had to have a pattern of many years of giving it away.

I am not trying to retry that. But if Senators vote against this amendment, they are voting against the interests of every private college and every hospital and every charitable institution.

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 clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 29, nays 56, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—29

Allen	Fong	Packwood
Baker	Garn	Pearson
Bartlett	Griffin	Scott, Hugh
Brock	Hansen	Sparkman
Byrd, Harry F., Jr.	Hart, Philip A.	Stafford
Curtis	Helms	Stevens
Dole	Hruska	Taft
Domenici	Laxalt	Thurmond
Fannin	Morgan	Tower
	Muskie	Young

NAYS—56

Abourezk	Glenn	McIntyre
Bayh	Gravel	Mondale
Beall	Hart, Gary	Montoya
Bellmon	Hartke	Moss
Bentsen	Haskell	Nelson
Biden	Hathaway	Nunn
Brooke	Hollings	Pastore
Bumpers	Huddleston	Pell
Byrd, Robert C.	Humphrey	Proxmire
Cannon	Jackson	Randolph
Chiles	Javits	Ribicoff
Church	Johnston	Roth
Clark	Kennedy	Schweiker
Cranston	Leahy	Stennis
Culver	Long	Stevenson
Durkin	Magnuson	Stone
Eagleton	Mansfield	Talmadge
Eastland	Mathias	Williams
Ford	McGee	

NOT VOTING—15

Buckley	McClure	Tunney
Burdick	McGovern	Weicker
Case	Metcalf	
Goldwater	Percy	
Hatfield	Scott, William L.	
Inouye	Symington	
McClellan		

So Mr. CURTIS' amendment was rejected.

Mr. LONG. Mr. President, it was necessary to table the previous Mondale amendment in order to vote on the Allen amendment. The Allen amendment was agreed to by the Senate by a vote of 56 to 30. In my judgment, that is what the Senate wants to do, and we will find out with the next motion.

Now, the difference between the Allen amendment and the Mondale amendment is that the Allen amendment would tax corporations as well as individuals, as originally proposed by Mr. MONDALE; and, in addition to that, it would give a taxpayer consideration for the regular income tax that he has already paid on the same tax return.

In order that we might get to the Allen amendment it will be necessary to table the pending Mondale amendment. I, therefore, move to table the pending Mondale amendment.

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

Mr. LONG. I yield.

Mr. MONDALE. I just want to take half a minute to say that the Mondale amendment is about the only opportunity we have to pick up substantial income in order to finance the extension of the temporary tax cut.

The Allen amendment, while it does include corporate preferred income, which I would also like to do, does reduce the tax upon individual preferred income somewhere between $200 and $300 million. We do not have the exact figures here. So I would hope that my amendment would not be tabled.

Mr. LONG. May I say to the Senator, I am aware of amendments yet to be offered, that the so-called coalition group has discussed, which will raise more than $1 billion, as I understand it,

and I am aware of those amendments to be offered, and Senators can vote for them if they want to.

Furthermore, we have not finished this bill yet. It might be another month before we get through with this bill, and someone might offer some other amendment like withholding on interest and dividends or something like that to pick up $2 billion.

SEVERAL SENATORS. Vote! Vote!

Mr. LONG. There is about a $300 million difference between the Allen amendment and the Mondale amendment. But, in order that we can consider the Allen amendment to which the Senate has agreed by almost a 2 to 1 margin, 56 to 30, it will be necessary to table the pending Mondale amendment.

So I move to table the Mondale amendment.

Mr. CURTIS. 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 of the Senator from Louisiana to lay on the table Mr. MONDALE's amendment. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Will there be order in the Chamber? The Chair requests those Senators who have already voted to please clear the well. Other Senators, clear the aisles, and other Senators, clear the back, then the clerk may continue.

The legislative clerk resumed the call of the roll.

Mr. PASTORE. Mr. President, am I recorded?

The PRESIDING OFFICER. The Senator is recorded in the negative.

The legislative clerk resumed the call of the roll.

Mr. ALLEN. Regular order.

Mr. TOWER. Regular order.

Mr. MONDALE. A parliamentary inquiry.

SEVERAL SENATORS. Regular order.

Mr. KENNEDY. Mr. President, I vote "no."

Mr. MONDALE. Mr. President, I vote "no."

The PRESIDING OFFICER. The Senator from Minnesota was already recorded in the negative.

The PRESIDING OFFICER. On this vote——

Mr. MONDALE addressed the Chair.

SEVERAL SENATORS. Regular order.

The PRESIDING OFFICER. The Chair would remind Senators that the regular order is for Senators within the Chamber to vote.

On the motion——

Mr. MONDALE. Aye.

The PRESIDING OFFICER. Mr. MONDALE "Aye."

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 44, nays 41, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—44

Allen	Fannin	Montoya
Baker	Fong	Morgan
Bartlett	Garn	Nunn
Beall	Gravel	Packwood
Bellmon	Griffin	Randolph
Bentsen	Hansen	Scott, Hugh
Brock	Helms	Sparkman
Byrd,	Hollings	Stennis
Harry F., Jr.	Hruska	Stevens
Cannon	Johnston	Stone
Church	Laxalt	Talmadge
Curtis	Long	Thurmond
Dole	Magnuson	Tower
Domenici	McGee	Williams
Eastland	Mondale	Young

NAYS—41

Abourezk	Hart, Gary	Moss
Bayh	Hart, Philip A.	Muskie
Biden	Hartke	Nelson
Brooke	Haskell	Pastore
Bumpers	Hathaway	Pearson
Byrd, Robert C.	Huddleston	Pell
Chiles	Humphrey	Proxmire
Clark	Jackson	Ribicoff
Cranston	Javits	Roth
Culver	Kennedy	Schweiker
Durkin	Leahy	Stafford
Eagleton	Mansfield	Stevenson
Ford	Mathias	Taft
Glenn	McIntyre	

NOT VOTING—15

Buckley	McClure	Tunney
Burdick	McGovern	Weicker
Case	Metcalf	
Goldwater	Percy	
Hatfield	Scott,	
Inouye	William L.	
McClellan	Symington	

So the motion to lay on the table was agreed to.

Several Senators addressed the Chair.

Mr. MONDALE. I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. The motion is to reconsider.

Mr. LONG addressed the Chair.

Mr. ALLEN. I move to lay that motion on the table.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ALLEN. The yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested.

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 lay on the table the motion to reconsider. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Chair will remind Senators there is a 10-minute limit on the rollcalls. The Chair will ask the Chamber to be in order. The Chair requests the well to be clear.

The assistant legislative clerk resumed the call of the roll.

Mr. BUMPERS. Regular order, Mr. President.

The PRESIDING OFFICER. Ten minutes have not expired.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

The result was announced—yeas 47, nays 38, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—47

Allen	Fannin	Nunn
Baker	Fong	Packwood
Bartlett	Garn	Pearson
Beall	Gravel	Randolph
Bellmon	Griffin	Scott, Hugh
Bentsen	Hansen	Sparkman
Brock	Helms	Stafford
Bumpers	Hollings	Stennis
Byrd,	Hruska	Stevens
Harry F., Jr.	Johnston	Stone
Cannon	Laxalt	Taft
Church	Long	Talmadge
Curtis	Magnuson	Thurmond
Dole	McGee	Tower
Domenici	Montoya	Williams
Eastland	Morgan	Young

NAYS—38

Abourezk	Hart, Gary	McIntyre
Bayh	Hart, Philip A.	Mondale
Biden	Hartke	Moss
Brooke	Haskell	Muskie
Byrd, Robert C.	Hathaway	Nelson
Chiles	Huddleston	Pastore
Clark	Humphrey	Pell
Cranston	Jackson	Proxmire
Culver	Javits	Ribicoff
Durkin	Kennedy	Roth
Eagleton	Leahy	Schweiker
Ford	Mansfield	Stevenson
Glenn	Mathias	

NOT VOTING—15

Buckley	McClure	Tunney
Burdick	McGovern	Weicker
Case	Metcalf	
Goldwater	Percy	
Hatfield	Scott,	
Inouye	William L.	
McClellan	Symington	

So the motion to lay on the table the motion to reconsider was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

UP AMENDMENT NO. 103

Mr. BUMPERS. Mr. President, I call up my unprinted amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) on behalf of himself and Mr. HUMPHREY proposes unprinted amendment No. 103 in the nature of a substitute for committee amendment No. 13.

The amendment is as follows:

Substitute the following language for the committee amendment: Part VI of subchapter A of chapter 1 is amended:

(a) By amending section 56(a) to read as follows:

"(a) GENERAL RULE.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceeds $10,000 or one-half the tax imposed by this chapter (computed without regard to this part), whichever is greater.".

(b) CONFORMING CHANGES.—

(1) Section 56(b) of such Code (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out "$30,000" in paragraph (1)(B) and inserting in lieu thereof "$10,000", and

(B) by striking out "10 percent" in paragraphs (1) and (2) and inserting in lieu thereof "15 percent".

(2) Section 56(c) (relating to tax carryovers) is repealed.

(c) ADDITIONAL TAX PREFERENCE ITEMS.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, contruct, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COST.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs, over

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C)."

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof.

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED.—Section 57 is amended by adding at the end thereof the following new subsction:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction provided by section 213,

"(5) the deduction for casualty losses described in section 165(c)(3), and

"(6) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust, any deduction allowed or allowable under section 641(d), 641(e), 641(f), 651(a), or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income."

(3) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—The amount of any item of tax preference taken into account for purposes of section 55 for any taxable year shall be reduced by the amount of any portion of such item which constitutes a deduction which for such taxable year or any prior taxable year was placed in a deferred deduction account under section 466(b)."

(4) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(f) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (12) of subsection (a) and for purposes of section 468(e) (relating to accelerated deductions in the case of LAL oil and gas property)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12) and section 468(e)."

(5) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraphs:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1, 1976, and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term 'investment interest expense' does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in section 1250(a)(1)(C) which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was, on December 31, 1981, and at all times thereafter binding on the taxpayer.

"(6) CONSTRUCTION PERIOD INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: 'For purposes of this subparagraph, the term "investment expense" shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a).'"

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended by striking out "$30,000" wherever it appears and inserting in lieu thereof "$10,000", and by striking out "$15,000" wherever it appears and inserting in lieu thereof "$5,000".

(e) CONFORMING AMENDMENT.—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—In the case of a tax-

payer other than a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975, and in the case of a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code) for taxable years beginning after June 30, 1976.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporation, the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975, and in the case of a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 524), the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before July 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after June 30, 1976.

(3) In the case of a taxpayer which is a bank (as defined in section 581 of the Internal Revenue Code of 1954), the amendments made by this section apply only to taxable years beginning after December 31, 1977.

(4) The amendments made by this section shall not apply to gains subject to subsections (a) and (b) of section 631, nor to gains on the sale of single-family dwellings.

Mr. BUMPERS. Mr. President, I would like to take just a short while to explain what this amendment in the nature of a substitute does.

First of all, it adopts the essential essence of the Allen amendment. Senators have already agreed to the Allen amendment earlier this evening to the House bill, to allow an exemption from preference income of all the taxes paid. That is essentially present law, except present law says you can deduct from preference income all the taxes paid plus $30,000. So all the Allen amendment does is take that piggyback $30,000 off.

My amendment says that you can deduct from preference income 50 percent of the taxes paid or $10,000, whichever is greater. It seems to me that this is a very valid compromise between what the Senate Finance Committee has been doing, between what they have offered and what the Senator from Alabama has offered.

Second—and I know this is important to a lot of people in this body—it exempts timber. It says that the present tax will still be applicable to capital gains on timber, but not the increased 15 percent rate.

If the Finance Committee amendment is approved by the Senate, which excludes corporations from this entire bill and leaves them exactly as they were before we ever got into so-called tax reform, then the Senate can go to conference with the House of Representatives with nothing to argue about as far as corporations are concerned.

That means that the big timber interests in this country, which are incorporated—and you all know who they are; they operate in your States as they do in mine—it means they will be excluded because the Senate Finance Committee and the House of Representatives both have excluded corporations. It means they will continue to get the benefit of the capital gains rate, and pay only a 15-percent rate on it; but the 2,015 farmers in my State who are unincorporated, who plant timber on their farms for a living and harvest, every 5 or 10 years, maybe $100,000 worth of timber, will suffer a tremendous injustice because we have passed something off in the name of reform that is not reform, but exempts the big corporations of this country, and the tree farmers in my State and the tree farmers in your State are going to get hit with this minimum tax of 15 percent.

Finally, the final injustice of this whole thing is that the widow—you have all seen the illustrations, and I am not asking for tears; I am just asking for objectivity and realism—the widow who is on social security, and maybe a pension that her husband left her. No matter what it is, say it is $1,000 a month, but it is tax exempt retirement income, and she has a home, and she may be selling her home to go to a nursing home, she may be selling her home to go and live with her daughter, or she may be selling her home for any of a thousand reasons, but the point is that under the present circumstances, if she sells that home and has as much as a $20,000 to $40,000 gain on it, that gain will be preference income and she ought to be exempt.

So this amendment would exempt all single family dwellings. As I said earlier, that large, beautiful lakeshore home that sells for $250,000 to $300,000, on which someone makes a huge capital gain, will also be exempt. But better let a few of those pass them by than the hundreds of thousands of people who will be treated unjustly if we do not exclude single family dwellings.

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

Mr. BUMPERS. I yield.

Mr. HUMPHREY. Mr. President, I commend the distinguished Senator from Arkansas. I believe he is talking sense to the Senate. It is obvious that there has to be some compromise, or we will end up with the committee bill as written, and in a conference with the House of Representatives with no opportunity to do anything at all about corporate income.

Furthermore, the Senator has taken into consideration certain matters that are of concern to the Senate: single dwellings, the possibility of the sale of that dwelling or that residence and the tax that would be assessed. I think the Senator makes a very good point on timber companies also. I ask to join with him in sponsoring the amendment, because I think it finally brings us to the resolution of a difficult situation that has developed tonight.

I would have preferred what my colleague offered in the initial stages, but it is obvious that will not pass, and it is equally obvious that if we do not do something along the line the Senator from Arkansas has suggested, we are not going to get anything.

I hope we can vote on it and come to this agreement as a reasonable compromise of the situation.

Mr. BUMPERS. I thank the Senator. I yield to the senior Senator from Minnesota.

Mr. MONDALE. Mr. President, I would like to share those remarks of my colleague. I think this is a good, reasonable compromise amendment.

Mr. BUMPERS. Mr. President, I see the magic hour is rapidly approaching. I doubt there is anything I could say that has not been said during the space of the last week about this proposal, except to say that when we talk about reforms, they mean different things to different people. We all have our own reforms, and our own values and standards as to what is reform and what is not. I suspect there is not a soul in this body who would not say he believes in tax reform. I doubt whether there is a soul in this body who would not say he believes a balanced budget is a highly desirable thing.

I think unless we pick up some revenue with something that started out to be a real revenue raiser, we are down to perhaps as little as $400 million with my amendment. It is not all that much, but it is something; otherwise we get nothing.

I earnestly solicit the support of the Senate for this amendment.

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. LONG. Mr. President, the Senator, I regret to say, does not know a great deal about the bill he is seeking to substitute an amendment for.

He said that the only difference between what we are doing and the existing law is that the $30,000 exemption comes down to $10,000 under the Allen substitute that we are trying to offer here, but which so far we have been frustrated from having a chance to vote into the bill.

Mr. President, nothing could be farther from the truth. We added a whole list of additional preferences that are to be taxed by the minimum tax.

For example, we added to the list of preferences interest on construction loans; we added the excess of investment interest over investment income; we added the itemized deductions insofar as they exceed 60 percent of adjusted gross income. We added intangible drilling costs in certain situations. We provided a broader definition of leases when accelerated depreciation is included in the minimum tax.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. LONG. So there are five different items of tax preference added to the minimum tax.

Now, the Senator——

Mr. BUMPERS. Will the Senator yield?

Mr. LONG. Is not unlike a great number of others, and I have oftentimes sought——

Mr. BUMPERS. Will the Senator yield for a question?

Mr. LONG. Not at this moment.

Mr. BUMPERS. In a few minutes I will be ruled off the floor, and I want to ask the Senator just this brief question: Do those preference items apply to corporations?

Mr. LONG. Under the Allen amendment some of them apply to both, and those are all new items.

Mr. BUMPERS. I am talking about those additional items the Senator just enumerated. Do they apply to corporations?

Mr. LONG. Yes; under the Allen amendment, as I understand it, some of those new items apply to corporation income.

Mr. BUMPERS. Not under the committee substitute?

Mr. LONG. That is not what we are dealing with. What we are trying to vote on is the Allen amendment, and I assume that is what the Senator wants to keep us from voting on.

The Senator has made this argument about tree farmers. He reminds me of an example I like to quote about tax reform:

Don't tax you,
Don't tax me,
Tax that fellow behind the tree.

The only difference is, the Senator would take the man behind the tree out of it, too. [Laughter.]

Mr. President, with respect to these single family dwellings, if one sells a home and buys another home, that creates no problem. His capital gains are not recognizable, on the sale of principal residences, if the money is reinvested in a new principal residence.

The fact about the matter is, Mr. President, we have been trying to vote what we think is a fair proposal, and it involves what was to have been the Mondale amendment as a substitute for the Allen amendment, and trying to bring——

The PRESIDING OFFICER. The hour of 11 p.m. having arrived, debate is no longer in order.

The question is on——

Mr. LONG. Mr. President, I move to table the Bumpers-Humphrey amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. NELSON addressed the Chair.

Mr. LONG. 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. NELSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NELSON. I do not find it here momentarily in the RECORD. Was there not a unanimous-consent agreement last night that action on title III would be completed by 11 p.m.? If that was the agreement, is a motion to table or any other rollcall than on title III in order?

The PRESIDING OFFICER. Since the agreement did not say "without further amendment," there are intervening motions, it is in order, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Regular order.

Mr. BUMPERS. Regular order. It is 10 minutes after 11, Mr. President.

The PRESIDING OFFICER. We still have 15 seconds remaining by the clerk's clock or stopwatch, as it were.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 44, nays 41, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—44

Allen	Fong	Pearson
Baker	Garn	Randolph
Bartlett	Gravel	Ribicoff
Beall	Griffin	Roth
Bellmon	Hansen	Scott, Hugh
Bentsen	Helms	Sparkman
Brock	Hruska	Stafford
Byrd,	Johnston	Stennis
Harry F., Jr.	Kennedy	Stevens
Cannon	Laxalt	Stone
Curtis	Long	Taft
Dole	McGee	Talmadge
Domenici	Montoya	Thurmond
Eastland	Nunn	Tower
Fannin	Packwood	Young

NAYS—41

Abourezk	Glenn	Mathias
Bayh	Hart, Gary	McIntyre
Biden	Hart, Philip A.	Mondale
Brooke	Hartke	Morgan
Bumpers	Haskell	Moss
Byrd, Robert C.	Hathaway	Muskie
Chiles	Hollings	Nelson
Church	Huddleston	Pastore
Clark	Humphrey	Pell
Cranston	Jackson	Proxmire
Culver	Javits	Schweiker
Durkin	Leahy	Stevenson
Eagleton	Magnuson	Williams
Ford	Mansfield	

NOT VOTING—15

Buckley	McClellan	Scott,
Burdick	McClure	William L.
Case	McGovern	Symington
Goldwater	Metcalf	Tunney
Hatfield	Percy	Weicker
Inouye		

So the motion to table the Bumpers-Humphrey amendment was agreed to.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. ALLEN. I move to lay that motion on the table, and I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. 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 North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM SCOTT) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

The result was announced—yeas 43, nays 42, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—43

Allen	Fong	Randolph
Baker	Garn	Ribicoff
Bartlett	Gravel	Roth
Beall	Griffin	Scott, Hugh
Bellmon	Hansen	Sparkman
Bentsen	Helms	Stafford
Brock	Hruska	Stennis
Byrd,	Johnston	Stevens
Harry F., Jr.	Laxalt	Stone
Cannon	Long	Taft
Curtis	McGee	Talmadge
Dole	Montoya	Thurmond
Domenici	Nunn	Tower
Eastland	Packwood	Young
Fannin	Pearson	

NAYS—42

Abourezk	Glenn	Mansfield
Bayh	Hart, Gary	Mathias
Biden	Hart, Philip A.	McIntyre
Brooke	Hartke	Mondale
Bumpers	Haskell	Morgan
Byrd, Robert C.	Hathaway	Moss
Chiles	Hollings	Muskie
Church	Huddleston	Nelson
Clark	Humphrey	Pastore
Cranston	Jackson	Pell
Culver	Javits	Proxmire
Durkin	Kennedy	Schweiker
Eagleton	Leahy	Stevenson
Ford	Magnuson	Williams

NOT VOTING—15

Buckley	McClellan	Scott,
Burdick	McClure	William L.
Case	McGovern	Symington
Goldwater	Metcalf	Tunney
Hatfield	Percy	Weicker
Inouye		

So the motion to table was agreed to.

Mr. ALLEN and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 104

Mr. LONG. Mr. President, I offer the Allen-Mondale substitute modified to exclude timber. I ask for the yeas and nays.

The PRESIDING OFFICER. Is this a substitute for the committee substitute?

Mr. ALLEN. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself and Mr. STONE, proposes an unprinted amendment numbered 104:

In lieu of the language proposed to be inserted by the Committee amendment, insert the following:

MINIMUM TAX AND MAXIMUM TAX

SEC. 301. MINIMUM TAX FOR INDIVIDUALS.

(a) IN GENERAL. Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended.

(a) By amending section 56(a) to read as follows:

"(a) GENERAL RULE.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 15 percent of the amount by which the sum of the items of tax preference exceed $10,000, or the liability for tax for the taxable year, whichever is greater.

(b) CONFORMING CHANGES.—

(1) Section 56(b) of such Code (relating to deferral of tax liability in case of certain net operating losses) is amended—

(A) by striking out "$30,000" in paragraph (1)(B) and inserting in lieu thereof "$10,000", and

(B) by striking out "10 percent" in paragraphs (1) and (2) and inserting in lieu thereof "15 percent".

(2) Section 56(c) (relating to tax carryovers) is repealed.

(c) ADDITIONAL TAX PREFERENCE ITEMS.—

(1) ADDITIONAL PREFERENCE ITEMS.—

(A) Section 57(a) (relating to items of tax preference) is amended by striking out the matter following paragraph (10) and inserting in lieu thereof the following:

"(11) EXCESS ITEMIZED DEDUCTIONS.—An amount equal to the excess itemized deductions for the taxable year (as determined under subsection (d)).

"(12) CONSTRUCTION PERIOD INTEREST.—With respect to each item of real property which is or will be either property described in section 1221(1) or property held for rental and which is not section 1245 property (as defined in section 1245(a)(3)), the amount of all interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, to the extent such interest is attributable to the construction period for such property and is allowed as a deduction under this chapter for the taxable year. For purposes of this paragraph, the terms—

"(A) 'construction period' means the period beginning on the date on which construction begins and ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale, and

"(B) 'construct' includes reconstruct and erect.

"(13) INTANGIBLE DRILLING COST.—With respect to all interests of the taxpayer in oil and gas wells, the excess of—

"(A) the excess of the intangible drilling and development costs described in section 263(c) paid or incurred in connection with oil and gas wells (other than costs incurred in drilling a nonproductive well) allowable under this chapter for the taxable year over the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (e)) had been used with respect to such costs

"(B) the aggregate amount of net income received or accrued by the taxpayer during such taxable year attributable to such interests. For purposes of this subparagraph, the term 'net income' means the excess of the aggregate amount of gross income from oil and gas properties over the sum of—

"(i) the amount of any deductions (other than the amount of any excess intangible drilling and development costs, as determined under subparagraph (A), allowable for such taxable year) allocable to such properties, and

"(ii) the amount of taxes imposed under this section (determined without regard to this part) allocable to such properties.

Paragraphs (1), (3), and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). Paragraph (12) shall not apply to any amount of interest paid or accrued before January 1, 1982, on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C)."

(B) Section 57(a)(3) (relating to accelerated depreciation on personal property subject to a net lease), is amended—

(i) by striking out "net" in the caption thereof, and

(ii) by striking out "net" in the text thereof,

(2) EXCESS ITEMIZED DEDUCTIONS DEFINED. Section 57 is amended by adding at the end thereof the following new subsection:

"(d) EXCESS ITEMIZED DEDUCTIONS.—For purposes of paragraph (11) of subsection (a), the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(1) deductions allowable in arriving at adjusted gross income,

"(2) the standard deduction provided by section 141,

"(3) the deduction for personal exemptions provided by section 151,

"(4) the deduction provided by section 213,

"(5) the deduction for casualty losses described in section 165(c)(3), and

"(6) the deduction for interest which is excess investment interest (as defined in subsection (b)) to the extent that such interest is not included as a deduction under paragraph (1),

exceeds 60 percent (but does not exceed 100 percent) of the taxpayer's adjusted gross income for the taxable year. In the case of a trust or estate, any deduction, allowed or allowable under section 642(d), 642(e), 642(f), 651(a), 691 or 661(a) for such taxable year and any deduction allowed or allowable under this chapter for costs paid or incurred in connection with the administration of such trust for such taxable year shall, for purposes of paragraph (1), be treated as a deduction allowable in arriving at adjusted gross income.

(3) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—Section 57 is amended by adding at the end thereof the following new subsection:

"(e) DEDUCTIONS DEFERRED UNDER LAL NOT TO BE TREATED AS ITEMS OF TAX PREFERENCE.—The amount of any item of tax preference taken into account for purposes of section 55 for any taxable year shall be reduced by the amount of any portion of such item which constitutes a deduction which for such taxable year or any prior taxable year was placed in a deferred deduction account under section 466(b)."

(4) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—Section 57 is amended by adding at the end thereof the following new subsection:

"(f) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (12) of subsection (a) and for purposes of section 468(e) (relating to accelerated deductions in the case of LAL oil and gas property).

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects, at such time and in such manner as the Secretary may by regulations prescribe, with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(12) and section 468(e)."

(5) EXCESS INVESTMENT INTEREST IN CASE OF LIMITED PARTNER.—Section 57(b) (relating to excess investment interest) is amended by adding at the end thereof the following new paragraphs:

"(4) SPECIAL RULE FOR LIMITED PARTNER.—For purposes of paragraph (1), in the case of any taxpayer who is a partner in any limited partnership, as defined by regulations prescribed by the Secretary—

"(A) the excess investment interest attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of losses of all such partnerships allocated to such taxpayer to the extent such losses are attributable to investment interest expenses incurred by such partnerships, and

"(B) the net investment income attributable to such taxpayer for any taxable year with respect to all such partnerships is the aggregate amount of gain of all such partnerships allocated to such taxpayer.

The preceding sentence shall not apply to any amount of interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property described in section 1250(a)(1)(C), but only if construction of such property began before January 1, 1976, and section 163(d), as in existence on December 31, 1975, did not apply to such interest.

"(5) TRANSITIONAL RULE FOR LOW INCOME HOUSING.—For purposes of paragraph (2)(D), the term 'investment interest expense' does not include any amount of interest paid or accrued on indebtedness incurred or continued with respect to property described in section 1250(a)(1)(C), which was acquired or constructed pursuant to a written contract for the acquisition, construction, or financing of such property, which was on or before December 31, 1981, and at all times thereafter binding on the taxpayer."

"(6) CONSTRUCTION PERIOD, INTEREST EXCLUDED.—Section 57(b)(2)(A) is amended by adding at the end thereof the following new sentence: 'For purposes of this subparagraph, the term investment expense shall not include any deduction allowable for interest under this chapter which is included as an item of tax preference under paragraph (12) of subsection (a).'"

(d) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended by striking out "$30,000" wherever it appears and inserting in lieu thereof "$10,000", and by striking out "$15,000" wherever it apepars and inserting in lieu thereof "$5,000".

(e) CONFORMING AMENDMENT.—Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined

in section 57(a) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1975, and in the case of a corporation, the amendments made by this section shall apply with respect to items of tax preferences (as defined in section 57(a) of the Internal Revenue Code) for taxable years beginning after December 31, 1975.

The amendments made by this section shall not apply to gains subject to subsections (a) and (b) of section 631.

(2) TAX CARRYOVER.—In the case of a taxpayer other than a corporation, the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before January 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after December 31, 1975, and in the case of a corporation which is not an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 524), the amount of any tax carryover under section 56(c) of the Internal Revenue Code of 1954 from a taxable year beginning before July 1, 1976, shall not be allowed as a tax carryover for any taxable year beginning after June 30, 1976.

(3) In the case of a taxpayer which is a bank (as defined in section 581 of the Internal Revenue Code of 1954), the amendments made by this section apply only to taxable years beginning after December 31, 1977.

(4) Special rule for taxable year 1976 in the case of a corporation.—Notwithstanding any provision of the Internal Revenue Code of 1954 to the contrary, in the case of a corporation the tax imposed by section 56 of such Code for taxable years beginning after December 31, 1975, and before January 1, 1977, is an amount equal to the sum of—

(A) the amount of the tax which would have been imposed for such taxable year under such section as such section was in effect on the day before the date of enactment of the Tax Reform Act of 1976, and

(B) one-half of the amount by which the amount of the tax which would be imposed for such taxable year under such section as amended by the Tax Reform Act of 1976 (but for this paragraph) exceeds the amount determined under subparagraph (A).

The PRESIDING OFFICER. The yeas and nays have been requested. 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 proceeded to call the roll.

The PRESIDING OFFICER. The clerk will suspend until there is order in the Senate. The Chair requests the Senators to clear the aisle, clear the well, and the clerk will not continue until there is order. The Chair also reminds Senators that we are under a 10-minute rule and it makes it much easier for the clerk if we can have order. The clerk will not continue until there is order in the Chamber. When the aisle and the well are cleared, the clerk may continue.

The legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. There still is not order. Will the Senators clear the well and clear the aisle so the clerk may continue? The clerk will suspend until such time.

The clerk may continue.

The legislative clerk resumed and concluded the call of the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. INOUYE), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from New York (Mr. BUCKLEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 65, nays 20, as follows:

[Rollcall Vote No. 340 Leg.]

YEAS—65

Allen	Fong	McIntyre
Baker	Ford	Montoya
Bartlett	Garn	Morgan
Bayh	Gravel	Muskie
Beall	Griffin	Nunn
Bellmon	Hansen	Packwood
Bentsen	Hart, Gary	Pearson
Brock	Hart, Philip A.	Randolph
Brooke	Helms	Roth
Bumpers	Hollings	Schweiker
Byrd,	Hruska	Scott, Hugh
Harry F., Jr.	Huddleston	Sparkman
Byrd, Robert C.	Humphrey	Stafford
Cannon	Jackson	Stennis
Chiles	Javits	Stevens
Church	Johnston	Stone
Curtis	Laxalt	Taft
Dole	Leahy	Talmadge
Domenici	Long	Thurmond
Durkin	Magnuson	Tower
Eastland	Mathias	Williams
Fannin	McGee	Young

NAYS—20

Abourezk	Hartke	Nelson
Biden	Haskell	Pastore
Clark	Hathaway	Pell
Cranston	Kennedy	Proxmire
Culver	Mansfield	Ribicoff
Eagleton	Mondale	Stevenson
Glenn	Moss	

NOT VOTING—15

Buckley	McClure	Tunney
Burdick	McGovern	Weicker
Case	Metcalf	
Goldwater	Percy	
Hatfield	Scott,	
Inouye	William L.	
McClellan	Symington	

So the amendment was agreed to.

Mr. ALLEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to committee amendment No. 13, as amended.

Committee amendment No. 13, as amended, was agreed to.

Mr. LONG. Mr. President, does that conclude title III?

The PRESIDING OFFICER. That concludes committee amendment No. 13, which is title III.

Mr. LONG. The committee amendment, as amended, has been agreed to?

The PRESIDING OFFICER. That is correct.

Mr. LONG. That settles title III?

The PRESIDING OFFICER. That is correct.

Mr. LONG. You can take the rest of the night off.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

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

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

Mr. LONG. Mr. President, I ask unanimous consent that title III remain before the Senate because the maximum tax issue has not been settled and we will have to take that issue up tomorrow.

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

ADDITIONAL STATEMENTS SUBMITTED

Mr. TUNNEY. Mr. President, I have listened with fascination to the debate on tax policy which has taken place in this Chamber over the last several days. This debate has been of an extraordinarily high quality. It has been very useful in helping this Senator assess the economic impact which is likely to result from the proposed changes in the tax code.

I have been persuaded by the arguments advanced by the distinguished chairman of the Finance Committee and others that imposition of so-called limitation on artificial losses would adversely affect job creating investment in vital industries such as construction and agriculture. Their argument that imposition of limitation on artificial losses would unfairly and unwisely restrict the mobility of capital has also been persuasive for me. Accordingly, I have voted against the imposition of limitation on artificial losses.

At a time when the rate of unemployment is still disgracefully high, we cannot afford to adopt any tax policy which might inhibit the allocation of scarce investment resources to any sector of the economy. At the same time, however, we must design a tax policy which is fair to the hard-pressed middle-income taxpayer. Our tax system cannot be described as equitable to this taxpayer when very wealthy Americans are allowed to escape paying their fair share of the cost of Government.

The distinguished chairman of the Finance Committee and others have pointed out that the present law imposes a minimum tax on certain tax preferences precisely to insure that wealthy

Americans who can shelter their incomes pay at least some minimum tax. Unfortunately, the present law is inadequate.

The Finance Committee report states the inadequacy very well:

The existing minimum tax on tax preferences was enacted in 1969 in order to insure that high-income individuals and corporations pay at least a minimum rate of tax on their tax preferences, including both exclusions from taxable income and deferrals on tax liability into future years. The current minimum tax, however, has not achieved this goal. High-income individuals still are able to avoid paying income tax, and in 1974 the minimum tax on individuals raised only $130 million, a small fraction of tax-preferred income.

Mr. President, I know that the Finance Committee has recommended some changes in the tax code to remedy this situation. With all respect, it is my judgment that the Finance Committee recommendations do not go far enough.

It seems to me to be internally inconsistent to have a minimum tax on tax preferences to insure that some tax is paid on sheltered income and then to allow deduction for regular taxes paid from that sheltered income. It also seems to me important to apply changes in the minimum tax to corporations.

Mr. President, I support the Nelson amendment because its enactment would help to insure that Americans and corporations with tax preferences bear their fair share of the burden of Government. In 1972, while the minimum tax rate was 10 percent, the effective rate for those who paid some minimum tax was only 4 percent. Raising the minimum tax rate is not enough to insure tax equity for average hard working middle income taxpayers. We must raise the effective minimum tax rate. That is why I support the Nelson amendment and that is why I urge its adoption.

Mr. President, I am delighted that tax credits for child care expenses have been made a part of the Tax Reform Act of 1976. This insightful provision alleviates formerly restrictive tax policies. The new version is a boon to working mothers and certain other persons striving to raise children and simultaneously pursue a career.

I have been actively supporting such measures since 1971, proposing in like manner that the costs of child care and household services be regarded as normal business expenses against taxable income as opposed to personal expenses. Three times the basic principle of my amendments received overwhelming support in the Senate, but was unfortunately eliminated in conference each time. Needless to say, I am extremely pleased to see the much needed tax break finally included in this year's tax reform legislation on both the House and Senate side.

I have recognized and would like to stress to you the importance of this provision. The ranks of working American women have nearly doubled between 1950 and 1974, and are expected to increase by over 22 percent by 1990. In 1971, 42 percent of the Nation's mothers worked outside the home, and that figure has risen dramatically since then. Of the approximately 12.5 million mothers with children under 6, more than 1 in 3 is in the labor force.

These people simply cannot avoid paying for child care and other household expenses. It has long been my belief that the laws which allow businessmen to deduct "ordinary and necessary" business expenses fail to truly compensate working mothers for the most basic and essential expenses they incur—the cost of maintaining their households and assuring responsible care for their children while they work. The inherent inequality of these laws places an injudicious obstacle in the path of women who wish to enter the employment market and, once they are in the market, constitutes a built-in economic disincentive to their efforts.

This new legislation will enable us to tap the productive potential of millions of women who formerly could not afford day care services, and whose need to work to help support their families has been well documented.

The new child care tax credit measures reflect the very essence of what I have proposed for over 4 years. Treating the cost of child care as a cost of earning income, and not as an itemized deduction, allows more working taxpayers to make use of this important tax benefit. Indeed, the measure is skewed in the direction of benefiting those who can least afford heavy tax inroads into their earned income—the lower-income worker.

The rule which required that both parents be employed on a full-time basis was also too restrictive. In this time of rising costs, particularly food and other home-related costs, the need for both partners in a family to work has grown. The child care and home care services provided and paid for to permit both spouses to work today are even more clearly viewed as business expenses than they were in 1971 when I first introduced this concept in the Senate. Allowing the married couple filing a joint return to defray such expenses, where one or both of them works part time is certainly a major improvement in the tax law.

In April of this year, I included in my amendment for the first time, language which permitted a tax break to those individuals whose childcare/home care services were provided by a child's maternal or paternal grandparent. At that time, it seemed to me that we had to come to grips with the nature of day care itself. Although day-care centers provide valuable services to many members of our Nation's work force, a clear preference is shown for day care by neighbors or relatives, this group constituting nearly 47 percent of all day-care arrangements. In certain cases—for example, a sick child—the parent might find it more desirable to entrust the child's care to a nearby friend or relative rather than miss a day of work to remain at home or risk sending the child across town to a day-care center. Additional studies have clearly demonstrated that the greater propensity for day care by relatives lies with the lower-income workers and the female-headed households. Thus, the need to value day care provided by these friends or relatives on a paid basis is clear, and I commend the committee for including this provision in the legislation.

Mr. President, I regard the committee's proposal as a laudable breakthrough, greatly relieving the tax burden that for too long has fallen on working women and single parents. I hope that my colleagues will share my enthusiasm and support for this provision which we have awaited for a long time.

Mr. FANNIN. Mr. President, today's Wall Street Journal contains an editorial entitled, "Russell Long Rides Again." I would like to share this editorial with my colleagues as the Senate continues to take action on H.R. 10612.

The Wall Street Journal is without question one of the Nation's leading newspapers. I have had disagreements from time to time both with its reporting and editorials. We certainly do not concur on several tax policy issues. However, I believe the Journal has summarized better any publication the thrust of what has occurred on the Senate floor during the past days of deliberation of the tax bill before us.

Mr. President, the floor debate we are now engaged in cannot be viewed as tax reform versus established loopholes. I concur with the editorial's position that true tax reform is "directed not at rewarding one group of voters at the expense of others, but at increasing economic growth to benefit all. Such reform would concentrate on such matters as investment savings and incentives, and while it would close loopholes it would also reduce rates. * * *"

Mr. President, Americans who are concerned with the forward movement of our society owe Senator LONG a debt of gratitude for the work he has done thus far on H.R. 10612. My hope is that the sound decisions reached by the Finance Committee will continue to be accepted by the full Senate.

I ask unanimous consent that the editorial from the June 24 edition of the Wall Street Journal be printed in the RECORD.

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

RUSSELL LONG RIDES AGAIN

We see that Senator Russell Long is catching flak for the Senate Finance Committee's performance on the tax bill. The 1,536-page bill doesn't close enough loopholes, it's complained, and runs afoul of the new Senate budget procedures. Well, it looks to us as if Senator Long is distinguishing himself in protecting the economy from the tax reformers.

It is not that we are crazy about tax loopholes. The dodges for DISC, gimmicks to promote real estate investment and such should be cashed out. Projected savings to the Treasury should be put into tax reductions that promote savings and investment in general, not in some industries rather than others. This would speed economic growth, and thus also Treasury revenues.

But that is not at all what the reformers are talking about. They want to close the loopholes and have the government spend the money. Senator Long may not be a trained economist, which is perhaps to his credit, but he understands that if the Robin Hood tax reformers in Congress had their way, the net effect would be another decline in capital investment, productivity and jobs.

The reformers, led by Senator Kennedy of Massachusetts, thought for sure they had outwitted Senator Long this year and would force a batch of loophole pluggings. They

allied themselves with the new congressional budget committees and pushed through a resolution that not only set the level of spending for fiscal 1977 but also directed the raising of $2 billion in new tax revenues through the elimination of unspecified tax preferences. Senator Long was boxed in, wasn't he?

Nope. Since he still had the freedom to specify which preferences he would end, Mr. Long got his committee to agree to end the $35 per person tax credit after nine months of the fiscal year. This would produce an extra $1.8 billion in the last three months, and with a little deft footwork here and there through the tax code, the budget resolution's directive was met.

Senator Kennedy's scream was probably heard in Bogalusa. The $35 per person tax credit, you see, is a good loophole as far as the loophole closers are concerned because it provides relatively little incentive to investment and capital formation. Senator Long, said Senator Kennedy, was supposed to have smashed up the tax shelters of the vested interests, i.e., investors and businessmen.

The co-chairpersons of the Senate Budget Committee, Democrat Muskie and Republican Bellmon, came riding to Mr. Kennedy's rescue this week, urging the Senate, without success, to extend the $35 credit through the full year. It wasn't enough that the Finance Committee gave them a bill that meets their revenue projections; the projections had to be met by writing the tax law the way the budget committee had in mind in making the projections. Understandably, Senator Long takes a dim view of this version of Budget Committee prerogatives.

To the extent Senator Muskie and his Oklahoma sidekick have an argument, it is that *everyone knows* Congress won't end the $35 tax credit. But everyone who has been paying attention, which definitely includes Senator Long, knows that the Budget Committee took the easy route in doing its job of matching income and outgo by throwing in the $2 billion in hypothetical loophole closings. If they won't accept ending the credit, let them squeeze another $1.8 billion out of spending.

It would be marvelous if the new congressional budget process would prove a factor in holding down spending. But it's surely doomed if it gets sidetracked into weighing the merits of every policy on Capitol Hill. Other committees do after all have some understanding of their specialties. In this case, Finance senses the error in the Budget Committee's assumption that closing tax shelters will in fact increase revenues. With a bit of experience, a Senate committee can understand that eliminating incentives to invest and produce will lower investment and production, and that this does not expand Treasury income.

We would love to see a true tax reform, directed not at rewarding one group of voters at the expense of others, but at increasing economic growth to benefit all. Such reform would concentrate on such matters as investment, savings and incentives, and while it would close loopholes it would also reduce rates. While we patiently wait for a President and a Congress who are up to this task, we'll give two cheers to Russell Long for using every trick he knows to keep the "reformers" from making an even greater drag on the economy than they already have.

ROUTINE MORNING BUSINESS

(The following routine morning business was transacted today.)

MESSAGES FROM THE PRESIDENT

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

APPROVAL OF BILL

A message from the President of the United States announced that on June 23, 1976, he approved and signed the following bill:

S. 1466, an act to amend the Public Health Service Act to provide authority for health information and health promotion programs, to revise and extend the authority for disease prevention and control programs, and to revise and extend the authority for venereal disease programs, and to amend the Lead-Based Paint Poisoning Prevention Act to revise and extend that Act.

SCHOOL DESEGREGATION STANDARDS AND ASSISTANCE ACT OF 1976—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

I address this message to the Congress, and through the Congress to all Americans, on an issue of profound importance to our domestic tranquillity and the future of American education.

Most Americans know this issue as busing—the use of busing to carry out court-ordered assignment of students to correct illegal segregation in our schools.

In its fullest sense the issue is how we protect the civil rights of all Americans without unduly restricting the individual freedom of any American.

It concerns the responsibility of government to provide quality education, and equality of education, to every American.

It concerns our obligation to eliminate, as swiftly as humanly possible, the occasions of controversy and division from the fulfillment of this responsibility.

At the outset, let me set forth certain principles governing my judgments and my actions.

First, for all of my life I have held strong personal feelings against racial discrimination. I do not believe in a segregated society. We are a people of diverse background, origins and interests; but we are still one people—Americans—and so must we live.

Second, it is the duty of every President to enforce the law of the land. When I became President, I took an oath to preserve, protect and defend the Constitution of the United States. There must be no misunderstanding about this: I will uphold the Constitutional rights of every individual in the country. I will carry out the decisions of the Supreme Court. I will not tolerate defiance of the law.

Third, I am totally dedicated to quality education in America—and to the principle that public education is predominantly the concern of the community in which people live. Throughout the history of our Nation, the education of our children, especially at the elementary and secondary levels, has been a community endeavor. The concept of public education is now written into our history as deeply as any tenet of American belief.

In recent years, we have seen many communities in the country lose control of their public schools to the Federal courts because they failed to voluntarily correct the effects of willful and official denial of the rights of some children in their schools.

It is my belief that in their earnest desire to carry out the decisions of the Supreme Court, some judges of lower Federal Courts have gone too far. They have:

—resorted too quickly to the remedy of massive busing of public school children;

—extended busing too broadly; and

—maintained control of schools for too long.

It is this overextension of court control that has transformed a simple judicial tool, busing, into a cause of widespread controversy and slowed our progress toward the total elimination of segregation.

As a President is responsible for acting to enforce the Nation's laws, so is he also responsible for acting when society begins to question the end results of those laws.

I therefore ask the Congress, as the elected representatives of the American people, to join with me in establishing guidelines for the lower Federal Courts in the desegregation of public schools throughout the land—acting within the framework of the Constitution and particularly the Fourteenth Amendment to the Constitution.

It is both appropriate and Constitutional for the Congress to define by law the remedies the lower Federal Courts may decree.

It is both appropriate and Constitutional for the Congress to prescribe standards and procedures for accommodating competing interests and rights.

Both the advocates of more busing and the advocates of less busing feel they hold a strong moral position on this issue.

To many Americans who have been in the long struggle for civil rights, busing appears to be the only way to provide the equal educational opportunity so long and so tragically denied them.

To many other Americans who have struggled much of their lives and devoted most of their energies to seeking the best for their children, busing appears to be a denial of an individual's freedom to choose the best school for his or her children.

Whether busing helps school children get a better education is not a settled question. The record is mixed. Certainly, busing has assisted in bringing about the desegregation of our schools. But it is a tragic reality that, in some areas, busing under court order has brought fear to both black students and white students—and to their parents.

No child can learn in an atmosphere of fear. Better remedies to right Constitutional wrongs must be found.

It is my responsibility, and the responsibility of the Congress, to address and to seek to resolve this situation.

In the twenty-two years since the Supreme Court ordered an end to school segregation, this country has made great progress. Yet we still have far to go.

To maintain progress toward the orderly elimination of illegal segregation in our public schools, and to preserve—

or, where appropriate, restore—community control of schools, I am proposing legislation to:

1. Require that a court in a desegregation case determine the extent to which acts of unlawful discrimination have caused a greater degree of racial concentration in a school or school system than would have existed in the absence of such acts;
2. Require that busing and other remedies in school desegregation cases be limited to eliminating the degree of student racial concentration caused by proven unlawful acts of discrimination;
3. Require that the utilization of court-ordered busing as a remedy be limited to a specific period of time consistent with the legislation's intent that it be an interim and transitional remedy. In general, this period of time will be no longer than five years where there has been compliance with the court order;
4. Create an independent National Community and Education Committee to help any school community requesting citizen assistance in voluntarily resolving its school segregation problem.

Almost without exception, the citizens' groups both for and against busing with which I have consulted told me that the proposed National Community and Education Committee could be a positive addition to the resources currently available to communities which face up to the issue honestly, voluntarily and in the best spirit of American democracy.

This citizens' Committee would be made up primarily of men and women who have had community experience in school desegregation activities.

It would remain distinct and separate from enforcement activities of the Federal Courts, the Justice Department and the Department of Health, Education and Welfare.

It is my hope that the Committee could activate and energize effective local leadership at an early stage:

—To reduce the disruption that would otherwise accompany the desegregation process; and

—To provide additional assistance to communities in anticipating and resolving difficulties prior to and during desegregation.

While I personally believe that every community should effectively desegregate on a voluntary basis, I recognize that some court action is inevitable.

In those cases where Federal court actions are initiated, however, I believe that busing as a remedy ought to be the last resort, and that it ought to be limited in scope to correcting the effects of previous Constitutional violations.

The goal of the judicial remedy in a school desegregation case ought to be to put the school system, and its students, where they would have been if the acts which violate the Constitution had never occurred.

The goal should be to eliminate "root and branch" the Constitutional violations and all of their present effects. This is the Constitutional test which the Supreme Court has mandated—nothing more, nothing less.

Therefore, my bill would establish for Federal courts specific guidelines concerning the use of busing in school desegregation cases. It would require the court to determine the extent to which acts of unlawful discrimination by governmental officials have caused a greater degree of racial concentration in a school or school system than would have existed in the absence of such acts. It would further require the court to limit the relief to that necessary to correct the racial imbalance actually caused by those unlawful acts. This would prohibit a court from ordering busing throughout an entire school system simply for the purpose of achieving racial balance.

In addition, my bill recognizes that the busing remedy is transitional by its very nature and that when a community makes good faith efforts to comply, busing ought to be limited in duration. Therefore, the bill provides that three years after the busing remedy has been imposed a court shall be required to determine whether to continue the remedy. Should the court determine that a continuation is necessary, it could do so only for an additional two years. Thereafter, the court could continue busing only in the most extraordinary circumstances, where there has been a failure or delay of other remedial efforts or where the residual effects of unlawful discrimination are unusually severe.

Great concern has been expressed that submission of this bill at this time would encourage those who are resisting court-ordered desegregation—sometimes to the point of violence.

Let me here state, simply and directly, that this Administration will not tolerate unlawful segregation.

We will act swiftly and effectively against anyone who engages in violence.

I assure the people of this Nation that this Administration will do whatever it must to preserve order and to protect the Constitutional rights of our citizens.

The purpose of submitting this legislation now is to place the debate on this controversial issue in the halls of Congress and in the democratic process—not in the streets of our cities.

The strength of America has always been our ability to deal with our own problems in a responsible and orderly way.

We can do so again if every American will join with me in affirming our historic commitment to a Nation of laws, a people of equality, a society of opportunity.

I call on the Congress to write into law a new perspective which sees court-ordered busing as a tool to be used with the highest selectivity and the utmost precision.

I call on the leaders of all the Nation's school districts which may yet face court orders to move voluntarily, promptly, objectively and compassionately to desegregate their schools.

We must eliminate discrimination in America.

We must summon the best in ourselves to the cause of achieving the highest possible quality of education for each and every American child.

GERALD R. FORD.

THE WHITE HOUSE. *June 24, 1976.*

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the President of the United States relative to the issue of school busing be referred jointly to the Committee on the Judiciary and the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HRUSKA. Mr. President, with reference to the message which has been referred to by the assistant majority leader, the Parliamentarian advises that the reference of that measure will be jointly to the Committee on the Judiciary and the Committee on Labor and Public Welfare.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

MESSAGES FROM THE HOUSE

At 10:50 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has agreed to, without amendment the concurrent resolution (S. Con. Res. 122) directing the Secretary of the Senate to make corrections in the enrollment of S. 3201.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3201) to amend the Public Works and Economic Development Act of 1935, to increase the antirecessionary effectiveness of the program, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14236) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. EVINS of Tennessee, Mr. BOLAND, Mr. WHITTEN, Mr. SLACK, Mr. PASSMAN, Mr. BEVILL, Mr. MAHON, Mr. MYERS of Indiana, Mr. BURGENER, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 49. A joint resolution to amend the joint resolution entitled "Joint resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America.

The enrolled joint resolution was subsequently signed by the President pro tempore.

At 11:05 a.m., a message from the House of Representatives delivered by Mr. Hackney announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14237) making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1977, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. WHITTEN, Mr. EVANS of Colorado, Mr. BURLISON of Missouri, Mr. BAUCUS, Mr. TRAXLER, Mr. CHARLES WILSON of Texas, Mr. PASSMAN, Mr. NATCHER, Mr. MAHON, Mr. ANDREWS of North Dakota, Mr. ROBINSON, Mr. MYERS of Indiana, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works, wthout amendment:

S. 3589. A bill to designate the Federal office building located in Manchester, New Hampshire, as the "Norris Cotton Building" (Rept. No. 94–984).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 471. A resolution waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to the consideration of the River Basin Monetary Authorization Act of 1976 (Rept. No. 94–985).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Res. 477. A resolution authorizing additional copies of the report entitled "Developments in Aging: 1975 and January-May 1976" Part One (Rept. No. 94–986).

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1976—CONFERENCE REPORT (REPT. NO. 94–987)

Mr. HOLLINGS submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce:

Kay Bailey, of Texas, to be a member of the National Transportation Safety Board.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

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. BROCK (for himself and Mr. BAKER):

S. 3613. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Obed River and its tributaries, in Tennessee, as a component of the National Wild and Scenic Rivers System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS (by request):

S. 3614. A bill to permit the United States to provide indemnification against claims for injury related to inoculation with vaccine under a comprehensive nationwide influenza immunization program. Referred to the Committee on Labor and Public Welfare.

By Mr. CURTIS:

S. 3615. A bill to designate the Meat Animal Research Facility located near Clay Center, Nebr., as the Roman L. Hruska Meat Animal Research Facility. Referred to the Committee on Agriculture and Forestry.

By Mr. BROCK:

S. 3616. A bill to provide for a Volunteer Health Manpower Force for the United States. Referred to the Committee on Labor and Public Welfare.

By Mr. PROXMIRE:

S. 3617. A bill for the relief of Jae Yoon Sim. Referred to the Committee on the Judiciary.

By Mr. EASTLAND (for himself and Mr. HRUSKA) (by request):

S. 3618. A bill to establish procedures and standards for the framing of relief in suits to desegregate the Nation's elementary and secondary public schools, to provide for assistance to voluntary desegregation efforts, to establish a National Community and Education Committee to provide assistance to encourage and facilitate constructive and comprehensive community involvement and planning in the desegregation of schools, and for other purposes. Referred jointly, by unanimous consent, to the Committee on the Judiciary, to consider title I; and to the Committee on Labor and Public Welfare, to consider title II.

By Mr. STONE (for himself and Mr. MANSFIELD):

S.J. Res. 206. A joint resolution providing for a National Leadership Conference on Energy Policy to be held during 1977. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROCK (for himself and Mr. BAKER):

S. 3613. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Obed River and its tributaries, in Tennessee, as a component of the National Wild and Scenic Rivers System, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BROCK. Mr. President, I introduce today legislation to place a portion of the Obed River and its major tributaries in Tennessee under the protection of the Wild and Scenic Rivers Act. This portion of the river system, along with additional mileage has been a designated study area under the act since 1968. The time for Congress to grant permanent protection has arrived.

It gives me great pride as a Tennessean to participate in the protection of this magnificent resource. The Obed and its tributaries, Clear Creek and Daddy's Creek constitute one of the last remaining, truly primitive, and unspoiled river areas in the Eastern United States. It is characterized by spectacular scenery, unusual geological formations and includes some rare and endangered plant and animal life. The quality of the water is excellent. The river itself ranges from a slow moving stream to crashing whitewater, offering a wide range of recreational opportunities.

The increasing popularity of the area for recreation as well as development makes it extremely important that it be granted protection now, before its rare and primitive qualities are lost to us and to future generations. Threats to the river and the immediately surrounding area also include strip mining, oil and gas drilling, second home developments, and timber cutting.

Although there are several cabins now in the area to be included under the act, they do not constitute an unwarranted intrusion in the area. They should be allowed to remain and be used by their owners. The Government need not purchase them. However, inclusion under the act of this area would give protection against further building and development.

Mr. President, there is widespread support in Tennessee for inclusion of the Obed River and its tributaries under the Wild and Scenic Rivers Act. The State of Tennessee recognizes the importance of preserving it under the act and would be a willing partner with the Department of the Interior in its protection and any development. In addition, it has broad support from a number of conservation and recreational groups. A number of local officials including the Morgan County judge also strongly support the passage of legislation.

Because the county court in Cumberland County has not yet endorsed the proposal and a number of property owners still have questions, I have left the privately held portions of the Obed and its tributaries lying in Cumberland County out of this measure. However, I hope that a careful study of the various options available under the act, including scenic easements, will ease any doubts which they might have about the desirability of preserving the rare qualities of the Obed in this manner.

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

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

S. 3613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding

the following new paragraph at the end thereof:

"(11) OBED, TENNESSEE.—The segment from the western edge of the Catoosa Wildlife Management Area to the confluence with the Emory River; Clear Creek from the western edge of the Catoosa Wildlife Management area to the confluence with the Obed River; Daddy's Creek from the Morgan County line to the confluence with the Obed River; and the Emory River from the confluence with the Obed River to the Nemo bridge as generally depicted and classified on the stream classification map dated December 1973. The Secretary of the Interior shall take such action, with the participation of the State of Tennessee as is provided for under subsection (b) within one year following the date of enactment of this paragraph. The development plan required by such subsection (b) shall include cooperative agreements between the State of Tennessee acting through the Wildlife Resources Agency and the Secretary of the Interior. Lands within the Wild and Scenic River boundaries that are currently part of the Catoosa Wildlife Management Area shall continue to be owned by the Tennessee Wildlife Resources Agency and managed by the Tennessee Wildlife Resources Agency in such a way as to protect the wildlife resources and primitive character of the area, and there shall be no further development of roads, campsites, or associated recreational facilities unless deemed necessary for wildlife management practices. The Obed Wild and Scenic River shall be managed by the Secretary of the Interior. For the purposes of carrying out the provisions of this Act with respect to this river, there are authorized to be appropriated such sums as may be necessary, but not to exceed $4,600,000 for the acquisition of lands or interests in lands and not to exceed $400,000 for development.".

(b) Section 5(a) of such Act (relating to potential additions to the National Wild and Scenic Rivers Systems) is amended by striking out paragraph (15), and inserting in lieu thereof the following "EMORY, TENNESSEE. The segment from Nemo bridge downstream to the Morgan County line; and White's Creek from the confluence of Cook Creek to its confluence with Clear Creek."

By Mr. JAVITS (by request):

S. 3614. A bill to permit the United States to provide indemnification against claims for injury related to innoculation with vaccine under a comprehensive nationwide influenza immunization program. Referred to the Committee on Labor and Public Welfare.

SWINE FLU INDEMNIFICATION

Mr. JAVITS. Mr. President, at the request of the administration, I introduce their bill to provide indemnification against claims for injury related to inoculation with vaccine under a comprehensive nationwide influenza immunization program.

I ask unanimous consent that the full text of the bill and the Department of HEW letter of transmittal be printed in the RECORD at the conclusion of my remarks.

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

Mr. JAVITS. Mr. President, the bill in essence would authorize the Secretary of Health, Education, and Welfare to agree, in contracts for the purchase of vaccine in connection with the national influenza immunization program, against claims attributable to inoculation with the vaccine, except claims arising out of the negligence of the manufacturers.

While the possibility of any injury occurring, or the vaccine manufacturers being held liable for such injury is believed, to quote the letter of transmittal, "extremely remote," there is concern expressed by the vaccine manufacturers that, under recent court decisions, the possibility exists, in the absence of this proposed legislation, that a vaccine manufacturer could be successfully sued for injuries resulting solely from the Federal Government's activities in the immunization program.

While it appears from the letter of transmittal that the Department and the manufacturers agree that the manufacturers should be responsible for possible injuries resulting from their negligence, if any, in manufacturing the vaccine, whereas the Federal Government should be liable for injuries arising from any failure to perform properly those aspects of the program over which it has control, I am concerned about the need to extend indemnification to everyone who participates in the administration and delivery of the vaccine to the public.

As all the States prepare to participate in the nationwide, federally sponsored swine flu inoculation program, we must not only examine carefully the relationship between the vaccine manufacturers and their insurers who have allegedly now declined to insure the manufacturers, but also the need to extend any such protection to the States and to all the doctors, nurses, and other volunteer health professionals who participate in the inoculation program.

S. 3614

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 311 of the Public Health Service Act is amended by adding at the end of that section the following new subsection (d):

"(d) The Secretary of Health, Education, and Welfare may agree, as part of any contract for the purchase of a vaccine for a comprehensive nationwide influenza immunization program, to indemnify the manufacturer of the vaccine against claims attributable to inoculation with the vaccine except claims for failure of the manufacturer to exercise due care in the manufacture or handling of the vaccine in accordance with the contract specifications or for failure to discharge properly any other obligation under the contract. Nothing herein shall be construed as creating or changing any rule of liability under any law of the United States or of any State."

JUNE 16, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To permit the United States to provide indemnification against claims for injury related to inoculation with vaccine under a comprehensive nationwide influenza immunization program."

The draft bill would enable the Secretary of Health, Education, and Welfare to agree, in contracts for the purchase of vaccine in connection with the National Influenza Immunization Program, to idemnify the vaccine manufacturers against claims attributable to inoculation with the vaccine, except claims arising out of the negligence of the manufacturers.

The Department has been negotiating with vaccine manufacturers concerning the terms of the contracts under which the Federal government will purchase influenza vaccine for use in the National Influenza Immunization Program. We and the manufacturers agree that the manufacturers should be responsible for possible injuries resulting from their negligence, if any, in manufacturing the vaccine, whereas the Federal government should be liable for injuries arising from any failure to perform properly those aspects of the program over which it has control. Principally, this is the duty to inform individuals of the risks associated with inoculation. The vaccine manufacturers believe that, under recent court decisions, the possibility exists, in the absence of this proposed legislation, that a vaccine manufacturer could be successfully sued for injuries resulting solely from the Federal government's activities in the Immunization Program. Although we think the possibility of any such injury occurring, or the vaccine manufacturers being held liable for such injury, is extremely remote, the manufacturers are concerned that they could be required by courts to pay considerable sums for such injuries. The Anti-Deficiency Act now bars the Federal government from agreeing to indemnify the manufacturers for losses stemming from such injuries even though the injuries are not the fault of the manufacturers. The enclosed draft bill would amend existing law to enable this Department to provide assurance of such indemnification.

It is essential to conclude agreements for vaccine production as soon as possible to have sufficient vaccine available in the fall, when the national inoculation effort will occur. There are only six licensed vaccine manufacturers and of these only four are able to produce the influenza vaccine. Sufficient vaccine will be available only if all four of these manufacturers agree to produce vaccine. In order to assure that all four manufacturers will enter into contracts for the needed vaccine, we find it necessary to have authority to indemnify them against any liability they may incur for injuries not their fault. We therefore urge prompt and favorable consideration of the draft bill.

We are advised by the Office of Management and Budget that enactment of this proposal would be in accord with the program of the President.

Sincerely.

DAVID MATHEWS,
Secretary.

By Mr. CURTIS:

S. 3615. A bill to designate the Meat Animal Research Facility located near Clay Center, Nebr., as the Roman L. Hruska Meat Animal Research Facility. Referred to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, as my colleagues are aware, the senior Senator from Nebraska will be retiring in January of next year. While many in the press and other observers of the Senate continue to cite the achievements of the Senator in the area of the judiciary and related fields, I would like to draw attention to another particular interest of the Senator from Nebraska.

Through the years of our mutual service in the U.S. Senate, Senator HRUSKA and I have shared a deep and lasting regard for the chief economic asset of our State—the beef cattle industry. Nebraska has for many years ranked at the top in beef production. The Omaha Livestock Market was for a number of years regarded as the largest in the world. The cattle industry remains a strong and vital economic factor in Nebraska today.

To preserve the vitality and success of the American beef cattle industry, there has been established near Clay Center, Nebr., the U.S. Meat Animal Research Center, a facility under the administration of the Agricultural Research Service of the U.S. Department of Agriculture.

What began in the early 1960's as a farsighted idea for the improvement and advancement of meat animal research has now become a 35,000-acre reality. The center, authorized by the Congress on June 16, 1964, has been developed as a result of the active and enthusiastic cooperation between Nebraska agricultural officials and the U.S. Department of Agriculture. No one person has had more to do with the creation of this facility than my good friend, the Senator from Nebraska.

Mr. President, the history of the U.S. Meat Animal Research Center and the involvement of the Senator from Nebraska is a long and satisfying one. Those who realize the importance of the beef cattle industry to this Nation should know the dedication of Senator HRUSKA to its development and continued growth.

The Meat Animal Research Center came about after a decision in 1959 by the Department of Defense to close the Naval Ammunition Depot at Hastings, Nebr. A gradual phaseout was to be completed by July 1, 1966. The depot comprised some 48,000 acres of land. The General Services Administration notified the various Federal agencies of this fact and asked if any of them had a need for the property.

The Agricultural Research Service responded to this offer. Negotiations were held, plans were drawn, and approval by the Secretary of Agriculture was received. The first 10,000 acres were transferred to the Department of Agriculture, the planning of phases I and II of a meat animal research center was accomplished by the Agricultural Research Service and Nebraska officials, and a director was appointed.

Mr. President, it was at this point that the project appeared to be well-established. One crucial item, however, was still in doubt—adequate funding. As a member of the Subcommittee on Agricultural Appropriations, Senator HRUSKA saw the potential benefits such a project would have for not only Nebraska, but the entire Nation.

Included in the submission of the 1966 fiscal year budget to the Congress, the Bureau of the Budget requested $3.5 million for the Clay Center facility. The request included $1.5 million for laboratories, offices, a heating plant, and feed processing and storage areas. Also planned were $1 million for beef cattle housing and $500,000 for swine and sheep housing.

Throughout the planning and construction phases of the center, Senator HRUSKA—from his vantage point on the Appropriations Committee—kept a constant eye on the progress and activities of the new project. As each phase unfolded, and appropriations were needed to meet rising costs or added personnel, he was there to insure that adequate funds would be made available.

His tireless work for the Meat Animal Research Center did not go unnoticed by his colleagues on the Appropriations Committee. They quickly came to realize that this facility would some day become one of the finest and most effective of its kind in the world.

Mr. President, in announcing the Department of Agriculture's decision to go ahead with the project in November of 1965, Senator HRUSKA stated:

> With our economy so emphasizing livestock and feed grains, it is imperative that we apply this same kind of technology and research that has gone into other aspects of agriculture.

The work that was begun nearly 12 years ago has reached fruition and is providing scientific information that has proved invaluable to the meat animal industry in this country.

Mr. President, because of the longstanding contributions of Senator HRUSKA to the U.S. Meat Animal Research Center, I am proposing that the facility be designated as the Roman L. Hruska Meat Animal Research Center.

To those in Nebraska and elsewhere who know the contribution of this facility to the improvement of the meat animal industry, it is entirely appropriate that this designation be made. It would be but a small tribute to the personal time, effort, and energy that Senator HRUSKA has expended through the years on this center. It would serve to remind all those who visit there, and have occasion to come into contact with its excellent work, that my colleague from Nebraska devoted himself to the establishment and operation of such a worthy and lasting facility.

Mr. President, I introduce a bill to redesignate the above-mentioned facility.

By Mr. EASTLAND (for himself, and Mr. HRUSKA) (by request):

S. 3618. A bill to establish procedures and standards for framing of relief in suits to desegregate the Nation's elementary and secondary public schools, to provide for assistance to voluntary desegregation efforts, to establish a National Community and Education Committee to provide assistance to encourage and facilitate constructive and comprehensive community involvement and planning in the desegregation of schools, and for other purposes. Referred jointly, by unanimous consent, to the Committee on the Judiciary, to consider title I; and to the Committee on Labor and Public Welfare, to consider title II.

Mr. HRUSKA. Mr. President, at the request of the administration the senior Senator from Mississippi, for himself, and on behalf of this Senator today introduced the School Desegregation Standards and Assistance Act of 1976—S. 3618—to enable this country to better address the important problem of elementary and secondary public school desegregation.

The court ordered busing of students to help achieve racial balance in our school systems has become one of the most distressing problems and unpopular situations in America since the establishment of prohibition in the 1920's. This problem involves and strikes at the very root of many American traditions and heritages. It has profound effects on family life and has interfered with our basic concepts of education in this country.

Schoolbusing has removed many children from their neighborhood schools and cast them into an unfamiliar environment. It occurs during their most formative years. The lessons learned and the attitudes formed during the elementary and secondary school years play an important role in molding the character of the adult. In many cases, the advent of court-ordered busing has resulted in hatred and violence—certainly not characteristics that should have a dominant place in the formulation of later attitudes and principles.

The tragic irony of forced school busing is that it is generally conceded it does not improve the educational opportunities of the children involved. Busing was thought to be a vehicle to achieve greater educational opportunity and equality for all. But that is not the case.

Many of those who support the busing of school children do so, not because of the educational opportunities it affords, but as another means to achieve racial integration.

Mr. President, it is certainly clear that in America racial segregation not only is illegal, but it also is a morally bankrupt concept. But to what ends do we work against it? In the process of eliminating segregation, do we destroy other, more important concepts in America such as the family life and the educational system?

As I introduce this bill, I see it as an effort to try to shift the emphasis of court-ordered busing from racial integration back to a proper balance with the traditions of family life and education.

The President, in his message to the Congress, asks this body:

> To join with me in establishing guidelines for the lower Federal Courts in the desegregation of public schools throughout the land—acting within the framework of the Constitution and particularly the Fourteenth Amendment to the Constitution.

He added:

> It is both appropriate and Constitutional for the Congress to define by law the remedies the lower Federal Courts may decree.
>
> It is both appropriate and Constitutional for the Congress to prescribe standards and procedures for accommodating competing interests and rights.

As the President skillfully points out in his message, the advocates of more busing and the advocates of less busing both feel they hold a strong moral position on this issue.

Briefly, the bill would:

Require that a court in a desegregation case determine the extent to which acts of unlawful discrimination have caused a greater degree of racial concentration in a school or school system than would have existed in the absence of such acts.

Require that busing and other remedies in school desegregation cases be limited to eliminating the degree of student racial concentration caused by proven unlawful acts of discrimination.

Require that the utilization of court-ordered busing as a remedy be limited to

a specific period of time consistent with the legislation's intent that it be an interim and transitional remedy. In general, this period of time will be no longer than 5 years where there has been compliance with the court order.

Establish a National Community and Education Committee which will assist, encourage, and facilitate community involvement in the school desegregation process. This committee will be composed of citizens from a wide range of occupations and backgrounds, with particular emphasis on individuals who have had personal experience in school desegregation activities. Committee members will assist on request communities which are, or will be, engaged in the desegregation of their schools by sharing ideas and recommendations for anticipating and resolving conflicts.

Mr. President, this bill is an effort to ease the hardships that have been created by court-ordered busing of school children. It is a vehicle for debate and serious deliberation of the problem. The opportunity has been given the Congress to improve and alter the bill if those steps are necessary.

It should be understood that this bill represents the best thinking of the administration at this time. It could well be that the Congress, in its consideration of the measure, will find ways to improve and strengthen it.

For example, there is the very serious question of those school districts which are already under orders of Federal courts to employ busing as a means of school desegregation. There are grave legal and constitutional problems involved in incorporating retroactivity into this measure. But the point should be thoroughly studied.

At this time without having the opportunity of careful and thorough perusal and study, this Senator cannot say that he agrees with all the provisions of the bill. Like my colleagues, I reserve the right to propose changes and amendments after hearings are completed and as markup of a bill in final form occurs.

I do believe, however, that the measure should be given early and most serious consideration in committee and by the Senate in an effort to improve the treatment of this vital situation.

Mr. President, I ask unanimous consent that the text of the bill, a section-by-section analysis thereof, the President's message and a White House "Fact Sheet" describing the bill be printed in the RECORD.

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

S. 3618

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 "School Desegregation Standards and Assistance Act of 1976."

STATEMENT OF FINDINGS

The Congress finds that:

(a) Discrimination against students, because of their race, color, or national origin, in the operation of the Nation's public schools violates the Constitution and laws of the United States, denies such students equal educational opportunities, and is contrary to the Nation's highest principles and goals.

(b) The Constitution and the national interest mandate that the courts of the United States provide appropriate relief to prevent such unlawful discrimination and to remove the continuing deprivations, including the separation of students, because of their race, color or national origin, within or among schools, that such discrimination has caused.

(c) Individuals may, in normal course, choose to reside in certain areas for many reasons and, as the courts have recognized, patterns of concentration, by race, color, or national origin, in the schools that reflect such voluntary, individual choices, rather than the results of unlawful discrimination, neither necessarily render such schools inferior in the quality of education they provide nor in themselves deprive any person of equal protection of the laws.

(d) The purpose of relief directed to the effects of unlawful discrimination in the operation of the schools is not to compel a uniform balance by race, color, or national origin that would not have existed in normal course from individual voluntary acts, but is, rather, to restore the victims of discriminatory conduct to the position they would have occupied in the absence of such conduct, and so to free society and our citizens from the conditions created by unlawful acts.

(e) Although it has been found necessary in some cases, in order to remedy the effects attributable to unlawful discrimination, to require the assignment and transportation of students to schools distant from their homes, and although such a requirement may be appropriate, as a last resort, to eliminate the effects of unlawful acts that were intended to foster segregation in the schools, such a requirement can, if unduly extensive in scope and duration, impose serious burdens on the children affected and on the resources of school systems and impair the quality of education for all students that is essential to overcome past discrimination, to achieve true equality of opportunity and equal protection of the laws, and to maintain a free and open society.

(f) Because of its detrimental effects, judicially required student assignment and transportation should be employed only when necessary as an interim and transitional remedy, and not as a permanent, judicially mandated feature of any school system.

(g) In view of these conflicting values and consequences, Congress, being responsible for defining by law the jurisdiction of the inferior Federal courts and the remedies they may award in the exercise of the jurisdiction thus conferred and for enacting appropriate legislation to enforce the commands of the Fourteenth Amendment, may prescribe standards and procedures for accommodating the competing human interests involved.

(h) Throughout the history of our Nation, the education of our children, especially at the elementary and secondary level, has been a community endeavor. The concept of public education began in the community and continuous support for public schools has been provided by the community.

(i) Although the States, and to some extent the Federal government, have been providing increased financial assistance for education, it has become clear that the solution to many of the most pressing problems facing our schools lies within the community which supports those schools.

(j) Too often required changes in the assignment of students to schools has been accomplished without the involvement of the community or with its involvement only after confrontations have occurred and community positions have been hardened.

(k) In other cases individuals from within the community have anticipated the problems associated with desegregation and have organized to face and resolve those problems. Rather than reacting negatively to the circumstances in which the community found itself, these individuals have found constructive means to contribute to improving strained community relations, to adjust to changing conditions, and in other ways to assure the continued successful operation of the public schools.

(l) These individuals, who have experienced the trials a community may face when the schools must be desegregated and who have found ways to overcome those problems, are a unique national resource that can be of assistance to other communities that are now facing or have yet to face these trials.

TITLE I. STANDARDS AND PROCEDURES IN SCHOOL DESEGREGATION SUITS

PURPOSE: APPLICATION

SEC. 101. (a) The purpose of this Title is to prescribe standards and procedures to govern the award of injunctive and other equitable relief in school desegregation cases brought under Federal law, in order (1) to prevent the continuation or future commission of any acts of unlawful discrimination in public schools, and (2) to remedy the effects of past acts of such unlawful discrimination, including, by such means as are appropriate for the purpose, the present degree of concentration by race, color or national origin in the student population of the schools attributable to such acts.

(b) The provisions of this Title shall govern all proceedings for the award or modification of injunctive and other equitable relief, after the date of its enactment, seeking the desegregation of public schools under Federal law, but shall not govern proceedings seeking a reduction of such relief awarded prior to the date of its enactment except for proceedings brought under Section 107.

DEFINITIONS

SEC. 102. For purposes of this Title:

(a) "local education agency" means a local board of public education or any other government agency or officer of a political subdivision of a State responsible for, or exercising control over, the operations of one or more public elementary or secondary schools.

(b) "State education agency" means a State board of public education or any other State agency or officer responsible for, or exercising control over, the operations of one or more public elementary or secondary schools.

(c) "school system" means the schools and other institutions of public education within the jurisdiction of a local or State education agency.

(d) "desegregation" means the prohibition of unlawful discrimination and the elimination of the effects of such discrimination in the operation of the schools.

(e) "unlawful discrimination" means action by a local or State education agency or by any other governmental body, agency, or officer which, in violation of Federal law, discriminates against students on the basis of race, color or national origin in the operation of the schools.

(f) "State" means any of the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Panama Canal Zone.

(g) "transportation of students" means the assignment of students to public schools in such a manner as to require, directly or indirectly, the transportation of students, in order to alter the distribution of students, by race, color, or national origin, among the schools, but does not include the assignment of any student to the school nearest or next nearest his or her residence and serving the grade he or she is attending, even if the local or State education agency provides transportation to enable the student to reach that school.

LIABILITY

SEC. 103. A local or State education agency shall be held subject—

(a) to relief under Section 104 of this Title if the court finds that such local or State education agency has engaged or is engaging in an act or acts of unlawful discrimination; and

(b) to relief under Section 105 of this Title if the court finds that an act or acts of unlawful discrimination have caused a greater present degree of concentration, by race, color, or national origin, in the student population of any school within the jurisdiction of the local or State education agency than would have existed in normal course had no such act occurred; *Provided:*

(i) that no order under Section 105 of this Title shall be based in whole or in part on an act or acts by a local, State or Federal agency or officer other than the local or State education agency with jurisdiction over such schools unless the court further finds, on the basis of evidence other than the effects of such acts alone, that the act or acts were committed for the specific purpose of maintaining, increasing, or controlling the degree of concentration, by race, color, or national origin, in the student population of the schools; and

(ii) that nothing in this Title shall be construed as establishing a basis for relief against a local or State education agency not available under existing law.

RELIEF—ORDERS PROHIBITING UNLAWFUL ACTS AND ELIMINATING EFFECTS GENERALLY

SEC. 104. In all cases in which, pursuant to Section 103(a) of this Title, the court finds that a local or State education agency has engaged or is engaging in an act or acts of unlawful discrimination, the court may enter an order enjoining the continuation or future commission of any such act or acts and providing any other relief against such local or State education agency as may be necessary and appropriate to prevent such act or acts from occurring or to eliminate the effects of such act or acts; *Provided,* That any remedy directed to eliminating the effects of such act or acts on the present degree of concentration, by race, color or national origin, in the student population of any school shall be ordered in conformity with Section 105 of this Title.

RELIEF—ORDERS ELIMINATING THE PRESENT EFFECTS OF UNLAWFUL ACTS ON CONCENTRATIONS OF STUDENTS

SEC. 105. (a) In all cases in which, pursuant to Section 103(b) of this Title the court finds that an act or acts of unlawful discrimination have caused a greater degree of concentration, by race, color or national origin, than would otherwise have existed in normal course in the student population of any schools within the jurisdiction of a local or State education agency, the court may order against such agency any appropriate relief to remedy the effects reasonably attributable to such acts; accordingly such relief shall be no more extensive than that reasonably necessary to adjust the composition by race, color or national origin of the particular schools so affected or, if that is not feasible the overall pattern of student concentration by race, color or national origin in the school system so affected substantially to what it would have been in normal course, as determined pursuant to this Section, had no such act or acts occurred.

(b) Before entering an order under this Section the court shall conduct a hearing and, on the basis of such hearing, shall make specific findings concerning the degree to which the concentration, by race, color or national origin, in the student population of particular schools affected by unlawful acts of discrimination presently varies from what it would have been in normal course had no such acts occurred. If such findings as to particular schools are not feasible, or if for some other reason relief cannot feasibly be fashioned to apply only to the particular schools that were affected, the court shall make specific findings concerning the degree to which the overall pattern of student concentration, by race, color or national origin, in the school system affected by such acts of unlawful discrimination presently varies from what it would have been in normal course had no such acts occurred.

(c) In any hearing conducted pursuant to subsection (b) of this Section the local or State education agency shall have the burden of going forward, by the introduction of evidence concerning the degree to which the concentration, by race, color or national origin, in the student population of particular schools, or the overall pattern of student concentration by race, color, or national origin in the school system, is reasonably attributable to factors other than the act or acts of unlawful discrimination found pursuant to Section 103(b) of this Title. If such evidence is introduced, the findings required by subsection (b) of this Section shall be based on conclusions and reasonable inferences from all of the evidence before the court, and shall not be based on a presumption, drawn from the finding of liability made pursuant to Section 103(b) of this Title or otherwise, that the concentration, by race, color or national origin, in the student population of any particular school or the overall pattern of concentration in the school system as a whole is the result of acts of unlawful discrimination.

(d) If any order entered under this Section against a local or State education agency is based, in whole or in part, on an act or acts of unlawful discrimination by a local, State or Federal agency or officer other than the local or State education agency, the court shall state separately in its findings the extent to which the effects found and the relief ordered pursuant to the requirements of this Section are based on such act or acts.

(e) In all orders entered under this Section the court may, without regard to the other requirements of this Section, (1) approve any plan of desegregation, otherwise lawful, that a local or State education agency voluntarily adopts, and (2) direct a local or State education agency to institute a program of voluntary transfers of students from schools in which students of their race, color, or national origin are in the majority to schools in which students of their race, color or national origin are in the minority.

VOLUNTARY ACTION; LOCAL CONTROL

SEC. 106. All orders entered under Section 105 of this Title shall rely, to the greatest extent practicable and consistent with effective relief, on the voluntary action of school officials, teachers and students, and the court shall not remove from a local or State education agency its power and responsibility to control the operations of the schools except to the minimum extent necessary to prevent unlawful discrimination by such agency or to eliminate the present effects of acts of unlawful discrimination.

REVIEW OF ORDERS

SEC. 107. (a) In all cases in which a court-imposed requirement for transportation of students has remained in effect for a period of three years from the date of entry of the order containing such requirement or, in the case of all final orders entered prior to enactment of this Title, from the effective date of this Title, the court shall, on motion of any party, terminate the requirement unless:

(i) the court finds that the local or State education agency has failed to comply with the requirement and other provisions of the court's order substantially and in good faith throughout the three preceding years, in which case the court may extend the requirement until there have been three consecutive years of such compliance; or

(ii) the court finds, at the expiration of such period and of any extension under (i) above, that the other provisions of its order and other remedies are not adequate to correct the effects of unlawful discrimination, determined in accordance with Section 105 of this Title, and that the requirement remains necessary for that purpose, in which case the court may continue the requirement in effect, with or without modification, until the local or State education agency has complied with the requirement substantially and in good faith for two consecutive additional years; and thereafter, in extraordinary circumstances resulting from failure or delay of other remedial efforts or involving unusually severe residual effects of unlawful acts, the court may continue the requirement in effect, as a transitional means of last resort, to such extent and for such limited periods as the court finds essential to allow other remedies to become effective.

(b) If a court-imposed requirement for transportation of students has terminated and thereafter the court finds—

(i) that the local or State education agency subsequent to the termination, has failed to comply substantially and in good faith with other provisions of the court's order; or

(ii) that an act or acts of unlawful discrimination, as defined in Section 103(b), have occurred since the termination and have caused a greater present degree of concentration, by race, color, or national origin, than would otherwise have existed in normal course;

the court may, if no other remedy is sufficient, require transportation of students to such extent and for such limited period as may be necessary to remedy the effects found, pursuant to Section 105 of this Title, to be reasonably attributable to such failure or to such act or acts, and any such requirement shall be reviewed and subject to termination as provided in subsection (a) of this Section.

EFFECT OF SUBSEQUENT SHIFTS IN POPULATION

SEC. 108. Whenever any order governed by Section 105 of this Title has been entered, and thereafter residential shifts in population occur which result in changes in student distribution, by race, color or national origin, in any school affected by such order, the court shall not require modification of student assignment plans then in effect in order to reflect such changes, unless the court finds, pursuant to Section 105 that such changes result from an act or acts of unlawful discrimination.

INTERVENTION

SEC. 109. (a) The court shall notify the Attorney General of any proceeding to which the United States is not a party in which the relief sought includes that covered by Section 105 of this Title, and shall in addition advise the Attorney General whenever it believes that an order or an extension of an order requiring transportation of students may be necessary.

(b) The Attorney General may, in his discretion, intervene as a party in such proceeding on behalf of the United States, or appear in such proceeding for such special purpose as he may deem necessary and appropriate to facilitate enforcement of this Title, including the submission of recommendations (1) for the appointment of a mediator to assist the court, the parties, and the affected community, and (2) for the formation of a committee of community leaders to develop, for the court's consideration in framing any order under Section 105 of this Title, a five-year desegregation plan, including such elements as relocation of schools, with specific dates and goals, which would enable required transportation of students to be avoided or

minimized during such five-year period and to be terminated at the end thereof.

SEC. 110. If any provision of this Title, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this Title and the application of such provision to any other person or circumstances shall not be affected thereby.

TITLE II. NATIONAL COMMUNITY AND EDUCATION COMMITTEE

PURPOSE

SEC. 201. It is the purpose of this Title to create a nonpartisan national committee composed of citizens from various occupations and backgrounds, particularly individuals who have had experience in school desegregation activities from within a community, in order to provide assistance to communities that are engaged in or preparing to engage in the desegregation of their schools. With such assistance, it is expected that effective local leadership can be developed at an early stage of the desegregation process in order to facilitate that process, to assure that the educational advantages of desegregated education are fully realized, and to reduce or avoid public misunderstanding and disorder. The Committee will be a resource available to assist communities in anticipating and resolving difficulties encountered prior to and during desegregation. It is the intent of Congress that the Committee be composed of individuals who have demonstrated their concern for avoiding conflict and disruption in their communities during the desegregation of schools and who, without regard for their personal opinion with respect to such desegregation, have been involved in efforts within their communities to adjust to changing circumstances while ensuring the continued successful operation of the public schools.

ESTABLISHMENT OF THE COMMITTEE

SEC. 202. ESTABLISHMENT. There is established in the Executive Branch of the Federal government a National Community and Education Committee (hereinafter referred to as the "Committee.").

(b) MEMBERS. The Committee shall be composed of not fewer than fifty nor more than one hundred members, ten of whom shall be appointed by the President and shall comprise the executive council of the Committee, and the remainder of whom shall be appointed by the executive council. All the members of the Committee shall be selected from among individuals of various occupations and backgrounds, including individuals previously involved within a community in activities related to the desegregation of schools. Members of the Committee shall be selected on the basis of their knowledge and experience in community matters, their ability to provide constructive assistance in preparing a community for the desegregation of its schools, and their ability to contribute in other ways to carrying out the functions of the Committee. Selection of members of the Committee shall be on a nonpartisan basis, and no more than one half of the members of the Committee at any one time shall be members of the same political party.

(c) CHAIRMAN AND VICE CHAIRMAN. The President shall designate one of the members of the executive council as Chairman of the Committee and one member as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office, and shall carry out such other duties as the Chairman or the executive council may direct. The terms of office of the Chairman and the Vice Chairman shall not exceed three years.

(d) EXECUTIVE COUNCIL. The executive council of the Committee shall (1) establish general operating policies for the Committee, (2) approve all grants made pursuant to Section 204 of this Title, (3) appoint, for terms of from one to three years, not fewer than forty nor more than ninety individuals to be members of the Committee, and (4) carry out such other duties as the Chairman may direct. The term of office of members of the executive council shall be three years, except that of the members first appointed to the executive council (other than the Chairman and Vice Chairman) three shall serve for a term of one year, three for a term of two years, and two for a term of three years.

(e) COMPENSATION OF MEMBERS. Each member of the Committee shall be compensated in an amount not to exceed that paid at level IV of the Federal Executive Salary Schedule, pursuant to Section 5313 of Title 5, United States Code, prorated on a daily basis for each day spent on the work of the Committee, including travel time. In addition, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code, for persons employed intermittently in the Government Service.

(f) OPERATION OF THE COMMITTEE; STAFF. The functions of the Committee shall, to the greatest extent possible, be carried out by the members of the Committee. The Chairman of the Committee is authorized to appoint, without regard to the provisions of Title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of such professional, technical, and clerical personnel, including consultants, as may be necessary to—

(i) identify, document, and disseminate information concerning successful community efforts relating to desegregation;

(ii) coordinate and expedite the availability of Federal assistance in support of community efforts relating to desegregation; and

(iii) otherwise enable the Committee to carry out its functions. Such personnel shall be compensated at rates not to exceed that specified at the time such service is performed for grade GS-18 in Section 5332 of Title 5, United States Code. The full-time staff of the Committee shall not exceed thirty individuals at any time.

FUNCTIONS OF THE COMMITTEE

SEC. 203. The functions of the Committee shall include, but shall not be limited to—

(1) consulting with leaders in the community and local groups in determining means by which such leaders and groups can, through early involvement in the development of, and preparation for, school desegregation plans, contribute to the desegregation process in such a way as to avoid conflicts and recourse to judicial procedures.

(2) encouraging the formation of broadly based local community organizations to develop programs designed to encourage comprehensive community planning for the desegregation of schools;

(3) providing advice and technical assistance to communities in preparing for and carrying out comprehensive plans to desegregate the schools;

(4) consulting with the Community Relations Service of the Department of Justice (established under Title X of the Civil Rights Act of 1964), the Office for Civil Rights in the Department of Health, Education, and Welfare, the National Institute of Education, Office of Education, General Assistance Centers (funded under Title IV of the Civil Rights Act of 1964), the Civil Rights Commission, and State and local human relations agencies to determine how those organizations can contribute to the resolution of problems arising in the desegregation of schools within a community; and

(5) providing informal conciliation services for individuals, groups, and agencies within a community in order to resolve conflicts, reduce tensions, and develop acceptable means of desegregating schools without resort to administrative and judicial processes.

COMMUNITY GRANTS

SEC. 204. (a) The Chairman of the Committee is authorized, upon receipt of an application in such form as he may prescribe and upon the approval of the executive council of the Committee, to make grants to private nonprofit community organizations in order to assist them in the initial stages of carrying out activities designed to accomplish the purposes of this Title.

(b) Grants made pursuant to this Section shall be in such amounts, not to exceed $30,000, as the executive council of the Committee deems necessary to assist in the establishment and early development of eligible community organizations. No organization may receive a grant under this Section for more than one year of operation.

(c) In determining whether to approve a grant to a community organization under this Title, the executive council of the Committee shall require an applicant to demonstrate that the organization has reasonable promise of making substantial progress toward achieving the purposes of this Title. Such demonstration shall include a showing of adequate financial or other support from the community.

(d) The executive council of the Committee shall not make a grant to two or more organizations within a community unless it determines that the activities of such organizations are sufficiently coordinated to ensure that their activities are not duplicative or inconsistent.

LIMITATIONS ON ACTIVITIES OF THE COMMITTEE

SEC. 5. It shall not be the function of the Committee—

(1) to prepare desegregation plans;

(2) to provide mediation services under the order of a court of the United States or of a State;

(3) to investigate or take any action with respect to allegations of violation of law; or

(4) to participate in any capacity, or to assist any party, in administrative or judicial proceedings under Federal or State law seeking desegregation of schools.

COOPERATION BY OTHER DEPARTMENTS AND AGENCIES

SEC. 206. (a) All executive departments and agencies of the United States are directed to cooperate with the Committee and furnish to it such information, personnel and other assistance as may be appropriate to assist the Committee in the performance of its functions and as may be authorized by law.

(b) In administering programs designed to assist local educational agencies and communities in planning for and carrying out the desegregation of schools, the Attorney General, the Secretary of Health, Education, and Welfare, and the heads of the agencies within that Department shall administer such programs, to the extent permitted by law, in a manner that will further the activities of the Committee.

CONFIDENTIALITY

SEC. 207. The activities of the members and employees of the Committee in carrying out the purposes of this Act may be conducted in confidence; and the Committee shall not disclose or be compelled to disclose, pursuant to judicial process or otherwise, any information acquired in the regular performance of its duties if such information was provided to the Committee upon an assurance by a member or employee of the Committee that it would be so held.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. (a) There are authorized to be appropriated $2,000,000 for salaries and expenses of the Committee for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years.

(b) For the purpose of making grants under Section 204, there are authorized to be appropriated to the Committee $2,000,000 for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years.

FEDERAL COMMUNITY ASSISTANCE COORDINATING COUNCIL

SEC. 209. (a) There is created in the Federal government a Federal Community Assistance Coordinating Council (hereinafter the "Council") which shall be composed of a representative or representatives of each of the following departments or agencies:

(1) the Community Services Administration;

(2) the Department of Health, Education, and Welfare;

(3) the Department of Housing and Urban Development;

(4) the Department of the Interior;

(5) the Department of Justice; and

(6) the Department of Labor.

The President may designate such other departments or agencies to be represented on the Council as he deems appropriate to carry out the functions of the Council.

The representative or representatives of each such department or agency shall be appointed by the head of the department or agency from among individuals employed by that department or agency who are familiar with, and experienced in the operation of, the programs and activities of that department or agency which are available to provide assistance for community relations projects, educational programs, and other community-based efforts which would help to reduce or eliminate the misunderstanding and disorder that could be asociated with school desegregation. The head of each such department or agency shall appoint sufficient representatives to the Council to ensure that an individual with a working knowledge of each such program or activity in that department or agency is on the Council.

(b) It shall be the function of the Council to meet or consult with representatives of communities who are seeking Federal support for community relations projects, educational programs, and other community-based efforts to facilitate desegregation, in order to assist such communities in (1) designing projects or activities that demonstrate promise of assisting in those efforts, (2) determining which Federal programs are available for such activities, and (3) completing the necessary applications and other prerequisites for appropriate Federal assistance.

(c) To the extent consistent with the law authorizing any such Federal assistance program, each department or agency listed in subsection (a) of this Section shall administer such program in a manner which will support the activities of the Council. Each such department or agency shall from time to time provide to the Council such additional personnel or other assistance as may be necessary to carry out the functions of the Council.

(d) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Council under this Section $250,000 for the fiscal year ending September 30, 1977 and for each of the two succeeding fiscal years.

SECTION-BY-SECTION ANALYSIS OF THE "SCHOOL DESEGREGATION STANDARDS AND ASSISTANCE ACT OF 1976"

TITLE I.—STANDARDS AND PROCEDURES IN SCHOOL DESEGREGATON SUITS

Sec. 101. Purpose; Application—

(a) Title I prescribes standards and procedures to govern the award of equitable relief[1] in school desegregation suits; that is, suits seeking the elimination of discrimination, on the basis of race, color or national origin, against students in public schools.[2] The bill applies to any such suit which is based upon Federal law. Where a lawsuit seeks relief with respect to faculty and staff, as well as students, the bill applies to the extent that the suit relates to students.

The purpose of Title I's provisions is to assure that such relief (1) prevents the occurrence of unlawful discrimination against students in the operation of public schools and (2) remedies, by appropriate means, the effects of such discrimination.

(b) Title I applies to all school desegregation suits based upon Federal law in which relief is awarded after the Act's enactment. The Title thus would apply to the award of additional relief in cases in which there is an existing court-ordered remedy. The Title would not apply, however, to motions to reduce or terminate existing orders unless the motion was made after the times set out in Sec. 107. If the motion is made before Sec. 107 applies, it would be governed by existing law rather than by Sec. 107's standards.

Sec. 102. Definitions—

Subsections 102 (a), (b) (c), and (f), which define respectively "local education agency," "State education agency," "school system" and "State," are self-explanatory.

The definitions of "desegregation" (subsection 102(d)) and "unlawful discrimination" (subsection 102(e)) reflect the purpose of the Title, i.e., regulating the award of relief to remedy discrimination against students in the operation of public schools. Thus, within the meaning of the Title, "unlawful discrimination" is "action by a local or State education agency or by any other governmental . . . agency . . . which, in violation of Federal law, discriminates against students on the basis of race, color or national origin in the operation of the schools." This definition is intended to incorporate the standards of the Constitution and of Federal civil rights laws.

Under Title I, a "desegregation" suit is one seeking (1) the prohibition of "unlawful discrimination" and (2) the elimination of the effects of such discrimination in the operation of public schools.

Subsection 102(g) provides that "transportation of students" means "the assignment of students . . . in such a manner as to require, directly or indirectly, the transportation of students, in order to alter the distribution of students, by race, color, or national origin, among the schools. . . ." An indirect requirement of such transportation would exist, for example, when the assignments were such that it was no longer feasible for certain students to walk to school. Assignment of a student, however, to a school that serves the student's grade level and is nearest or next nearest the student's residence is not covered by the definition, even if the assignment results in transportation of the student to the school.

Sec. 103. Liability—

Sec. 103 establishes that basic scheme for relief under Title I against local or State education agencies. It provides, in subsection (a), that relief of the type described in Sec. 104 will be available whenever the court finds that a local or State education agency "has engaged or is engaged in . . . unlawful discrimination."

Subsection 103(b) provides that the relief of Sec. 105 will be available when the court finds that "unlawful discrimination" resulted in an increased present degree of concentration, by race, color or national origin, in the student population of any school. In other words, a finding of unlawful discrimination which consisted only of assigning students to classes, within a school, on the basis of race and which had no effect upon other schools, would subject the defendant to relief under Sec. 104, whereas a finding of unlawful discrimination in the drawing of school boundaries, so as to establish one white school and one black school, would subject the defendant to relief under Sec. 105 as well.

The proviso of subsection 103(b) deals with the matter of relief, under Sec. 102, against a local or State education agency where all or some of the effects that the relief is intended to remedy were caused by the conduct of other governmental agencies or officers. Paragraph 103(b)(i) states that:

". . . no order under Sec. 102 . . . shall be based in whole or in part on an act or acts by a local, State or Federal agency or officer other than the local or State education agency with jurisdiction over . . . [the schools in question] unless the court further finds, on the basis of evidence other than the effects of such acts alone, that the act or acts were committed for the specific purpose of maintaining, increasing, or controlling the degree of concentration, by race, color, or national origin, in the student population of the schools . . ."

In other words, no order to remedy increased concentration, by race, color or national origin, in the student population of any school may be based, wholly or partly, on the conduct of a local, State or Federal agency other than an education agency unless the court finds that the specific purpose of such conduct was to maintain, increase or control the degree of such concentration in student population. Paragraph 103(b)(i) states that such a finding concerning specific purpose must be based upon evidence "other that the effects of . . . [the conduct on the part of the other agency] alone." Thus, while evidence concerning the effects of the non-school agency's conduct is relevant, such evidence by itself is not sufficient to establish the requisite specific purpose. Other evidence regarding purpose must be provided.

The second part of the proviso, paragraph 103(b)(ii), states that nothing in Title I is to be construed as establishing a basis for relief against a local or State education agency where such relief is not available on the basis of existing law (i.e., other law existing at the time of the particular lawsuit). If Federal law authorizes relief against school authorities on the basis of discrimination by some other government agency, then the proviso of subsection 103(b) governs the award.

Sec. 104. Relief—Orders prohibiting unlawful acts and eliminating effects generally—

This section relates to the award of relief generally to prevent acts of unlawful discrimination by local or State education agencies and to eliminate the effects of such acts. As stated in the proviso, however, sec. 105 is the section applicable to the award of any remedy to eliminate the effects of such discrimination on the present degree of concentration, by race, color or national origin, in student population. Thus, sec. 104 applies to the prevention of all acts of school discrimination and to the elimination of all effects except the effect of concentration, by race, color or national origin, in student population.

Sec. 104 provides that the court may (1) enjoin the continuation or future commission of such discriminatory conduct and (2) provide other relief needed to prevent the occurrence of the discriminatory acts or to eliminate their present effects, other than effects upon the composition, by race or national origin, of student bodies.

Sec. 105. Relief—Orders eliminating the present effects of unlawful acts on concentrations of students—

(a) This section becomes applicable when, pursuant to subsection 103(b), the court finds that unlawful discrimination has caused a greater present degree of concentration, by race, color or national origin, than would otherwise have existed in the student

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[1] The award of declaratory judgments, as well as injunctive and other equitable relief, is within the Title's coverage.

[2] "Desegregation" and other pertinent terms are defined in Sec. 102.

population of any of an education agency's schools. (See the discussion of subsection 103(b).) With regard to such discrimination, the court may order against such agency "any appropriate relief to remedy the effects reasonably attributable to such acts." Under subsection 105(a), the court may order such relief—but only such relief—as is reasonably necessary to create substantially the same kind of distribution of students, by race, color or national origin, that would have existed had no such discrimination occurred. If feasible, the court's order is to be based upon findings regarding, and is to relate to, the particular schools affected by the discrimination. For example, if the discrimination consisted of artificial alteration of the boundaries between two schools, which affected and now affects the student population of only those two schools, the relief is to relate only to those schools and is to seek only re-creation of the situation which would now exist had the boundaries been established in a non-discriminatory fashion. In determining what situation would now exist, the court would, of course, take into account shifts in population which have occurred since the alteration of boundaries—including, but not limited to, such shifts as were the identifiable effect of that unlawful act.

In some cases, it may be impossible to isolate the effects of a discriminatory act upon particular schools, or to use only those schools in re-creating the situation, insofar as concentration of students by race, color or national origin is concerned, which would now exist within the district absent the discriminatory acts. For example, where an identifiable effect of a past discriminatory act was to destroy mixed residential pattern which would otherwise have subsisted, it may not be feasible, by directing relief only at the schools originally affected, in areas which are now no longer integrated, to achieve effective relief. In such cases, the court may direct its relief at patterns of concentration by race, color or national origin within the school district rather than at the particular schools originally affected.

(b) Subsection 105(b) describes the type of findings which must be made by the court before sec. 105 relief may be awarded. The court, after conducting an appropriate hearing, is to make specific findings concerning the degree to which the concentration, by race, color or national origin, in the student population of particular schools affected by unlawful discrimination varies from what it would have been had no such discrimination occurred. For example, a court might find that, but for the discrimination, a school whose student body is presently 60 percent black would have a student body that is 30 percent black. Under subsection 105(b), with regard to that school, the objective of the court's decree would be to achieve a student population which is 30 percent black.

If it is not feasible to make the above findings with regard to particular schools or if it is not feasible to fashion relief limited to the particular schools affected by the discrimination, the court is to make specific findings concerning the degree to which the overall pattern of student concentration, by race, color or national origin, in the school system varies from what it would have been had the unlawful discrimination not occurred. For example, a court might find that, but for the discrimination, the district would have had five schools with student bodies approximately 30 percent black; under subsection 105(a), the objective of the court's decree would be to establish a situation in which five such schools exist.

(c) Subsection 105(c) provides that, in any subsection 105(b) hearing, the defendant-education agency shall have the burden of going forward with the evidence. That is, the defendant has the burden of introducing evidence concerning the degree to which the concentration of students, by race, color or national origin, (in particular schools or overall in the school system) is reasonably attributable to factors other than unlawful discrimination on the part of the defendant or another local or State agency. (Subsection 103(b) prescribes the manner in which findings concerning such discrimination are to be made.)

Subsection 105(c) further provides that, if the defendant meets its burden by offering appropriate evidence, the findings required by subsection 105(b) are to be based on conclusions and reasonable inferences from all of the evidence before the court including evidence introduced under sec. 103. Such findings are not to be based on a presumption, drawn from the finding of liability made pursuant to subsection 103(b) or otherwise, that the concentration, by race, color or national origin, in the student population of any particular school or the overall pattern of concentration in the school system is the result of acts of unlawful discrimination.

(d) Subsection 105(d) states that, if any order entered under sec. 105 is based, in whole or in part, on unlawful discrimination by a local or State agency other than an education agency, the court is to state separately in its findings the extent to which the effects found and the relief ordered (pursuant to sec. 105) are based on such discrimination.

(e) Subsection 105(e) exempts from sec. 105's other requirements certain elements of an order entered under sec. 105. Without regard to such other requirements, the court may (1) approve any (otherwise lawful) desegregation plan voluntarily adopted by a local or State education agency or (2) direct institution of a program of voluntary majority-to-minority transfers by students.

Sec. 106. Voluntary action; local control—

This section provides that any order entered under sec. 105 is to rely, to the greatest extent practicable and consistent with effective relief, on the voluntary action of school officials, teachers and students. The court is not to remove local or State control of the school system except to the minimum extent necessary to prevent discrimination and eliminate its present effects.

Sec. 107. Review of orders—(a) Subsection 107(a) deals with review of court-imposed requirements for "transportation of students." (The quoted term is defined in subsection 102(g).) After such a requirement has remained in effect for (1) three years from the date of entry of the pertinent order or (2), in the case of a final order entered before enactment of Title I, three years from the date of enactment, the court, on motion of any party is to review the requirement. The requirement may then continue in effect only if the court makes the findings described in paragraph 107(a)(i) or (a)(ii). The subsection in no way restricts or precludes earlier relief from the requirement.

Under paragraph 107(a)(i), if the court finds that the local or State education agency has failed to comply with that requirement and other provisions of the court's order substantially and in good faith for the three years preceding the filing of the motion, the court may continue the requirement in effect until there have been three consecutive years of such compliance.

Under paragraph 107(a)(ii), even where there have been three consecutive years of substantial, good faith compliance, the court may continue the requirement for transportation of students if it finds (1) that the other provisions of its order and other possible remedies are not adequate to correct the effects of unlawful discrimination, determined in accordance with sec. 105 of this title, and (2) that the requirement remains necessary for that purpose. If the court makes those findings, it may continue the requirement in effect, with or without modification, until the education agency has complied with the requirement substantially and in good faith for two additional consecutive years. The proviso states that, after there has been such compliance for two additional consecutive years, the court may continue the requirement in effect where there are extraordinary circumstances resulting from the failure or delay of other remedial efforts or involving unusually severe residual effects of unlawful acts. In such circumstances the requirement may be continued, as a transitional means of last resort, for specific, limited periods which the courts find essential to allow other remedies to become effective. Absent such extraordinary circumstances, there is to be no further continuation of the requirement for transportation of students. (But see the discussion below of subsection 107(b).)

(b) This subsection relates to situations in which, after the termination of a court-imposed requirement for transportation of students, conduct occurs which may call for reimposing such a requirement.

Subject to certain limitations, the court may reimpose a requirement for transportation of students if, after termination of the initial requirement of that type, the court finds:

(i) that the local or State education agency, subsequent to the termination, has failed to comply substantially and in good faith with other provisions of the court's order; or

(ii) that an act or acts of unlawful discrimination as defined in sec. 103(b), have occurred since the termination and have caused a greater present degree of concentration, by race, color, or national origin, than would otherwise have existed in normal course . . .

Such a requirement may be reimposed only if the court determines that no other remedy would be sufficient. Moreover, the requirement for transportation of students may be reimposed only to the extent and for such limited time as may be necessary to remedy the effects found, pursuant to sec. 105, to be reasonably attributable to the post-termination conduct found pursuant to paragraph 107(b)(i) or (ii).

Sec. 108. Effect of subsequent shifts in population—

This section states that, when an order subject to sec. 107 has been entered and thereafter shifts in housing patterns cause changes in student distribution by race, color or national origin, ordinarily the court is not to require modification of the student-assignment plan to compensate for such changes. The court may require such modification if it finds, pursuant to sec. 105 that the changes in student distribution result from discrimination on the part of the local or State education agency or another local or State agency. (Regarding findings of discrimination on the part of agencies of the latter type, see the discussion of subsection 103(b).)

Sec. 109. Intervention—

(a) Subsection 109(a) provides that the court is to notify the Attorney General of the United States of any proceeding, to which the United States is not a party, in which the relief sought includes relief covered by sec. 105. This applies whenever sec. 105 is applicable, whether in regard to a new suit, an application for additional relief, or a proceeding necessitated by sec. 107 in a pre-enactment suit. In addition, the court is to advise the Attorney General whenever it believes that an order or an extension of an order requiring the transportation of students in order to alter their distribution by race, color or national origin may be necessary.

(b) This subsection states that, in any proceeding covered by subsection 109(a), the Attorney General may, in his discretion, intervene as a party. Alternatively, the Attorney General may elect to appear for such special purpose as he deems necessary to facilitate enforcement of Title I. Such spe-

cial purposes include recommending (1) that a mediator be appointed to assist the court, the parties and the affected community or (2) that a committee of community leaders be appointed to prepare, for the court's consideration, a five-year desegregation plan, with the objective of enabling required assignment and transportation of students to be avoided or minimized during the five-year period and terminated at the end of that period.

Sec. 110. Separability—

This section states that, if any provision of Title I or the application of any such provision to any person or circumstance is held invalid, the remainder of the title and the application of such provision to any other person or circumstances is not to be affected thereby.

TITLE II. THE NATIONAL COMMUNITY AND EDUCATION COMMITTEE

Sec. 201. Purpose—

The purpose of Title II is to create a nonpartisan National Committee composed of citizens with experience in activities relating to the desegregation of schools within a community. The Committee would be available to assist communities that are now engaged, or preparing to engage, in school desegregation in order to help those communities facilitate that process, anticipate and handle difficulties and thereby reduce or avoid public misunderstanding and disorder.

Sec. 202. Establishment of the Committee—

Sec. 202 of the bill would establish the Committee in the Executive Branch of the Federal Government. The Committee would be composed of not fewer than fifty nor more than one hundred members. Ten of the members would be appointed by the President and would comprise the executive council of the Committee. The President would also appoint a Chairman and Vice Chairman of the Committee from among the executive council. The remainder of the members would be appointed by the executive council of the Committee. The executive council would establish general operating policies for the Committee and approve all grants made by the Committee. The Committee would be authorized to employ a small professional staff or obtain the services of consultants, but it is expected that the bulk of the activities of the Committee would be carried out by Committee members themselves. For each day spent on the work of the Committee, members would be compensated at a rate not to exceed that paid at level IV of the Federal Executive Salary Schedule.

Sec. 203. Functions of the Committee—

The primary functions of the Committee are set forth in Sec. 203 of the bill. These functions include (1) consulting with community leaders and local groups to assist them in preparing for the desegregation process in a manner designed to avoid community conflicts, (2) encouraging the formation of local community organizations to help the community plan for desegregation, (3) providing advice and technical assistance in this planning process, (4) consulting with various Federal agencies to determine how those agencies can assist communities in resolving problems arising during the desegregation process, (5) providing informal conciliation services among community groups, and (6) providing grants to assist in the establishment and development of such community organizations.

Sec. 204. Community Grants—

Sec. 204 authorizes the Chairman of the Committee, upon approval by the executive council, to make grants to private nonprofit community organizations in order to assist them in the initial stages of activities designed to accomplish the purposes of this Title. Grants could not exceed $30,000 and would not be available to assist the organization for more than one year. In order to approve a grant to a community organization, the executive council of the Committee would require an applicant to demonstrate that it has adequate financial or other support from the community in order to demonstrate reasonable promise of making substantial progress towards achieving the purpose of this Title.

Sec. 205. Limitations on Activities of the Committee—

Sec. 205 sets forth certain limitations on the activities of the Committee. This provision is designed to make clear that it is not the function of the Committee to (1) prepare desegregation plans, (2) provide mediation services under the order of a State or Federal court, (3) investigate or take any other action with respect to alleged violations of law, or (4) participate or assist in any administrative or judicial proceedings under State or Federal law seeking the desegregation of schools.

Sec. 206. Cooperation by Other Departments and Agencies—

Sec. 206 of the bill would direct all executive departments and agencies of the United States to cooperate with the Committee and furnish it such information, personnel and other assistance as the Committee may need to carry out its functions. This section also requires the Attorney General, the Secretary of Health, Education, and Welfare and the heads of agencies within that Department to administer programs which are designed to assist local educational agencies and communities in planning for and carrying out desegregation of schools in a manner that would further the activities of the Committee.

Sec. 207. Confidentiality—

Sec. 207 of the bill provides that members and employees of the Committee may carry out their activities in confidence. The Committee shall not disclose, or be compelled to disclose, any information which it acquires in carrying out its duties if such information was provided to the Committee upon an understanding of such confidentiality.

Sec. 208. Authorization of Appropriations—

Sec. 208 authorizes the appropriation of a total of $4 million for the Committee for the fiscal year ending September 30, 1977, and for each of the two succeeding fiscal years. Of this amount, $2,000,000 would be authorized for salaries and expenses of the Committee and $2,000,000 for making grants to community organizations.

Sec. 209. Federal Community Assistance Coordinating Committee—

Sec. 209 of the bill would create a Federal Community Assistance Coordinating Council, the purpose of which would be to provide a central point in the Federal government to assist community organizations in determining what types of Federal programs are available for activities within their communities to provide assistance for community relations projects, education programs, and other community-based efforts which would help to reduce or eliminate the misunderstanding and disorder that could be associated with school desegregation. Each Federal agency which administers programs providing such assistance would be represented on the council. These representatives of Federal agencies would be available to assist community organizations in (1) designing projects or activities that show promise of assisting in those efforts, (2) determining which Federal programs would be available for those activities, and (3) completing the necessary application forms and other prerequisites in order to expedite the availability of such Federal assistance, $250,000 would be authorized to be appropriated for this activity.

[From the Office of the White House Press Secretary, June 24, 1976]

To the Congress of the United States:

I address this message to the Congress, and through the Congress to all Americans, on an issue of profound importance to our domestic tranquility and the future of American education.

Most Americans know this issue as busing—the use of busing to carry out court-ordered assignmentment of students to correct illegal segration in our schools.

In its fullest sense the issue is how we protect the civil right of all Americans without unduly restricting the individual freedom of any American.

It concerns the responsibility of government to provide quality education, and equality of education, to every American.

It concerns our obligation to eliminate, as swiftly as humanly possible, the occasions of controversy and division from the fulfillment of this responsibility.

At the outset, let me set forth certain principles governing my judgments and my actions.

First, for all of my life I have held strong personal feelings against racial discrimination. I do not believe in a segrated society. We are a people of diverse background, origins and interests, but we are still one people—Americans—and so must we live.

Second, it is the duty of every President to enforce the law of the land. When I became President, I took an oath to preserve, protect and defend the Constitution of the United States. There must be no misunderstanding about this: I will uphold the Constitutional rights of every individual in the country. I will carry out the decisions of the Supreme Court. I will not tolerate defiance of the law.

Third, I am totally dedicated to quality education in America—and to the principle that public education is predominantly the concern of the community in which people live. Throughout the history of our Nation, the education of our children, especially at the elementary and secondary levels, has been a community endeavor. The concept of public education is now written into our history as deeply as any tenet of American belief.

In recent years, we have seen many communities in the country lose control of their public schools to the Federal courts because they failed to voluntarily correct the effects of willful and official denial of the rights of some children in their schools.

It is my belief that in their earnest desire to carry out the decisions of the Supreme Court, some judges of lower Federal Courts have gone too far. They have resorted too quickly to the remedy of massive busing of public school children; extended busing too broadly; and maintained control of schools for too long.

It is this overextension of court control that has transformed a simple judicial tool, busing, into a cause of widespread controversy and slowed our progress toward the total elimination of segregation.

As a President is responsible for acting to enforce the Nation's laws, so is he also responsible for acting when society begins to question the end results of those laws.

I therefore ask the Congress, as the elected representatives of the American people, to join with me in establishing guidelines for the lower Federal Courts in the desegregation of public schools throughout the land—acting within the framework of the Constitution and particularly the Fourteenth Amendment to the Constitution.

It is both appropriate and Constitutional for the Congress to define by law the remedies the lower Federal Courts may decree.

It is both appropriate and Constitutional

for the Congress to prescribe standards and procedures for accommodating competing interests and rights.

Both the advocates of more busing and the advocates of less busing feel they hold a strong moral position on this issue.

To many Americans who have been in the long struggle for civil rights, busing appears to be the only way to provide the equal educational opportunity so long and so tragically denied them.

To many other Americans who have struggled much of their lives and devoted most of their energies to seeking the best for their children, busing appears to be a denial of an individual's freedom to choose the best school for his or her children.

Whether busing helps school children get a better education is not a settled question. The record is mixed. Certainly, busing has assisted in bringing about the desegregation of our schools. But it is a tragic reality that, in some areas, busing under court order has brought fear to both black students and white students—and to their parents.

No child can learn in an atmosphere of fear. Better remedies to right Constitutional wrongs must be found.

It is my responsibility, and the responsibility of the Congress, to address and to seek to resolve this situation.

In the twenty-two years since the Supreme Court ordered an end to school segregation, this country has made great progress. Yet we still have far to go.

To maintain progress toward the orderly elimination of illegal segregation in our public schools, and to preserve—or, where appropriate, restore—community control of schools, I am proposing legislation to:

1. Require that a court in a desegration case determine the extent to which acts of unlawful discrimination have caused a greater degree of racial concentration in a school or school system than would have existed in the absence of such acts:

2. Require that busing and other remedies in school desegregation cases be limited to eliminating the degree of student racial concentration caused by proven unlawful acts of discrimination.

3. Require that the utilization of court-ordered busing as a remedy be limited to a specific period of time consistent with the legislation's intent that it be an interim and transitional remedy. In general, this period of time will be no longer than five years where there has been compliance with the court order.

4. Create an independent National Community and Education Committee to help any school community requesting citizen assistance in voluntarily resolving its school segregation problem.

Almost without exception, the citizens' groups both for and against busing with which I have consulted told me that the proposed National Community and Education Committee could be a positive addition to the resources currently available to communities which face up to the issue honestly, voluntarily and in the best spirit of American democracy.

This citizens' Committee would be made up primarily of men and women who have had community experience in school desegregation activities.

It would remain distinct and separate from enforcement activities of the Federal Courts, the Justice Department and the Department of Health, Education, and Welfare.

It is my hope that the Committee could activate and energize effective local leadership at an early stage:

To reduce the disruption that would otherwise accompany the desegregation process; and

To provide additional assistance to communities in anticipating and resolving difficulties prior to and during desegregation.

While I personally believe that every community should effectively desegregate on a voluntary basis, I recognize that some court action is inevitable.

In those cases where Federal court actions are initiated, however, I believe that busing as a remedy ought to be the last resort; and that it ought to be limited in scope to correcting the effects of previous Constitutional violations.

The goal of the judicial remedy in a school desegregation case ought to be to put the school system, and its students, where they would have been if the acts which violate the Constitution had never occurred.

The goal should be to eliminate "root and branch" the Constitutional violations and all of their present effects. This is the Constitutional test which the Supreme Court has mandated—nothing more, nothing less.

Therefore, my bill would establish for Federal courts specific guidelines concerning the use of busing in school desegregation cases. It would require the court to determine the extent to which acts of unlawful discrimination by governmental officials have caused a greater degree of racial concentration in a school or school system than would have existed in the absence of such acts. It would further require the court to limit the relief to that necessary to correct the racial imbalance actually caused by those unlawful acts. This would prohibit a court from ordering busing throughout an entire school system simply for the purpose of achieving racial balance.

In addition, my bill recognizes that the busing remedy is transitional by its very nature and that when a community makes good faith efforts to comply, busing ought to be limited in duration. Therefore, the bill provides that three years after the busing remedy has been imposed a court shall be required to determine whether to continue the remedy. Should the court determine that a continuation is necessary, it could do so only for an additional two years. Thereafter, the court could continue busing only in the most extraordinary circumstances, where there has been a failure or delay of other remedial efforts or where the residual effects of unlawful discrimination are unusually severe.

Great concern has been expressed that submission of this bill at this time would encourage those who are resisting court-ordered desegregation—sometimes to the point of violence.

Let me here state, simply and directly, that this Administration will not tolerate unlawful segregation.

We will act swiftly and effectively against anyone who engages in violence.

I assure the people of this Nation that this Administration will do whatever it must to preserve order and to protect the Constitutional rights of our citizens.

The purpose of submitting this leigslation now is to place the debate on this controversial issue in the halls of Congress and in the democratic process—not in the streets of our cities.

The strength of America has always been our ability to deal with our own problems in a responsible and orderly way.

We can do so again if every American will join with me in affirming our historic commitment to a Nation of laws, a people of equality, a society of opportunity.

I call on the Congress to write into law a new perspective which sees court-ordered busing as a tool to be used with the highest selectivity and the utmost precision.

I call on the leaders of all the Nation's school districts which may yet face court orders to move voluntarily, promptly, objectively and compassionately to desegregate their schools.

We must eliminate discrimination in America.

We must summon the best in ourselves to the cause of achieving the highest possible quality of education for each and every American child.

GERALD R. FORD.

THE WHITE HOUSE, *June 24, 1976.*

[From the Office of the White House Press Secretary, June 24, 1976]

FACT SHEET: THE SCHOOL DESEGREGATION STANDARDS AND ASSISTANCE ACT OF 1976

The President today is sending legislation to Congress to improve the Nation's ability to deal with elementary and secondary public school desegregation.

BACKGROUND

The proposed legislation is the result of an eight-month review of school desegregation. In November, 1975, President Ford directed Attorney General Levi and Secretary Mathews to consider ways to minimize court-ordered busing. The President also stressed the need to assist local school districts in achieving desegregation before court action commenced.

Recently, President Ford has held a series of meetings with outside sources to discuss the recommendation resulting from the review. These meetings have included school board representatives, academic and educational experts, community leaders who have dealt with desegregation on the local level, civil rights leaders, members of Congress, and Cabinet officers.

DESCRIPTION OF THE LEGISLATION

The School Desegregation Standards and Assistance Act of 1976, in order to maintain progress toward the orderly elimination of illegal segregation in our public schools, and to preserve—or, where appropriate, restore—community control of schools, would:

1. Require that a court in a desegregation case determine the extent to which acts of unlawful discrimination have caused a greater degree of racial concentration in a school or school system than would have existed in the absence of such acts;

2. Require that busing and other remedies in school desegregation cases be limited to eliminating the degree of student racial concentration caused by proven unlawful acts of discrimination;

3. Require that the utilization of court-ordered busing as a remedy be limited to a specific period of time consistent with the legislation's intent that it be an interim and transitional remedy. In general, this period of time will be no longer than five years where there has been compliance with the court order.

4. Establish a National Community and Education Committee which will assist, encourage, and facilitate community involvement in the school desegregation process. This Committee will be composed of citizens from a wide range of occupations and backgrounds, with particular emphasis on individuals who have had personal experience in school desegregation activities. Committee members will assist on request communities which are, or will be, engaged in the desegregation of their schools by sharing ideas and recommendations for anticipating and resolving conflicts.

In addition to providing advice and technical assistance, the Committee will be authorized to provide grants to community groups for the development of constructive local participation that will facilitate the desegregation process. The Committee will be composed of not less than 50 nor more than 100 members. Ten of those, appointed by the President for fixed terms, will serve as an Executive Committee and will appoint the balance of the Committee.

PURPOSE OF THE LEGISLATION: LIMITS TO BUSING

The President indicated that where Federal court actions are initiated to deal with

public school desegregation, busing as a remedy ought to be the last resort and ought to be limited in scope to correcting the effects of previous violations.

He proposes that Congress join with him in establishing guidelines for the lower Federal Courts in the desegregation of public schools.

The President also indicated his belief that each community should choose the alternative of voluntarily desegregating its public schools.

He proposes the establishment of a committee composed of citizens who have community experience in school desegregation activities and who are willing to assist other communities voluntarily desegregate their schools.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the reference as to title I, of S. 3618, the President's busing proposal, pertaining to court procedures, be referred to the Committee on the Judiciary and that the reference on title 2, for the creation of the commission, be referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, reserving the right to object, I did not hear the unanimous-consent request.

The PRESIDING OFFICER. It has to do with reference of the President's message on schoolbusing to two committees, one title to one and one to the other.

The request is that the bill be referred jointly to the Committee on the Judiciary and the Committee on Labor and Public Welfare, with Judiciary——

Mr. JAVITS. Well, Mr. President, I——

The PRESIDING OFFICER. If the Senator will suspend, with Judiciary to consider title 1 and Labor and Public Welfare to consider title 2.

Mr. JAVITS. Mr. President, I must object at the moment, and I hope the Senator will withdraw his request, because I am the ranking member of the Committee on Labor and Public Welfare, and I never heard of it.

The PRESIDING OFFICER. Objection is heard.

Mr. HRUSKA subsequently said: Mr. President, will the Senator yield for a brief unanimous-consent request?

Mr. BROCK. I yield.

Mr. HRUSKA. Mr. President, I renew my unanimous-consent request with regard to the School Desegregation Standards and Assistance Act of 1976, introduced earlier today. I ask unanimous consent that it be referred jointly to the Committee on the Judiciary and the Committee on Labor and Public Welfare. The Committee on the Judiciary is to concern itself with title I of the bill, and the Committee on Labor and Public Welfare is to concern itself with title II.

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

Mr. HRUSKA. I thank the Senator.

By Mr. STONE (for himself and Mr. MANSFIELD):

S.J. Res. 206. A joint resolution providing for a National Leadership Conference on Energy Policy to be held during 1977. Referred to the Committee on Interior and Insular Affairs.

(The remarks of Mr. STONE on the introduction of the above joint resolution are printed earlier in today's RECORD.)

ADDITIONAL COSPONSORS

S. 3239

At the request of Mr. KENNEDY, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 3239, the Health Professions Educational Assistance Act of 1976.

S. 3543

At the request of Mr. DOLE, the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 3543, the National Full Employment and Anti-inflation Act.

S. 3595

At the request of Mr. FANNIN, the Senator from North Dakota (Mr. YOUNG) was added as a cosponsor of S. 3595, the Students' Freedom of Choice Act.

S. RES. 469

At the request of Mr. HASKELL (for Mr. JACKSON), the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Resolution 469, to disapprove energy action numbered 3.

S. RES. 470

At the request of Mr. HASKELL (for Mr. JACKSON), the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of Senate Resolution 470, to disapprove energy action numbered 4.

AMENDMENT NO. 1880

At the request of Mr. BEALL, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of amendment No. 1880, intended to be proposed to the bill (H.R. 10612), to reform the tax laws of the United States.

AMENDMENT NO. 1888

At the request of Mr. MCINTYRE, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of amendment No. 1888, intended to be proposed to S. 3105, to authorize appropriations for the Energy Research and Development Administration.

AMENDMENT NO. 1902

At the request of Mr. TAFT, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of amendment No. 1902 intended to be proposed to H.R. 10612, the Tax Reform Act of 1976.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REFORM AMENDMENTS OF 1976—H.R. 10612

AMENDMENT NO. 1945

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

Mr. GARY HART. Mr. President, today Senators KENNEDY, MOSS, and I are submitting an amendment for printing to H.R. 10612, that deals with the largest single unnecessary and preventable cause of illness and early death in the United States—cigarette smoking.

The amendment provides for a graduated tax, based on the tar and nicotine content of cigarettes, which will replace the existing "flat rate" Federal excise tax on cigarettes. As proposed, the amendment will both decrease the current price of the "safest" low tar and nicotine cigarettes, and substantially increase the price of the most toxic cigarettes.

This amendment is a revised version of S. 2902, the National Health Research and Development Act of 1976. It is appropriate that the amendment be offered to the tax reform bill, because it proposes a significant reform of the Federal cigarette excise tax which has not been revised or updated since 1952. However, this reform will affect not only the cigarette tax, but more importantly the physical well-being of millions of Americans.

The health problems now facing the country as a consequence of widespread cigarette smoking are of crisis proportions. This was more than evident during the hearings on smoking and disease which were recently held by the Senate Health Subcommittee. During those hearings, all aspects of S. 2902 were discussed and our amendment has been modified to reflect much of the testimony presented. In light of the information currently available, it would be clearly irresponsible to delay implementing effective reform.

In this regard, I would like to draw the attention of my colleagues to two major reports recently released by the Department of Health, Education, and Welfare. The first, entitled "The Health Consequences of Smoking—A Reference Edition," is a compilation of reports documenting the full range of scientific data relating to the health hazards of smoking. The second report, entitled "Adult Use of Tobacco," summarizes our understanding of human behavior and attitudes related to cigarette smoking.

Mr. President, the issue of smoking and disease is extremely important. It is one that we cannot afford to ignore, either in terms of human suffering or in terms of the financial drain on our economy. The amendment which we are introducing addresses this problem directly.

For the benefit of my colleagues, I ask unanimous consent that a brief fact sheet regarding this issue and the text of the amendment be printed in the RECORD.

There being objection, the amendment and fact sheet were ordered to be printed as follows:

AMENDMENT No. 1945

At the end of the bill add the following new title:

TITLE XXII—HEALTH PROTECTION TAX ON CIGARETTES

SEC. 2201. CIGARETTE EXCISE TAX.

(a) Subsection (b) of Section 5701 of the Internal Revenue Code of 1954, as amended, (relating to the rate of tax on cigarettes) is amended to read as follows:

"(1) All cigarettes.—

"(A) Imposition of tax. There shall be imposed on every cigarette, regardless of weight, which contains—

"(i) from 10.0 to 19.9 toxic units, a health protection tax of $0.0025;

"(ii) from 20.0 to 29.9 toxic units, a health protection tax of $0.0075;

"(iii) from 30.0 to 39.9 toxic units, a health protection tax of $0.015; and

"(iv) 40 or more toxic units, a health protection tax of $0.025.

"(2) For the purposes of paragraph (1), the number of 'toxic' units in a cigarette shall be calculated as the number of milligrams of 'tar' plus 10 times the number of the milligrams of nicotine which are contained in such cigarette.

"(3) The applicable tax rate provided in paragraph (1) shall be 40 percent of such rate during the calendar year 1977, at 60 percent of such rate during calendar year 1978, at 80 percent of such rate during the calendar year 1979, and at 100 percent of such rate during the calendar year 1980 and thereafter.

"(4) Determination of 'tar' and nicotine content.—

"(A) Testing by Federal Trade Commission.—The Federal Trade Commission (hereinafter referred to as the 'Commission') shall from time to time (but at least once each calendar year) determine or cause to be determined the 'tar' and nicotine content (calculated in milligrams per cigaret) of each brand of cigarettes manufactured in or imported into the United States. The conditions, methods, and procedures for conducting such determinations shall be promulgated by the Commission in regulations issued by it for purposes of this paragraph. Until such time as such regulations are first issued, the conditions, methods, and procedures for conducting such determinations shall be those approved by the Commission for formal testing which are in effect on the date of the enactment of the Tax Reform Act of 1976.

"(B) Certification to the Secretary.—During the last calendar quarter of each calendar year, the Chairman of the Commission shall certify to the Secretary of the Treasury or his delegate, the 'tar' and nicotine content of each brand of cigarettes manufactured in or imported into the United States. Such certifications shall be used by the Secretary of the Treasury to determine the rate of tax to be imposed on cigarettes for the period beginning with the first day of the calendar year beginning after such certification is made, and during such calendar year.

"(C) The Commission and the Secretary shall promulgate regulations for the purposes of testing, certifying, and imposing taxes under this subsection on new brands of cigarettes introduced for sale.

"(b) The amendments made by subsection (a) shall apply to cigarettes which the manufacturer or importer of such cigarettes removes (within the meaning of section 5702 (k) of such Code) after the dates specified in subsection (a)(3).

"(c) The Federal Trade Commission and the Secretary of the Treasury or his delegate shall promulgate regulations for the purposes of section 5701(b) of the Internal Revenue Code of 1954, as amended, within 60 days after the date of the enactment of the Tax Reform Act of 1976.

HEALTH PROTECTION TAX ON CIGARETTES

(Background Fact Sheet)

1. *How much do Americans smoke?*

In 1975, Americans smoked over 600 billion cigarettes. This corresponds to more than 200 packs or 4,000 cigarettes per person 18 years of age and older.

2. *What are the health consequences of smoking?*

There is overwhelming evidence linking cigarette smoking to illness and early death in the United States. The death rate for cigarette smokers is more than 70% higher than for non-smokers. Cigarette smokers have 70% more heart attacks than non-smokers. Eighty percent of all lung cancers are caused by cigarette smoking. Cigarette smokers are 10 times more likely to die from lung cancer than non-smokers. Cigarette smokers are 6 to 15 times more likely to die from chronic bronchitis and emphysema and much more likely to develop many other diseases than are non-smokers. In 1976, anywhere from one-fourth to one-half million Americans will die from these smoking induced diseases.

3. *What are the health costs of smoking?*

During hearings earlier this year before the Senate Health Subcommittee, the Assistant Secretary for Health testified that these smoking induced diseases now cost the American public in excess of $11.5 billion annually. Of course, this figure does not include the cost in human misery and suffering which is incalculably greater.

4. *What is the purpose of this amendment?*

This amendment will encourage public consideration of the significant health hazards associated with cigarette smoking. By reducing the current market price of less toxic cigarettes by 8 cents per pack, an incentive will be provided to smokers to switch to less dangerous cigarettes. By increasing the tax on the most toxic cigarettes, a further incentive will be created to encourage manufacturers to develop and market less hazardous cigarettes, thereby substantially decreasing future threats to public health.

5. *How will this affect the current Federal cigarette tax?*

The Health Protection Tax is designed to replace the current federal tax on cigarettes, which has remained at 8 cents per pack (regardless of tar and nicotine content) since 1952.

6. *What are the proposed Health Protection Tax rates?*

The amendment establishes five tax brackets for cigarettes, based on tar and nicotine. Each brand of cigarettes will be taxed according to the bracket into which it falls. The lowest tar and nicotine cigarettes will be exempt from the Health Protection Tax, the highest tar and nicotine brands will be taxed at the highest rates. During 1977, the Health Protection Tax will range from zero to 20 cents per pack. By 1980, when the tax is completely phased in, the Health Protection Tax will range from zero to 50 cents per pack. Thus, in four years, the price for a pack of cigarettes will be anywhere from 8 cents less than today's price of 42 cents more as a result of this amendment.

7. *How much revenue will be generated by the Health Protection Tax?*

This will, of course, depend on the extent to which smokers switch to lower tar and nicotine brands. Assuming there is a major switch to safer cigarettes, the Health Protection Tax will generate $2.8 billion in 1977, increasing up to $5.1 billion per year by 1980. In the unlikely event that there is no switch to "safer" cigarettes, the Health Protection Tax would generate $3.1 billion in 1977 and $7.6 billion per year by 1980. In either case, the tax compares favorably with the revenue generated by the current federal tax, which is estimated to generate approximately $2.6 billion during 1976.

8. *How will the new Health Protection Tax revenues be collected?*

The Health Protection Tax will be collected and deposited in the Treasury in the same general manner as is the existing federal cigarette tax.

9. *Why does this amendment not include cigars and pipe tobacco as well?*

Pipe and cigar smokers do have a slightly higher risk of death from coronary heart disease than non-smokers, but a much lower risk than cigarette smokers. This disparity has been attributed to the lower levels of inhalation that characterize most pipe and cigar smoking. In addition, procedures for determining the tar and nicotine contents of cigar and pipe tobaccos have not been routinely established at this time. For these reasons, a Health Protection Tax on these products has not been included in this amendment.

AMENDMENT NO. 1946

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

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 1949

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

Mr. CHURCH submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 1949

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

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 1960 AND 1961

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

Mr. NELSON (for himself, Mr. HOLLINGS, Mr. MATHIAS, Mr. BROOKE, Mr. CLARK, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. KENNEDY, Mr. MONDALE, and Mr. PROXMIRE) submitted two amendments intended to be proposed by them jointly to the bill (H.R. 10612), supra.

AMENDMENT NO. 1962

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

Mr. MONDALE (for himself, Mr. NELSON, Mr. HOLLINGS, Mr. MATHIAS, Mr. BROOKE, Mr. CLARK, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. KENNEDY, and Mr. PROXMIRE) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10612), supra.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION AUTHORIZATIONS—S. 3105

AMENDMENT NO. 1947

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

Mr. ABOUREZK. Mr. President, today, I am submitting an amendment to S. 3105, the ERDA authorization bill, which would—for the first time—charge ERDA to avoid organizational conflict of interest in its contracting. This amendment results directly from 3 days of hearings which I chaired in the Energy Research and Water Resources Subcommittee last winter.

The hearings revealed that there is presently no Federal statute whatsoever concerning organizational conflict of interest in Government contracting. Similarly, neither the General Services Administration nor the Office of Management and Budget has issued any regulations or guidelines in this area. A number of agencies—including ERDA—have taken the initiative to issue regulations on organizational conflict of interest which—by these agencies' own admissions—are inadequate. The inadequacy of these regulations was demonstrated in the subcommittee hearings last winter and was confirmed in a Comptroller General opinion. The subcommittee's hearings were the first held on this subject in the Congress in 12 years.

As a concept, conflict of interest is intuitive. The Bible warns simply:

No man can serve two masters; for either he will hate the one and love the other, or else he will hold to the one and despise the others.

"Organizational" conflict is distinguished from "personal" conflict in that it applies the same conflict standards to organizations which apply to individuals.

In the early 1960's expenditures by the Federal Government for research and development grew dramatically. This growth forced the Government to review its policies with respect to this research. In 1962, a Presidential commission recommended that Federal agencies adopt codes of conduct to bar a firm from holding one contract in which it advised the Government on what type of hardware the Government should purchase and then turning around and bidding on a subsequent contract to sell the Government that same hardware. During this time there had been congressional hearings on a Ramo-Wooldridge contract by the Defense Department which involved precisely this classic conflict of interest. The direction of all Federal regulations on organizational conflict of interest promulgated since this time has been heavily influenced by this limited class of conflicts of interest.

As the Senate examines this issue, I would like to emphasize one point. Conflict of interest is measured by an objective standard. One need not find actual bias or corruption in order to establish that a conflict of interest exists. As the Supreme Court said in the Mississippi Valley case:

An impairment of impartial judgment can occur in even the most well-meaning men when their personal economic interests are affected by the business they transact on behalf of the government.

For this reason the Supreme Court concluded that the conflict of interest laws attempt to prevent honest Government agents from succumbing to temtation by making it illegal for them to enter into relationships which are fraught with temptation. As applied to Government research this means that the Government should not contract with organizations to conduct research on subjects where the organization is tempted to bias the results of the research to benefit the organizations' financial interests.

Let me briefly summarize the results of the subcommittee's hearings on this subject. In 1974, Bechtel Corp. contracted with ERDA to study the economics of coal transportation.

Bechtel initiated the contract proposal, and it was awarded without competitive bidding. After formulating a computer model of coal transportation as a part of its contracted study, Bechtel utilized the computer model in part to compare the economics of transporting coal from Wyoming to Arkansas by unit train and by the coal slurry pipeline Energy Transportation Systems, Inc., hopes to build. However, it turns out Bechtel has a 40 percent interest in ETSI. This comparison between ETSI's project and unit trains occurred during phase II of the project when a test case was selected to validate the computer model created during phase I. At the hearing I submitted for the record the actual computer printouts of this test case computer run which contains the model's "preferred solution" for transporting coal from Wyoming to Arkansas, which concludes—predictably—that ETSI's coal slurry pipeline is a cheaper way to transport this coal than unit trains.

In addition to discussing the relationship between the Bechtel study and the ETSI proposal, witnesses at the hearing disclosed the following facts: First, Mr. Thomas Aude, of Bechtel, had eight billable hours working on those parts of the ERDA contract which relate to coal slurry pipelines at the same time he worked for ETSI; second, at the same time Bechtel's Scientific Development Operation and Pipeline and Production Services Division were performing the ERDA contract, these same Bechtel divisions were preforming a contract which Bechtel had concluded with ETSI to evaluate its pipeline proposal; and third, Bechtel personnel working on the ERDA contract demonstrated their interest in informing ETSI of the nature of the ERDA study by formally inviting ETSI to a briefing on the study.

On the basis of these facts and others in the record, I have concluded that the Bechtel's ERDA contract involved a conflict of interest due to its relationship to ETSI's pipeline proposal. The Comptroller General concluded that the actions of Bechtel and the Government were at least "somewhat questionable."

This type of conflict of interest is endemic in Government contracting. Example after example of such conflicts are described in "The Shadow Government," a recent book by Daniel Guttman. It is time that the Congress focused on this problem.

This amendment to the ERDA authorization bill is a modest beginning but would substantially improve current policies in this field. Because there is presently no statement of congressional policy in the field, this ERDA amendment will serve as a prototype for future efforts by Congress to prevent organizational conflicts of interest.

The ERDA amendment's definition of organizational conflict of interest, (g) (2) (A) and (B), is taken verbatim from present ERDA regulations. It would bar the award of contracts to organizations which "may be unable to render impartial, technically sound, or objective assistance or advice due to its other activities or its relationships with other organizations or would be given an unfair competitive advantage." This is meant to be a broad delegation of authority to ERDA. A narrower definition of conflict of interest might unduly restrict the agency.

However, this broad definition will be applicable to a wider range of contracts than is presently the case because, first, it applies to both advertised and negotiated contracts; second, a conflict is defined as arising with the presence of either bias or unfair competitive advantage; and third, the agency may not waive application of the conflict standard. In all three of these respects, the amendment goes beyond present ERDA regulations and serves fundamentally to broaden the impact of the conflict of interest principle. By presently limiting the application of this principle to a narrow range of contracts, ERDA frustrates effective implementation of the principle.

Furthermore, section (g) (3) requires—for the first time—disclosure by the contract applicant of potential conflicts of interest. Incredibly, ERDA presently requires no disclosure by a contract applicant of a conflict of interest, even if the applicant if fully aware of the conflict. These parts of the applicant's disclosure statement which are not privileged would be published for comment.

Section (4) requires ERDA to investigate for conflicts of interest any successful bidder or applicant. Such investigations would not be required of all bidders, only the one which is successful. No such investigation is presently required.

Sections (5)and (6) require ERDA to issue regulations and set the effective date of the provisions.

Imposing these simple requirements on ERDA will in no way delay or complicate ERDA's procurement process. This amendment provides no additional standing on any party to challenge ERDA's contracting process. It will, however, clearly notify ERDA that Congress wants that agency to strenghten its present program for the avoidance of organizational conflict of interest.

I ask unanimous consent that the following materials be printed in the RECORD:

First. Correspondence I have had with ERDA and the Department of the Interior regarding their regulations on organizational conflict of interest;

Second. The Comptroller General's opinion on the ERDA/Bechtel coal slurry contract; and

Third. Present ERDA regulations on organizational conflict of interest.

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

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., January 20, 1976.

Mr. H. GREGORY AUSTIN,
Solicitor, Department of the Interior, Washington, D.C.

Mr. R. TENNEY JOHNSON,
General Counsel, Energy Research and Development Administration, Washington, D.C.

DEAR SIRS: During your agencies' appearances before the Subcommittee on Energy Research and Water Resources on November 17, 1975, I stated that I would be sending suggestions for revisions in your regulations for the avoidance of organizational conflict of interest. My suggestions are enclosed, together with a copy of the testimony of Mr. Gilbert Cuneo, given on November 21 before the Subcommittee, which will be helpful as background.

Several points are fundamental to understanding the thrust of these suggestions. First, I believe the orientation of your present regulations is insufficiently flexible in one crucial respect. In effect, they define and recognize the existence of a conflict of interest only if it is sufficient to require inclusion of a hardware exclusion clause. In effect this approach defines conflict of interest in terms of whether one particular remedy is appropriate. This results, if you will, in the tail wagging the dog. This approach necessarily

leads your agencies to ignore the existence of conflicts of interest with respect to which inclusion of a hardware exclusion clause is not appropriate. For example, inclusion of such a clause is presently not appropriate if there is no follow-on procurement contract or if a contract is awarded on a sole-source basis. However, it is clear from the Subcommittee's hearings that organizational conflict of interest may exist even if there is no follow-on procurement contract and even if a contract is awarded on a sole-source basis. Therefore, I believe it makes no sense to define conflict of interest in terms of whether a hardware exclusion clause is appropriate. Rather, one must first determine—as per my suggestion—whether a conflict of interest exists, from whatever cause; and then determine the appropriate remedy, whether it be an exclusion clause or otherwise. This two step analysis will necessarily broaden your agencies' sensitivities to the existence of a conflict of interest, while also broadening your efforts to fashion an appropriate remedy.

Second, in terms of defining conflict of interest, I do not find your present regulations inadequate if it is made clear that a conflict may exist whenever a contractor's judgment or performance may be biased, even if there is no resulting competitive disadvantage. This point is made clear when conflict of interest is no longer, in effect, defined in terms of whether a hardware exclusion clause is warranted. By making it clear that conflicts of interest may exist even though an exclusion clause is not appropriate, it is also made clear that the two avowed purposes of your conflict regulations—protection of the government and protection of competitors—are fully independent and sufficient grounds upon which to take corrective action.

Third, when determining whether a contractor's judgment or performance may be biased, it is clear that the main focus should be on determining whether the contractor has some special and unique interest which creates divided loyalties. However, as I have stated in Section A(2), I also believe a conflict may arise even if the contractor receives no more benefits than any other contractor in the same industry. The point I am making is that industries—as well as the individual contractors within an industry—have special interests which may create a conflict of interest on the part of any contractor within that industry. This observation is certainly relevant to the decade-long debate over the appropriate government policy towards in-house research and non-profit contractors, however, I believe that in terms of your regulations it may be sufficient to incorporate my observation without directly engaging in the larger debate.

Fourth, because of the approach taken in my suggestions it will substantially broaden the number of contracts with respect to which a conflict will be noted, I recognize that under exceptional circumstances it may sometimes be necessary and in the public interest to award contracts despite the existence of a conflict. I have provided some guidelines for determining whether the tests of necessity and public interest have been met. If a contract is then awarded despite a conflict, I have set forth certain disclosures to be made of the conflict prior to and at the time the award is made and in all resulting work products. By remaining flexible as to the remedy which will be imposed once a conflict is noted—even to the point of selectively awarding contracts despite the existence of a known conflict—there will no longer be so much incentive to avoid an initial finding that a conflict, in fact, exists.

I have drafted these suggestions to emphasize a two step procedure because I am confident that ample recognition of the existence of a conflict will result in substantial and imaginative efforts to avoid that conflict. I am equally confident that where a conflict remains significant even after avoidance techniques have been employed, the government will choose in most cases not to award a contract and proceed to satisfy its needs without resorting to procurement. However, I emphasize that without an initial recognition of the existence of a conflict, no effort whatever will ensue to avoid it.

I know that your agency will be receptive to these suggestions and that revision of your regulations will substantially reduce the incidence of organizational conflict of interest. Because I understand that the General Services Administration shortly will be issuing its first regulations in this area, I have also sent them a copy of this letter. I am, however, also considering the desirability of introducing legislation in the area.

I request that you prepare a detailed evaluation of my suggestions by February 13, 1976. If you have any questions, please feel free to contact me directly or contact Chuck Ludlam at 224-4434.

Sincerely,

JAMES ABOUREZK.

[Attachment.]

PRINCIPLES OF CONFLICT OF INTEREST

The following outline presents principles to be incorporated in regulations for avoidance of organizational conflict of interest. These statements of principle are not drafted in language appropriate for adoption as a regulation. Accordingly, all discussions of these principles should focus on the ideas expressed rather than on language or form.

This outline makes a clear distinction between the issues of (1) whether a conflict of interest exists, and (2) the appropriate steps to be taken to avoid the conflict.

A. DETERMINATION OF EXISTENCE OF A CONFLICT OF INTEREST

(1) An independent purpose of conflict of interest regulations is to avoid a conflict which may affect the capacity of a contractor to render impartial, technically sound, and objective assistance and advice to the government. The government's interest in receiving such assistance and advice is fully sufficient to justify government action to avoid a conflict of interest, even through competitors of the contractor are in no way affected by the conflict. Therefore, a conflict of interest may exist even if a contract is awarded on a sole source basis or there is no follow-on procurement contract.

(2) A conflict of interest may exist whenever a contractor may receive benefits from the contract beyond those specified in the contract. A conflict may arise from benefits which later accrue to the industry of which the contractor is a part even if the contractor itself receives no more benefits than any other contractor in the industry. It makes no difference whether the benefits are later to be awarded or conferred by the government or whether they arise in the contractor's dealings in the private sector. Interests which create a conflict may include prior and prospective interests as well as current interests. Under exceptional circumstances a conflict may arise from benefits which are not directly financial in character. Whether or not the particular benefits which accrue to a contractor raise a conflict of interest is a determination primarily related to whether the benefits which accrue to the contractor would accrue to any organization or individual performing the contract or whether they accrue to some special degree to a particular contractor or industry because of interests of that particular contractor or industry. Such a determination can be made only after a complete investigation and analysis of the nature of the contract and of the benefits and the relationship of such benefits to the performance of the contract.

(3) The receipt by a contractor of certain types of special benefits is presumed to raise a conflict of interest. Includeo among the special benefits raising such presumption are the following:

(a) permitting a contractor to bid on a government procurement contract, the nature of which may be or is determined in whole or in part by the results of an earlier contract performed by the same contractor; or

(b) a contractor performing a research contract which requires an evaluation of the efficiency or performance of facilities or technology in which the contractor has or may have a financial interest.

(4) Where the result of a contract may have an effect on the direction of government policy in a way which benefits the contractor, a conflict of interest may exist even though the contract results do not absolutely assure the ultimate direction of the government policy. In other words, government regulations should recognize that the capacity of a contractor to render impartial, technically sound, and objective assistance and advice may be affected if the contractor perceives that the contract results may have a partial effect on subsequent government decision-making. Furthermore, a conflict of interest may arise where a contract which is awarded by one agency may have an effect on the direction of another agency's policy in a way which benefits the contractor.

(5) When determining whether a contractor has a conflict of interest, the interests of the directors of the contractor should be given equal weight with the interests of the contractor itself.

(6) The way in which the contractor intends or may make use of the work product of a contract determines whether or not a conflict of interest exists, even though it may not be the government's intention or practice to use the contract work product in that particular way.

(7) Because the purpose of conflict of interest regulations is to prevent even the temptation for bias, it is not relevant to any determination regarding the existence of a conflict of interest that the government later can identify and neutralize any bias affecting the work product of the contract. Similarly, it is not relevant that the contractors has the professional reputation of being able to resist temptations such as arise from a conflict of interest.

(8) All contract applicants should be required to affirmatively disclose to the agency the existence of any potential conflict of interest. Such applicants must also furnish a complete list of prior, current, and prospective clients as well as a description of the work performed. Similarly all government contract officers should be required to investigate the contract applicant for any possible conflict of interest. The agency shall take steps to assure that disclosure of any of this information provided by the contractor respects any legitimate need for privacy on the part of the applicant.

(9) Disclosure requirements and investigation should be especially rigorous if the contract proposal was unsolicited by the government because unsolicited proposals are by their nature more likely to reflect the interests of the company making the proposal.

(10) The existence of a conflict of interest is more likely to be disclosed if a contract award is based on competitive bidding. For this reason government regulations should emphasize that unsolicited proposals should be awarded to the company making the proposal on a sole source basis only if competitive bidding is clearly inappropriate.

B. ACTION TO PREVENT OR NEUTRALIZE A CONFLICT OF INTEREST

(1) When a conflict of interest is found to exist, the government should attempt to fashion a contract clause to bar the flow of benefits—whatever they might be—to the contractor which create the conflict. In-

cluded among the clauses which may serve this purpose are hardware exclusion clauses, clauses requiring the contractor to divest the conflicting interests or clauses which prevent any overlap of personnel or reliance on data which creates the conflict. As one method for neutralizing a conflict of interest, the government may consider awarding overlapping contracts to each of several organizations with differing or competing interests.

(2) If it is not possible for the government to fashion an effective contract clause or award overlapping contracts which prevents or neutralizes a conflict of interest, the government should thoroughly evaluate whether the advice and assistance may be obtained without awarding a contract.

(3) If the government determines it must award a contract, the government may not award the contract to an organization with a conflict, unless (a) all feasible and prudent steps have been taken to avoid the conflict, (b) no other organization or combination of organizations are capable of performing the contract without an equivalent conflict of interest, (c) no other organization is unfairly disadvantaged, (d) the nature of the conflict is disclosed for public comment in advance of the contract award, at the time the contract is awarded, and in all of the work product of the contract,[1] and (e) the General Counsel of equivalent officer of the department or agency expressly approves the awarding of the contract as being necessary and in the public interest.

(4) If a contract applicant fails to disclose a conflict of interest known to it at the time the contract is awarded and if this conflict is later discovered by or brought to the government's attention, the government should be empowered to bar the flow of special benefits to the contractor or take other steps to neutralize the conflict, even though no benefits exclusion or other clause initially was written into the contract. The government should seek to impose other penalties on the contractor as appropriate.

(5) If, during the performance of a contract, a conflict of interest arises due to circumstances not foreseeable when the contract was awarded, the government should formally evaluate whether the conflict of interest may so affect the capacity of the contractor that unilateral termination of the contract by the government is warranted.

(6) Standing should be given to competitors or other interested parties to challenge the awarding of a contract on the basis that regulations on conflict of interest have been violated. Procedures should be adopted so that any such challenge will be expeditiously resolved.[2]

U.S. ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION,
Washington, D.C., February 20, 1976.

Hon. JAMES ABOUREZK,
Senate Committee on
Interior and Insular Affairs.

DEAR SENATOR ABOUREZK: Thank you for your thoughtful letter dated January 20, 1976, requesting my comments on suggested revisions in ERDA regulations governing the avoidance of organizational conflicts of interest.

Your suggestions raise certain fundamental questions that could have far-reaching consequences not only for ERDA's procurement practices but for procurement throughout the Federal Government. Accordingly, I have taken the liberty of forwarding a copy of your letter for study and review to those agencies directly concerned with overall Federal procurement policy, namely, the General Services Administration, the Office of Federal Procurement Policy, and the Armed Services Procurement Regulations Committee.

However, I should like to offer some preliminary thoughts I have in regard to your suggested revisions. In general, I believe that the present ERDA regulations for avoidance of organizational conflicts (Part 9.154, copy enclosed for your convenience), while they might be improved as discussed briefly below, are basically sound. Starting from the premise that there are a myriad number of situations that might present an actual or potential conflict of interest, ERDA's regulations are based on two fundamental and separate principles: first, that prospective contractors should not be placed in a position where the circumstances would hamper their unbiased and objective advice or assistance; or, second, where the award of a contract would, by reason of extrinsic facts, give them an unfair competitive advantage.

Since not all actual or potential conflict cases can be clearly identified in advance, it must be recognized that the application of the basic principle—preventing actual or potential bias in the contractor's judgment or unfair competitive advantage or both—will ultimately depend on the exercise of good judgment by procurement officials in the light of all the facts to the extent that they are or can be known.

It is in this latter regard, the fullest knowledge of the facts and circumstances bearing upon the conflicts question, where I believe a positive step forward can be taken as suggested by one of your recommendations. That is to say, it would, as you suggest, be helpful to require affirmative disclosure by contract applicants for conflicts purposes. Just how such disclosure should be made—perhaps for example, by way of a blanket certification similar to that of the certification or representation regarding small business status or contingent fees; or by way of a detailed statement of financial interests similiar to those currently required of higher grade Government employees and consultants and advisors—is something that will require careful study. Similarly, the proper evaluation of any disclosure reports or filings would require a detailed review by knowlegeable Government personnel (technical assessment; legal staff; economists and accountants) that could add substantially to the overall time frame for the procurement process, especially in the case of large dollar-volume contracts involving research and development aimed at advancing the state of the art in the entire spectrum of energy technologies (solar, geothermal, fossil, nuclear, etc.) with an attendant unavoidable delay, which may well not be in the Government's best interest under some circumstances.

I can certainly agree, too, that competitive procedures are better than sole-source awards as a means of minimizing conflicts of interest, as pointed out in one of your suggestions. We at ERDA are emphasizing to all our contracting personnel the need for increasing competition in obtaining contractor assistance of all types.

On the other hand, some of your recommendations appear to me to be based on a misunderstanding of our current regulations. For example, your letter states that our regulations "define and recognize the existence of a conflict of interest *only* if it is sufficient to require the inclusion of a hardware exclusion clause" (italic supplied). You will note in this regard that our regulations provide in pertinent part:

"The general policy [of preventing bias and unfair competitive advantage] cannot be automatically or routinely implemented; the application of considered judgment is necessary if that policy is to be applied in an effective, workable manner. The following sections provide guides for the application of the general policy in specific situations. However, contracting and program officials should be alert to other situations which may warrant application of the general policy." (§ 9-1.5406(c))

As I also pointed out in my prepared statement submitted to your Subcommittee on November 17, 1975 (copy attached, page 3), a restriction on follow-on procurement is merely one tool, apart from not letting the contract to a particular firm, which may be used to accomplish the paramount objective of preventing biased judgment by or unfair competitive advantage to the contractor. Again, in the case of unsolicited proposals, I pointed out that the ERDA staff review procedure is designed to determine whether a potential conflict exists and, if so, whether the conflict shall be resolved "either by not awarding the contract or by adding properly drawn restrictions against future procurements in defined areas." (Page 8)

You note in your letter, "I do not find your [ERDA] present regulations inadequate *if it is made clear* that a conflict may exist whenever a contractor's judgment or performance may be biased, even if there is no resulting competitive disadvantage." (italic supplied) I submit that our regulations do, in fact, make this distinction.

Some of your recommended revisions or principles appear to me to pose substantial problems of interpretation and application. For example, under your principle designated A.(6), it is stated that "the way in which the contractor *intends* or may make use of the work product of a contract determines whether or not a conflict of interest exists, even though it may not be the Government's *intention* or practice to use the contract work product in that particular way." (italic supplied) In my view, to predicate a finding of conflict on the contractor's "intent" (assuming that such intent could be inferred from facts *preceding* an award), in contradistinction to the Government's "intention", is to introduce an extraneous and misleading element into the entire process of avoidance of conflicts. Whether a contractor has or may have bias or unfair advantage should depend on an objective evaluation by the Government of all the known facts and circumstances, and no element of "intent" (on the part of the contractor or Government) need come into play.

I am particularly concerned about the concept that a conflict of interest may be found where (your principles designated A(2)) "benefits . . . later accrue *to the industry* of which the contractor is a part *even if the contractor itself* receives no more benefits than any other contractor in the industry" (italic supplied). To promulgate this concept as a fundamental principle for conflicts avoidance would, I believe, be inconsistent with the declared Congressional policy governing ERDA's mission under its organic Acts (Energy Reorganization Act of 1974, P.L. 93-438; Federal Nonnuclear Act, P.L. 93-577), and it would thwart ERDA from accomplishing its mission. Under the cited Acts, ERDA is charged with carrying out a broad range of research and development programs to explore and utilize all forms of energy. The ultimate objective is to make all energy sources (fossil, nuclear, solar, geothermal) *commercially* available for the national well-being and security. Therefore, if ERDA, in letting a research and development for solar energy application to company A, were to be precluded from such an arrangement because "the industry of which [company A] is a part," would benefit—a fundamental purpose of the aforementioned Acts—then clearly this agency could not operate to accomplish the tasks mandated by the Congress. I therefore, believe such a test as you have proposed of "benefit to industry" is at war with declared Congressional intent set forth in our organic Acts and is unworkable.

Lastly, I disagree with the concept—inherent in your proposals—that if a contrac-

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[1] All reports or other work product authored or substantially authored by contractors should be clearly identified as such, whether or not a conflict exists.

[2] Congressional action would be needed to fully implement this proposal.

tor has any conceivable self-interest in the outcome of the contract in terms of benefiting from possible future governmental action, the contract should not be awarded or should be avoided. There is a spectrum of situations in which possible future benefits to the contractor may be inferred. Not all of them, in my view, call for avoiding the contract.

In the first place, one of the incentives inherent in any contract is a possible future benefit to be derived from performance of the work. The development contractor, for example, hopes for a future production contract (either from the Government or possible commercial customers) and, depending on the complexity of the developed item, has a built-in advantage for such a contract over possible competitors. (I agree that the Government should do everything possible to bring in competition for such contracts as early as possible.) Such an advantage is recognized as fair and not a "conflict of interest."

This is near one end of the spectrum of situations; toward the other end is the situation where a contractor is to prepare a work plan or a specification. The possibility of favoring one's own product in this situation is real and should generally be avoided. Even here, however, the possibility of conflict of interest, while real, may nonetheless be mitigated by subsequent independent reviews and testing of the contractor's actual work product. Here your concept of "overlapping awards"—separate contracts for portions of the overall work product—may have some useful application. While it is difficult to articulate the specific point on this spectrum where permissible contracts cross over to impermissible ones, certainly a crucial factor in judging on these matters is the relative predictability that the contract results will be used in the manner reasonably envisaged by the contractor.

The conclusion which I draw from all this is that Government contracting officials must ever be alert to the potential for organizational conflicts of interest and must be prepared, as provided for in our regulations, to exercise their best judgment in the light of the basic principles of avoiding bias in work product or preventing unfair competitive advantage and in the light of all the facts in each specific situation.

I trust that the foregoing preliminary thoughts and comments will be helpful to your Subcommittee. Please let me know if I can provide further information.

Sincerely,

R. TENNEY JOHNSON,
General Counsel.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
February 20, 1976, Washington, D.C.

Hon. JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: This refers to your letter of January 20, 1976, and the attached "Principles of Conflict of Interest" addressed to the General Counsel of ERDA and myself, in which you bring to our attention your thoughts and suggestions for consideration in revising our regulations relating to the avoidance of organizational conflicts of interest. You have asked for our evaluation of your suggestions.

I would like to thank you for your interest in the Department with regard to this matter.

Before considering specific items, there are several observations I would like to make. A number of your suggestions present novel approaches and raise broad policy considerations that are of general concern to at least those Government agencies with contracting programs. The establishment of a broad Government-wide policy is, of course, outside the scope of this Department's authority. Such authority is vested in the General Services Administration which has the responsibility for promulgating the Federal Procurement Regulations (FPRs), the Office Federal Procurement Policy (OFPP) within the Office of Management and Budget, and the Armed Services Procurement Regulation Committee (ASPR). As you are aware, the FPR Committee in GSA is presently developing a regulation on avoidance of organizational conflicts of interest. In this context my remarks relate solely to the position of this Department and do not constitute the official position of the Executive Branch on this subject.

One of the most difficult issues to be resolved in formulating a policy on organizational conflicts of interest is the establishment of an adequate definition of what constitutes such a conflict. Subparagraphs (2), (3) and (4) of Section A of the attachment to your letter address this issue, focusing primarily on the avoidance of benefits to a contractor. In my opinion further refinement is still required lest by overzealousness we inhibit the incentive of contractors to do business with the Government. In this regard, I believe that more than simply benefits to a contractor must be identified in reaching the determination of the existence of an organizational conflict of interest. There must also be considered whether there is an adverse impact on the Government as the result of those benefits. To the extent that benefits can be categorized as placing a Government contractor in a position where it has an unfair competitive advantage or if a contractor's interests are such that there would be a justifiable basis for assuming that such a contractor's work product will be biased or otherwise prejudiced, then I agree there must be adequate safeguards to protect the Government's interests. I would not at this time be inclined to limit benefits flowing to a Government contractor beyond these general parameters.

While the suggestion in subparagraph (5) of Section A of the attachment, that the interests of the directors of a company should be given equal weight with the interest of the contractor in determining organizational conflicts of interest, has merit as an abstract principle, I believe the implementation of such a standard poses substantial problems which require further study and consideration. One item that will have to be considered is the definition of the type of interests of the director of a company that will constitute an organizational conflict for the company itself. A related question is, should the interests of officers of the company and major stockholders also be included in the determination? In addition there are practical problems related to the gathering of information on the interests of the individuals within the corporation, and in evaluating such information. Should the Government require a corporation to gather disclosure statements from its employees? Should the corporation or the Government, or both, analyze the information? Who, and how with any degree of certainty and reasonableness, should make the decision as to whether an individual's private interest constitutes an organizational conflict on the part of the corporation? Consideration will also have to be given to such questions as should there be a right of appeal for either or both the individual and the corporation; who would hear the appeal and the procedures that will have to be established to handle the appeal; all impacting upon the manpower constraints under which we all operate and the need to expeditiously handle the business of the Government.

The suggestion in subparagraph (6) of Section A of the attachment would require the procurement activity to predict during the contractor selection process whether the work product of the contract will constitute an organizational conflict of interest for the contractor at some undefined future time. I believe that in most instances this will constitute an unreasonable burden since adequate information will not be available to the procurement activity at the time of contractor selection to make this type of a determination.

The suggesion which is implicit in subparagraph (8) of Section A, that there should be fuller disclosure requirements on the part of contractors to assist the Government in making a determination as to whether there is an organizational conflict of interest, has merit and should be explored further. However, I anticipate that there will be considerable difficulty in drafting a provision that will be sufficiently definitive and yet broad enough to accomplish the objective of requiring a contractor to affirmatively disclose a potential conflict of interest.

Subparagraphs (9) and (10) of Section A deal with unsolicited proposals. In many instances companies expend considerable time and effort in preparing unsolicited proposals. These proposals are, of course, submitted by companies with the hope and expectation that their efforts will be rewarded with Government contracts. Frequently, an unsolicited proposal will contain a company's proprietary data and information. Unsolicited proposals are also a valuable resource to this Department, as well as other Government agencies.

In formulating any type of policy that restricts the award of contracts to firms submitting unsolicited proposals, there must be a careful balancing that takes into consideration the various factors enunciated in the preceding paragraph. This Department has already issued a regulation which defines the findings and justifications that are required before a noncompetitive award may be made on the basis of an unsolicited proposal. (See the recent additions to 41 CFR 14–3, 40 Federal Register 39864, August 29, 1975.)

Your suggestions would add a new dimension to the above restrictions—vigorous disclosure requirements and investigations of unsolicited proposals to determine organizational conflicts of interest. If such a procedure were adopted it might inhibit a valuable resource to the Department, as well as adding sizeable administrative costs. Therefore, I would urge that any policy change of this type be coordinated with the entities responsible for establishing an overall Government policy in this area.

With respect to Section B of the attachment which is entitled "Action to Prevent or Neutralize a Conflict of Interest," I believe the fashioning of appropriate safeguards must be on a case-by-case basis after analysis and determination of the nature of the organizational conflict of interest presented. The inclusion of a hardware exclusion clause in the follow-on procurement type of situation is one such remedy which has been used by this Department in a number of instances. (A list of those procurements where this type of clause has been used has already been furnished to your office.) The Department will, of course, continue to use hardware exclusion clauses in appropriate cases. Subparagraph (1) of Section B also refers to clauses which require the contractor to divest the conflicting interest; clauses which prevent any overlap of personnel or reliance on data which creates the conflict and awarding overlapping contracts to neutralize an organizational conflict of interest. Subparagraphs (2), (3), (4), and (5) of Section B describe the steps that should be taken if the Government cannot draft an adequate clause to deal with an organizational conflict of interest. All of your suggestions may have merit, however, it is not possible for me to evaluate the appropriateness of these suggestions without having specific factual situations before me.

In regard to subparagraph (6) of attachment B, there already exists an established

procedure whereby the General Accounting Office (GAO) considers organizational conflict of interest issues. If those procedures are considered inadequate then I agree that some other or additional procedures should be provided.

Sincerely yours,

H. GREGORY AUSTIN.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., February 27, 1976.

Mr. R. TENNEY JOHNSON,
General Counsel, Energy Research and Development Administration, Washington, D.C.

DEAR MR. JOHNSON: This refers to your February 20, 1976, reply to my letter of January 20, 1976, regarding your agency's regulations for the avoidance of organizational conflict of interest.

In certain respects your letter failed to comment directly on the conflict of interest principles set forth in my letter. So that I may understand your Department's position with respect to each of the principles which I proposed, would you please give me separate and specific answers to each of the following ten questions:

1. Does your Department agree that in implementing your Department's conflict of interest regulations, a clear distinction should be made between (a) whether a conflict of interest exists and (b) the appropriate steps to be taken to avoid any conflict, and if not, why not?

2. Does your Department agree that a conflict of interest may exist where the results of a contract have an effect on the direction of government policy in a way which benefits the contractor, even though the contract results do not absolutely assure the ultimate direction of that government policy, and if not, why not?

3. Does your Department agree that a conflict of interest may arise where the results of a contract awarded by one agency have an effect on the direction of another agency's policy in a way which benefits the contractor, and, if not, why not?

4. Does your Department agree that a conflict of interest may exist where it knows that a contractor will receive benefits from the contractor's use of the work product of a contract, even though such use is not that which the government will make of the results, and if not, why not?

5. Does your Department agree that because the purpose of conflict of interest regulations is to prevent even the temptation for bias on the part of a contractor, it is not relevant to any determination regarding the existence of a conflict that the government may later attempt to identify and neutralize any bias affecting the work product of the contract, and, if not, why not?

6. Does your Department agree that in determining whether a conflict of interest exists it is not relevant that a contractor has the professional reputation of being able to resist temptations such as arise from a conflict of interest, and if not, why not?

7. Does your Department agree that unsolicited proposals are by their nature more likely to involve a conflict of interest on the part of the company making the proposal than is the case with a contract proposal initiated by the government, and if not, why not?

8. Does your Department agree that disclosure requirements for contractors awarded sole-source contracts resulting from an unsolicited proposal should be no less extensive than for contractors awarded contracts on the basis of competitive bidding and not resulting from an unsolicited proposal, and if not, why not?

9. Does your Department agree that if a contract applicant fails to disclose a conflict of interest known to it at the itme the contract is awarded and if this contract is later discovered by or brought to the government's attention, your Department has the power at least to disqualify that contractor from bidding on a follow-on procurement contract, and if not, why not?

10. Does your Department agree that standing should be given to competitors or other interested parties to challenge the awarding of a contract on the basis that regulations on conflict of interest have been violated, and if not, why not?

Because your Department has already fully considered the matters addressed in these questions in responding to my January 20, 1976, proposals, would you provide your answers to me by Friday, March 5. Printing of the transcript of the Subcommittee's Bechtel hearings will be delayed if your answers are not submitted to me by that date.

Please contact Chuck Ludlam at 224-4434 if you have any questions regarding this letter.

Sincerely,

JAMES ABOUREZK.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., February 27, 1976.

Mr. H. GREGORY AUSTIN,
Solicitor, Department of the Interior, Washington, D.C.

DEAR MR. AUSTIN: This refers to your February 20, 1976, reply to my letter of January 20, 1976, regarding your agency's regulations for the avoidance of organizational conflict of interest.

In certain respects your letter failed to comment directly on the conflict of interest principles set forth in my letter. So that I may understand your Department's position with respect to each of the principles which I proposed, would you please give me separate and specific answers to each of the following fifteen questions:

1. Does your Department agree that in implementing your Department's conflict of interest regulations, a clear distinction should be made between (a) whether a conflict of interest exists and (b) the appropriate steps to be taken to avoid any conflict, and if not, why not?

2. Does your Department agree that a conflict of interest may exist even if there is no follow-on procurement contract, and if not, why not?

3. Does your Department agree that a conflict of interest may exist even if a contract is awarded on a sole-source basis, and if not, why not?

4. Does your Department agree that a conflict of interest may exist if a contractor's interests are such that there would be a justifiable basis for assuming that such a contractor's work product will be biased or otherwise prejudiced, even if the contractor is not placed in a position where it has an unfair competitive advantage, and if not, why not?

5. Does your Department agree that a conflict of interest may arise from benefits which later accrue to the industry of which the contractor is a part even if the contractor itself receives no more benefits than any other contractor in the industry, and if not, why not?

6. Does your Department agree that a conflict of interest may exist where the results of a contract have an effect on the direction of government policy in a way which benefits the contractor, even though the contract results do not absolutely assure the ultimate direction of that government policy, and if not, why not?

7. Does your Department agree that a conflict of interest may arise where the results of a contract awarded by one agency have an effect on the direction of another agency's policy in a way which benefits the contractor, and if not, why not?

8. Does your Department agree that a conflict of interest may exist where it knows that a contractor will receive benefits from the contractor's use of the work product of a contract, even though such use is not that which the government will make of the results and if not, why not?

9. Does your Department agree that because the purpose of conflict of interest regulations is to prevent even the temptation for bias on the part of a contractor, it is not relevant to any determination regarding the existence of a conflict that the government may later attempt to identify and neutralize any bias affecting the work product of the contract, and if not, why not?

10. Does your Department agree that in determining whether a conflict of interest exists it is not relevant that a contractor has the professional reputation of being able to resist temptations such as arise from a conflict of interest, and if not, why not?

11. Does your Department agree that unsolicited proposals are by their nature more likely to involve a conflict of interest on the part of the company making the proposal than is the case with a contract proposal initiated by the government, and if not, why not?

12. Does your Department agree that disclosure requirements for contractors awarded sole-source contracts resulting from an unsolicited proposal should be no less extensive than for contractors awarded contracts on the basis of competitive bidding and not resulting from an unsolicited proposal, and if not, why not?

13. Does your Department agree that the existence of a conflict of interest is more likely to be disclosed if a contract award is based on competitive bidding, and if not, why not?

14. Does your Department agree that if a contract applicant fails to disclose a conflict of interest known to it at the time the contract is awarded and if this contract is later discovered by or brought to the government's attention, your Department has the power at least to disqualify that contractor from bidding on a follow-on procurement contract, and if not, why not?

15. Does your Department agree that standing should be given to competitors or other interested parties to challenge the awarding of a contract on the basis that regulations on conflict of interest have been violated, and if not, why not?

Because your Department has already fully considered the matters addressed in these questions in responding to my January 20, 1976, proposals, would you provide your answers to me by Friday, March 5. Printing of the transcript of the Subcommittee's Bechtel hearings will be delayed if your answers are not submitted to me by that date.

Please contact Chuck Ludlam at 224-4434 if you have any questions regarding this letter.

Sincerely,

JAMES ABOUREZK.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION,
Washington, D.C., March 24, 1976.

Hon. JAMES ABOUREZK,
Senate Committee on Interior and Insular Affairs.

DEAR SENATOR ABOUREZK: ERDA is pleased to reply to your specific questions in the order stated in your letter of February 27, 1976.

1. Question. Does your Department agree that in implementing your Department's conflict of interest regulations, a clear distinction should be made between (a) whether a conflict of interest exists and (b) the appropriate steps to be taken to avoid any conflict, and if not, why not?

Answer. ERDA agrees that the two questions are distinct and sequential. However, they are also interrelated and must not be considered in isolation from each other. Further, each of the questions has a number of divisions. For example, is the conflict of interest actual or hypothetical, is it significant, can it be mitigated by steps taken either during or after the contract? Resolution of these matters requires consideration of the entire context rather than approaching the problem solely as a two-step process.

2. Question. Does your Department agree that a conflict of interest may exist where the results of a contract have an effect on the direction of government policy in a way which benefits the contractor, even though the contract results do not absolutely assure the ultimate direction of that government policy, and if not, why not?

Answer. A conflict of interest may or may not exist in the situation posed. Whether the conflict exists depends on the specific facts of the situation. The predictability of the beneficial result to the contractor is an element in determining whether the conflict is so significant that steps need to be taken to mitigate or avoid it. Moreover, the mere possibility of future benefit to the contractor—without further definition of what that benefit is or how reasonably predictable it is—is not sufficient to create a conflict of interest. In ERDA procurement, successful performance of a development contract may well create opportunities for future contracts or commercial business, and give the contractor an advantage for these benefits.

Such opportunities are part of the incentives to perform the contract and not inherently conflicts of interest. The advantage is not in itself unfair nor does it create the likelihood of bias in the work product. On the other hand, performance of a planning contract which lays out a future development program and delimits choices, may very well induce bias in the contract result or give the contractor an advantage which is truly unfair, unless steps are taken—such as an exclusion from government-sponsored development work in the field for a limited time—to mitigate or avoid the conflict.

3. Question. Does your Department agree that a conflict of interest may arise where the results of a contract awarded by one agency have an effect on the direction of another agency's policy in a way which benefits the contractor, and, if not, why not?

Answer. A conflict of interest may conceivably arise in this situation, and procurement officials must remain sensitive to the possibility. Nevertheless, in a specific case, facts may indicate that the likelihood or predictability of benefits to the contractor is so uncertain as to mitigate the conflict. For example, if a contractor successfully performs a development contract for one agency, another agency may wish to engage that contractor to assist in drafting a regulation based on the technology. This would not appear to be a conflict situation, at least as far as the first agency is concerned. However, a conflict might more readily arise if the sequence is reversed: if one contractor assists first in drafting the regulation, it may create an advantage for itself in any later government-sponsored development work to meet the conditions of the regulation.

4. Question. Does your Department agree that a conflict of interest may exist where it knows that a contractor will receive benefits from the contractor's use of the work product of a contract, even though such use is not that which the government will make of the results, and if not, why not?

Answer. A conflict of interest may conceivably exist in this situation, but in our view it is more likely not to exist. As indicated in previous answers, the possibility that successful performance of a development contract will create future business opportunities for the contractor is not unfair, nor will it necessarily result in a biased work product. In ERDA's case, if successful performance leads to competitive commercialization of an energy technology by the contractor and by others, one of ERDA's principal missions is fulfilled. To exclude an ERDA contractor from commercializing the technology it develops is neither practicable nor desirable. ERDA must take care, of course, to assure that other companies can practice the technology as well as the original contractor.

5. Question. Does your Department agree that because the purpose of conflict of interest regulations is to prevent even the temptation for bias on the part of a contractor, it is not relevant to any determination regarding the existence of a conflict that the government may later attempt to identify and neutralize any bias affecting the work product of the contract, and, if not, why not?

Answer. A conflict may be determined to exist without reference to steps which may be taken to mitigate or avoid it. However, if such steps are taken, the conflict may then cease to exist. As an incidental point, ERDA does not agree that the purpose of the regulations should be stated as preventing "even the temptation for bias"; such a test is too abstract and subjective to be useful. The purpose is to avoid placing contractors in position where the circumstances would hamper their providing unbiased and objective advice and assistance or in positions where the award of a contract would extrinsically give them an unfair competitive advantage.

6. Question. Does your Department agree that in determining whether a conflict of interest exists it is not relevant that a contractor has the professional reputation of being able to resist temptations such as arise from a conflict of interest, and if not, why not?

Answer. ERDA agrees that the contractor's reputation is not a controlling factor in determining whether a conflict of interest exists.

7. Question. Does your Department agree that unsolicited proposals are by their nature more likely to involve a conflict of interest in the part of the company making the proposal than is the case with a contract proposal initiated by the government, and if not. why not?

Answer. The potential for conflict of interest is as real in a response to a government initiative as it is where a company comes up with a good idea on its own initiative. Procurement officials should be equally sensitive to this potential whether the procurement is unsolicited or competitive. Oftentimes, unsolicited proposals are in reality responses to some generally stated need.

8. Question. Does your Department agree that disclosure requirements for contractors awarded sole-source contracts resulting from an unsolicited proposal should be no less extensive than for contractors awarded contracts on the basis of competitive bidding and not resulting from an unsolicited proposal, and if not, why not?

Answer. Yes, ERDA agrees.

9. Question. Does your Department agree that if a contract applicant fails to disclose a conflict of interest known to it at the time the contract is awarded and if this contract is later discovered by or brought to the government's attention, your Department has the power at least to disqualify that contractor from bidding on a follow-on procurement contract, and if not, why not?

Answer. In a gross situation, such as where the contractor has misled the government or falsely misrepresented the situation at the time of contracting to induce the contract, ERDA has power to disqualify the contractor from being awarded the follow-on contract. However, ERDA believes that it is desirable to establish clear rules of disclosure so that contractors may know precisely what is expected of them, and thereby uncertainty in government procurement may be avoided.

10. Question. Does your Department agree that standing should be given to competitors or other interested parties to challenge the awarding of a contract on the basis that regulations on conflict of interest have been violated, and if not, why not?

Answer. Bidders and other parties interested in a specific procurement may protest a procurement decision to the General Accounting Office pursuant to 31 U.S.C. 74, for failure to abide by the applicable laws and regulations, including the regulations on avoidance of conflict of interest. Bidders and other interested parties may also challenge proposed procurement actions in the courts and obtain injunctive relief in appropriate situations under the doctrine of *Scanwell Laboratories, Inc.* v. *Shaffer*, 424 F. 2d 859 (D.C. Cir. 1970). ERDA believes that further legislation is not needed in this field and could be harmful. Creation of new standing doctrines and further causes of action could delay indefinitely a procurement sequence which is already long indeed.

ERDA regrets the delay in responding to your request. Please advise if further information is needed.

Sincerely,

R. TENNEY JOHNSON,
General Counsel.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., March 24, 1976.

Hon. JAMES ABOUREZK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABOUREZK: This refers to your letter of February 27, 1976, in which you requested my response to 15 questions relating to this Department's regulations, policies, and procedures for the identification and resolution of potential, apparent, or actual organizational conflicts of interest of contractors.

In questions 1 through 4, you ask whether this Department agrees with the following concepts:

1. That a distinction must be made between the identification of a conflict of interest and the steps that are to be taken to deal with the conflict;

2. That a conflict may exist even in cases where there is no follow-on procurement;

3. That a conflict may exist even if a contract is awarded on a sole-source basis; and

4. That a conflict may exist where there is a justifiable basis for assuming that a contractor's work product will be biased even if the contractor is not placed in the position of obtaining an unfair competitive advantage.

We agree with the concepts expressed in questions 1 through 4.

You ask, in question 5, whether there may be a conflict of interest where the benefits which later accrue to a Government contractor are through its membership or association with an industry even if the benefits are not greater than the benefits that may

accrue to other companies that are a part of that industry.

Given the appropriate mix of facts and circumstances it is conceivable that an unacceptable organizational conflict of interest might exist in certain types of situations contemplated by your question. For example, where the Government makes a policy decision which will favor one industry over another industry. Whether there is a potential that a report by a contractor with an interest in one of the industries will be biased depends, in part, upon such factors as the extent of the contractor's relationship to the particular industry and the degree to which the Government's policy decision will affect the industry. We can envision situations where these and other factors could have such a substantial effect on a contractor's livelihood that there would be a reasonable basis for assuming that a contractor might be tempted to slant the study to favor its interests. However, we are not convinced that in this type of situation it would not be possible to fashion appropriate safeguards to be included in the contract which would either eliminate the conflict or reduce the risks to the Government to a level that is considered to be acceptable. If appropriate safeguards could be fashioned, we would not object to awarding a contract to the firm despite the identification of a potential organizational conflict of interest.

Question 6 asks whether there may be a conflict of interest where the results of a contract may have an effect on the direction of Government policy even if the contract results do not assure the ultimate direction of that policy? Question 7 is somewhat interrelated and concerns a situation where the results of a contract might affect another agency's policies to the contractor's benefit.

The underlying concept in both of these questions is the identification of potential bias on the part of prospective contractors. In appropriate cases, after considering all of the facts and circumstances, it is conceivable that an organizational conflict of interest might be identified in the types of situations contemplated by these questions. However, we believe that the concept expressed in the response to question 5, that it might well be possible to fashion appropriate safeguards to be included in the contract that would either eliminate the conflict or reduce the Government's risk to an acceptable level, would be for consideration in determining whether to proceed with an award. Please note that we agree with your underlying premise, that all bias should be identified and dealt with in one manner or another.

Question 8 asks whether there might be an organizational conflict of interest where the Government knows that a contractor may receive benefits from the work product of a contract even if such use may not be the same as that which the Government may make of the results of the contract.

It is difficult to give a categorical answer to question 8, in that it would be necessary to carefully analyze the character of the benefits flowing to the contractor on a case-by-case basis before reaching a conclusion as to whether the benefits are beyond the limits of permissibility. For example, the fact that a Government contractor converts knowledge acquired as the result of furnishing a work product to the Government to a competitive advantage does not necessarily constitute an impermissible act by the contractor. In this area, I think that there must be a balancing whereby a contractor is permitted to enjoy the benefits arising out of doing business with the Government, even if it is a competitive advantage, but that a line must be drawn at some point where the benefits adversely affect the public interest such as where an unfair competitive advantage would accrue to a contractor. An unfair advantage that would be destructive of the competitive nature of Government procurements would be a type of situation where the benefit to a contractor would be considered to be beyond permissible limits. In this context, we can conceive of certain situations where an affirmative answer to your question could be given.

Question 9 asks, based on the assumption that the purpose of organizational conflict of interest regulations is the avoidance of even the temptation for bias on the part of the contractor, whether a determination may be made that a conflict exists even in the situation where the bias might later be identified and the Government might take adequate steps in neutralize and bias affecting the work product of the contract.

In our opinion such temptations on the part of prospective contractors should properly be identified in order that appropriate steps may be taken to avoid or neutralize the bias. However, avoiding even the temptation for bias does not seem to be an achievable objective; therefore, we disagree with the premise that this should be the purpose of the regulations.

In question 10 you ask if the Department agrees that a contractor's professional reputation of being able to resist the temptation for bias is not relevant in determining whether an organizational conflict of interest exists.

As a general proposition, we agree with the principle expressed in question 10. However, we believe the reputation of the prospective contractor could well be a factor to be considered in fashioning appropriate safeguards which then would become an element in making the determination whether to proceed with the award.

Question 11 asks whether the Department agrees that unsolicited proposals by their nature are more likely to involve organizational conflicts of interest than proposals submitted in response to a solicitation initiated by the Government.

We have difficulty with the assumption that there is an inherent likelihood that an unsolicited proposal constitutes a greater danger of an organizational conflict of interest on the part of the offeror than in other cases. In actual practice unsolicited proposals are usually submitted by offerors as a result of a known Government need, so for practical purposes these may not be a great deal of difference between solicited and unsolicited proposals. While there could be situations where a firm submits an unsolicited proposal solely for the purpose of advancing its own interests, to the Government's detriment, we believe that in most cases this would be recognized in the evaluation process by the officials responsible for the procurement, in which event appropriate steps could be taken to protect the Government's interests.

The concept in question 12 is that disclosure requirements for contractors should be no less extensive with regard to sole-source awards than with contracts awarded pursuant to competitive bidding.

We agree with this principle.

Question 13 asks whether the Department agrees that a conflict of interest is more likely to be disclosed if a contract award is based on competitive bidding.

A representative of this office was advised in a recent telephone conversation with Mr. Ludlam of your staff that your primary interest in asking the question was to ascertain the type of procurement where there would be the greatest public exposure of the identity of the firms being considered for an award of a Government contract. Your thought here apparently is that the greater the exposure, the more opportunity there is for the public to provide the procuring agency with information relating to actual or potential organizational conflicts of interest of the firms being considered for an award.

In specific response to your question, the sealed bid, publicly advertised procurement provides the greatest exposure of the identity of the various firms responding to the solicitation since such information is made public at the time of bid opening. It is the policy of the Department to formally advertise its procurements whenever possible; however, in those situations where formally advertised procurements are not appropriate, the Department favors competitively negotiated procurements. Sole-source awards are only made as a last resort. As to negotiated procurements, the Federal Procurement Regulations provide that after receipt of proposals, no information regarding the number or identity of the offerors participating in the negotiations shall be made available to the public or to any one whose official duties do not require such knowledge.

While we do not discount the public as a valuable source of information as to actual or potential organizational conflict of interest in those situations where the identity of prospective contractors may be made publicly available, negotiated procurements also inherently offer perhaps even greater opportunities to obtain information on this issue. In either competitive or sole-source negotiated procurements, there usually are in-depth discussions with the firm or firms in line for the award. During these discussions the procuring activity may well discover information relating to possible organizational conflicts of interest. Once such information comes to light the procuring activity can then take appropriate steps to probe the information deeply enough to either identify the conflict or satisfy itself that a conflict does not exist.

Question 14 poses a situation in which a contractor does not disclose a known conflict and this fact is later brought to the Government's attention. You ask whether this Department has the power to at least disqualify the contractor from bidding on the follow-on procurement.

Depending on the facts and circumstances either or all of the following alternatives might be available to the Department in the type of situation posed.

1. If there is an intentional misrepresentation, the contractor could be subject to criminal penalties.

2. The contractor could be suspended or debarred in accordance with the procedures in the Federal Procurement Regulations which preclude the contractor from competing for any Government contracts for a specified period of time.

3. The firm could be determined to be disqualified for the award of a particular contract on the basis that it does not meet the minimum standards of a responsible Government contractor.

4. The firm could be precluded from competing on the follow-on procurement assuming that an appropriate clause was included in the initial contract or solicitation.

Question 15 asks whether standing should be given to competitors or other interested parties on the basis that regulations on organizational conflicts of interest have been violated.

Please be advised that the General Accounting Office recognizes that competitors and other "interested" persons have standing to challenge proposed contract awards

based on issues related to organizational conflict of interest.

Again, we would like to thank you for your interest in this Department and we hope that this letter is of assistance to you.

Sincerely yours,

H. GREGORY AUSTIN,
Solicitor.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., April 22, 1976.

B-185211.

Hon. CLIFFORD P. HANSEN,
U.S. Senate.

DEAR SENATOR HANSEN: We refer to your letters of October 24, 1975, and March 9, 1976, concerning a possible conflict of interest in the award of contract No. E(49-18)-1552 between the Energy Research and Development Administration (ERDA) and the Bechtel Corporation (Bechtel) for the development of a mathematical model for the evaluation of the relative transportation economics of various systems of delivering energy from coal and/or conversion output products.

The model, which was to be developed by Bechtel's Scientific Development Operation, would also consider various modes of delivering the energy from the mine to the energy demand center. You question whether this contract was properly awarded in view of a possible conflict of interest stemming from Bechtel's performing this contract and the interest of a Bechtel subsidiary in a coal-slurry pipeline which might benefit from the Bechtel-developed model. You also question why the award to Bechtel was not made on a competitive basis.

Contract No. E(49-18)-1552 was executed on May 29, 1974, between Bechtel and the Office of Coal Research (OCR), U.S. Department of the Interior, as contract No. 14-32-001-1552, at an ultimate cost in excess of $400,000. Subsequent to that date, the functions of OCR were transferred to ERDA. The contract resulted from an unsolicited proposal submitted by Bechtel to OCR by letter of July 27, 1973. Bechtel proposed to perform a transportation study "directed to developing an efficient means of evaluating the cost effectiveness of various methods of delivering clean energy from coal to demand centers" by developing a model which would provide data for analyzing the costs of actual and proposed, or projected, energy delivery systems in terms of a number of variables, such as the quality of coal at the mine, energy transportation or transmission mode, the amount and form of the delivered energy, and distance between mine and user. After analysis and review of Bechtel's proposal and its own needs, OCR determined that a sole-source award would be proper. The award was made on May 29, 1974.

The contract called for a work effort divided into two phases, with various tasks in each phase. As explained by OCR, the first phase contemplated the collection of data and the development of a prototype model to test the feasibility of a larger model for the evaluation of the economics of producing, transporting, and converting coal to other energy forms. The second phase required the development of the mathematical model with a wide range of coal supply options, transportation modes, coal conversion processes and electric power generation options, and the delivery of a Final Report on the study.

Your concern regarding Bechtel's possible conflict of interest is precipitated by the coal transportation interests of Energy Transportation Systems, Incorporated (ETSI), 40 percent of which is owned by Bechtel. ETSI was incorporated on July 26, 1973, and is apparently the successor to a similar corporation in which Bechtel also had an interest.

ETSI has proposed a 1,036 mile coal-slurry pipeline from Wyoming coal fields to power plants in White Bluff, Arkansas, as an alternative to rail shipment. However, it appears that ETSI's proposal is dependent upon its ability to obtain the necessary rights of way. In this connection, the Congress is considering legislation (H.R. 1863, H.R. 2220, H.R. 2896, and H.R. 2553, entitled either the "Coal Slurry Pipeline Act of 1975" or the "Coal Pipeline Act of 1975") which would provide slurry pipeline owners with the ability to obtain the necessary rights of way through the limited use of eminent domain powers. Since Bechtel's study would cover the use and transport of coal energy, you question whether OCR properly awarded this contract to Bechtel and whether it considered that preparation of the economic model could be biased by Bechtel's interest in ETSI.

Our review indicates that Bechtel's relationship with ETSI was not considered by OCR prior to execution of the contract. The propriety of the award, therefore, must depend upon whether OCR knew or should have known of the relationship and whether it would have been appropriate for OCR to award the contract in the face of that knowledge. Also for consideration in this regard is the extent to which Bechtel, in submitting its unsolicited proposal, was required to disclose to OCR its specific interest in ETSI's proposed project.

Bechtel's position, as expressed by its representative in testimony before the Energy Research and Water Resources Subcommittee of the Senate Committee on Interior and Insular Affairs on December 5, 1975, is that it did not consider its relationship with ETSI gave rise to a real or apparent conflict of interest with respect to its proposed contract with OCR. Bechtel points out that questions concerning the mode of transporting coal were only one small part of the study, and that the relative economics of competing modes of transportation were not in issue at the time of proposal submission. Furthermore, Bechtel states that its Scientific Development Operation, which was to perform the contract, operated independently of Bechtel's line operations and, in the performance of research and study contracts, was "unobstructed by a strong profit motivation." OCR's position is that it possessed no information relating to the ETSI project prior to its decision to fund the Bechtel contracts and that its knowledge of Bechtel's specific pipeline activities was generally limited to the fact that Bechtel's Slurry Systems Division was active in pipeline engineering, design, construction, supervision, and operation.

In fact, however, certain OCR personnel were aware of Bechtel's interest in ETSI prior to May 29, 1974, the contract award date. Bechtel itself states that a May 21, 1974 memorandum from the Director of Interior's Office of Environmental Planning to various people in Interior, including the Director of OCR, specifically identified Bechtel as an ETSI participant. Also, an OCR representative attended a meeting on May 23, 1974, at which ETSI's plans to build its pipeline were discussed. The OCR representative, while unable to recall leaving the meeting with knowledge of Bechtel's specific relationship with ETSI, admits that it was evident from the meeting that Bechtel did have an interest in the pipeline under discussion. In addition, personnel in the Bureau of Reclamation, a separate bureau within Interior, were made aware of the ETSI pipeline proposal in early April of 1974.

At the outset, we point out that whatever the extent of OCR's knowledge, its failure to consider a possible conflict of interest on the part of Bechtel prior to the planned award did not contravene any applicable regulations. Neither the Federal Procurement Regulations (FPR) nor Interior's own regulations contained any provisions dealing with this situation, and Interior officials had been advised only that in such situations, when awarding research and development contracts; guidance should be obtained from the Armed Services Procurement Regulation (ASPR). There are provisions in ASPR which seek to prevent organizational conflicts of interest by eliminating situations in which a contractor's judgment might be biased or in which a contractor would obtain an unfair advantage over competitors. See ASPR § 1-113.2(a) and Appendix G. However, those provisions were not specifically applicable to this situation.

We are also unable to say, as a matter of law, that Bechtel violated any disclosure requirement. Under general contract law, a party seeking to contract with another is not permitted to knowingly make a false, material representation which he knows the other party will rely on, and which results in injury. 12 Williston, Contracts § 1487A (1970). A false representation may be either an assertion or an omission, and is material if the fact asserted or suppressed, had it been known to the other party, would have influenced that party's judgment or decision. See, e.g., *Lowe* v. *United States*, 389 F. 2d 108, 111 (8th Cir. 1968). As indicated above, Bechtel believed that there was no meaningful connection between its proposed study and its interest in ETSI. In addition, Bechtel's July 27, 1973, cover letter to its proposal, while not specifically identifying its interest in ETSI, did discuss Bechtel's experience in the coal processing area. Bechtel also apparently had reason to believe that OCR and other Interior personnel were aware of both Bechtel's interest in ETSI's proposed project in the period immediately preceding the contract award. Finally, officials of both ERDA and Interior have testified that in their opinion even a specific disclosure by Bechtel of its interest in ETSI to OCR's contracting personnel would not have foreclosed award of the contract to Bechtel. Thus, on this record, we cannot conclude as a matter of law that Bechtel failed to disclose a material fact.

Nonetheless, we think it is also clear that the actions of both Bechtel and OCR personnel in this case were somewhat questionable. Although Bechtel might have reasonably believed that a conflict of interest did not exist in this situation, we think it should have made reasonable efforts either in connection with the submission of its proposal or during the period in which the proposal was under consideration, to insure that OCR's contracting personnel were specifically made aware of the conflict of interest possibility. While we have recognized that a firm should not be excluded from consideration for contract award solely on the basis of a theoretical or potential conflict of interest, *PRC Computer Center, Inc., et al*, 55 Comp. Gen. 60, 81 (1975), 75-2 CPD 35, the extent to which a possible conflict is more theoretical than real is properly a matter for determination by agency contracting officials rather than officials of the would-be contractor.

However, even without a more specific disclosure by Bechtel, we believe OCR possessed sufficient information to explore the possibility of a conflict of interest on the part of Bechtel. OCR officials admit to knowing of Bechtel's Slurry Systems Division and its active role in construction and operation of pipelines. They also knew that Bechtel's proposal included some degree of consideration of transportation modes, including pipelines. Furthermore, the OCR individual who attended a meeting 6 days before contract

award and learned that Bechtel had an interest in a proposed coal slurry pipeline was familiar with Bechtel's proposal and in fact was the individual who had prepared a sole-source justification for making the award to Bechtel. These circumstances suggest that OCR should have at least explored the possibility that award to Bechtel would involve a conflict of interest. The fact that no regulatory provision was specifically applicable to the situation would not have precluded OCR from acting to prevent the possible conflict. *Gould Inc., Advanced Technology Group*, B-181448, October 15, 1974, 74-2 CPD 205.

We are aware that Interior and ERDA officials believe that the conflict of interest possibility, had it been considered, would not have precluded award to Bechtel. However, we think this situation points up the need for increased agency sensitivity to possible conflict of interest situations. In this regard, we would favor the development of agency regulations or other guidelines which would impose more clearly defined duties in this area on Government contracting personnel.

For example, we note that under current ERDA policy regarding organizational conflict of interest:

"Where the contractor is performing evaluation or consulting services, it should not be permitted to evaluate or advise concerning a product or service in which it has an interest because of the clear possibility that the contractor's judgment could be biased and the Government's need for objectivity prejudiced."

ERDA's General Counsel has testified that even under this guideline the Bechtel contract would not have been precluded because it "is not a contract for evaluation or consulting services." We would not agree that the matter could be disposed of solely on that basis. Although we do not dispute the fact that the contract was not primarily one for evaluation services, we think it is clear that it did in fact encompass certain evaluations which were to be made upon development of the model. In at least one evaluation area, mode of coal transport, Bechtel had a financial interest. While contracting officials, in the exercise of their judgment regarding possible conflict of interest, could conclude that award would be proper in light of all the other facts and circumstances involved, we think they could also, under this particular guideline, conclude that a conflict of interest would exist. What is of concern here is that agency officials would fail to consider the conflict of interest possibility because the primary purpose of a proposed contract does not fall within the conflict of interest rules. We would hope that agency guidelines in this area would clearly spell out the need for contracting officers to consider all aspects of contract performance in making conflict of interest judgments.

We also find the negotiated sole-source award to Bechtel to be questionable. The contract was awarded under 41 U.S.C. 252(c)(11) (1970) pursuant to a class determination and finding (D & F) dated May 18, 1973, authorizing OCR to negotiate research and development contracts. This class D & F, however, had expired prior to the execution of the contract. Although this did not automatically render the contract invalid, Raytheon Company, B-184375, January 28, 1976, 76-1 CPD 55, it does mean that the procurement was negotiated without a current D & F as required by FPR § 1-3.101, subparts 1-3.2 and 1-3.3.

In addition, we think OCR's separate sole-source justification was itself inadequate. FPR §§ 1-1.301 and 1-1.302-1, require that contracts be competed to the maximum practicable extent, although sole-source awards may be made when circumstances so require. Under Interior Procurement Regulation (IPR) § 14-4.5101-3(f)(3), in effect at the time of award, a favorable technical evaluation of an unsolicited proposal was not per se proper justification for a sole-source contract. Rather, a sole-source procurement could be justified only on the basis of one of the following findings:

"(i) The proposal was selected on the basis of its overall merit, cost and potential contribution to the Interior program objectives after a thorough evaluation and comparison with other proposals submitted in response to a public announcement of interest in receiving unsolicited proposals in that field.

"(ii) The proposal contains technical data or offers unique capabilities that are not available from another source and it is not feasible or practicable to define the Government's requirement in such a way as to avoid the necessity of using the technical data contained in the proposal.

"(iii) The proposal is submitted in response to a program for which there is specific authorization to procure on a noncompetitive basis."

OCR's sole-source justification for the sole-source award indicated that Bechtel possessed the many disciplines required to perform the study, had developed proprietary data in prior work which could be called upon to develop the proposed model, and had capabilities which were considered unique for performance of the project. The proprietary data were described as pertaining to methodologies of a technical and economic nature which would be of substantial value in performance of this contract. The unique capabilities were stated to include Bechtel's thorough knowledge of the coal development and use process, high degree of systems analysis capability with respect to model development, and ability in the areas of computer model programming/development and contract management. Although it was conceded that several organizations besides Bechtel could develop an economics study of coal transportation, OCR concluded that the sole-source award was justified for the above reasons. In addition, in testimony before the Energy Research Subcommittee, OCR officials stated that they had not been aware of any other broad-gauged engineering firms such as Bechtel, and that a study effort fragmented among a series of firms would be time-consuming and extremely costly.

We think OCR's justification was inadequate to support the noncompetitive procurement since there was no determination that no other qualified sources existed which could have satisfied the Government's minimum needs. The sole-source justification merely detailed Bechtel's extensive experience in a broad number of areas, such as coal process technology, systems analysis, computer programming, and contract management, and stipulated that this high level of varied experience was necessary for the contract. The fact that one contractor would furnish higher quality services and/or perform with greater ease than any other contractor does not alone justify a sole-source determination. *Leo Kanner Associates*, B-182340, April 4, 1975, 75-1 CPD 205. Thus, although Bechtel is stated to have developed proprietary data which could be useful in this contract, there is no indication in the justification that comparable data was not available elsewhere. Furthermore, while a noncompetitive award may be made where the minimum needs of the Government can be satisfied only by items or services which are unique, *Precision Dynamics Corporation*, 54 Comp. Gen. 1114 (1975), 75-1 CPD 402, it is not clear how OCR determined that certain of Bechtel's capabilities were unique and not available from other sources, particularly in view of OCR testimony before the Energy Research Subcommittee to the effect that OCR was unaware of "any search for others" who could develop this model.

ERDA has advised us that the contract has been virtually completed, so that these deficiencies cannot, as a practical matter, be corrected for this procurement. In this connection, however, ERDA has informed us that it is reexamining all aspects of the procurement policies and practices inherited from its predecessor agencies, and that it would most probably employ competitive methods were it to contract for a similar project today.

We trust the above is responsive to your request.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

VOLUME 40, FEDERAL REGISTER, 46828 (Oct. 7, 1975)

Subpart 9-1.54—General Policy for the Avoidance of Organizational Conflicts of Interest.

§ 9-1.5401 Purpose.

This subpart sets forth ERDA general policy with respect to the avoidance of organizational conflicts of interest. This subpart is in addition to and not in lieu of other requirements in the ERDA-PR concerning ERDA policies for avoiding conflicts of interest. See § 9-59.006 and 9-12.54.) The Report to the President on Government Contracting for Research and Development (generally known as the Bell Report) proposed that each department and agency head develop a "Code of Conduct" for organization in the research and development field. This subpart has been developed in accordance with that instruction.

§ 9-1.5402 Scope and applicability.

(a) (1) This subpart identifies various organizational conflicts of interest which might come into being and methods for avoidance of such conflicts. It provides that action must be taken to avoid placing a contractor in a position where his judgment might be biased or where he would have an unfair competitive advantage within the scope and intent of this subpart.

(2) If a contracting officer determines that a proposed procurement does involve a situation covered in § 9-1.5407, all prospective contractors shall be advised of the extent of restrictions on follow-on or other work by notice in solicitations and by a clause in resulting contracts. Such notice and contract clause shall spell out the specific extent of any future restrictions on the contractor which are imposed by the contract. This, of course, does not require contract awards in circumstances that demonstrate a clear conflict of interest of a kind not specifically enumerated herein. Section 9-1.5408 shall be implemented by including in cost-type contracts, where appropriate, a provision requiring the approval of the contracting officer for the private use of information or data developed or obtained by employees of such contractor in the performance of cost-type contracts. A standard form of notice for use in solicitations or contract clause is not prescribed in this subpart since such notices and clauses must be especially adapted to apply the principle of these rules to the specific facts of each contractual situation.

(b) Except in unusual or specific situations identified by contracting officers, those parts of the rules which pertain to unfair competitive advantage are not applicable to contracts with educational institutions, or

with not-for-profit organizations which conduct education and training activities, or whose facilities are used in joint programs with educational institutions for such purpose.

§ 9-1.5403 Applicability to cost-type contractor procurement.

This subpart shall be applied to procurement by cost-type contractors that construct or operate ERDA plants and laboratories or perform research and development services for ERDA.

§ 9-1.5404 Waiver.

A Manager of a Field Office, or Headquarters Division Director, may waive the applicability of this subpart in specific cases if he determines that such waiver will not be prejudicial to the best interests of the Government.

§ 9-1.5405 Definition.

The term "organizational conflict of interest" means a situation where a contractor, normally a corporation, has interests, either due to its other activities or its relationships with other organizations, which place it in a position that may be unsatisfactory or unfavorable (a) from the Government's standpoint in being able to secure impartial, technically sound, objective assistance and advice from the contractor, or in securing the advantages of adequate competition in its procurement; or (b) from industry's standpoint in that unfair competitive advantage may accrue to the contractor in question.

§ 9-1.5406 General policy.

(a) In order to assist in deciding what, if any, steps should be applied to avoid organizational conflicts of interest, there are two paramount principles to be considered. These are: (1) Preventing conflicting roles which might bias a contractor's judgment in relation to its work for ERDA, and (2) preventing unfair competitive advantage. The ultimate test should always be: is the contractor placed in a position where his judgment may be biased, or where he has an unfair competitive advantage?

(b) Final program decisions, such as the determination of projects or programs and their scope, which are required to meet ERDA missions and objectives, are of course the responsibility of Government personnel and cannot therefore be delegated to contractor personnel. Program decisions must be based on impartial, disinterested, and the best available technical and other judgments. The effective and formal power to make such decisions must remain in the hands of full-time ERDA officials. Outside technical and other advice may be weighed and used selectively to assist in developing the bases on which program decisions will be made.

(c) It is difficult to identify, and to prescribe in advance, a specific method for avoiding all of the various situations which might involve potential organizational conflicts of interest. Basically, potential conflicts of interest become acute when ERDA's quest for objectivity is paramount, such as for advice, evaluations, technical and analytical services and similar assistance that lay direct groundwork for program decisions on large future procurements, research and development programs, and production. The general policy in paragraph (a) of this section cannot be automatically or routinely implemented; the application of considered judgment is necessary if that policy is to be applied in an effective, workable manner. The following sections provide guides for the application of the general policy in specific situations. However, contracting and program officials should be alert to other situations which may warrant applications of the general policy.

§ 9-1.5407. Guides applicable prior to selection of contractor and execution of contract.

(a) A contractor who in connection with the performance of a study contract will be given information by ERDA regarding ERDA's plans or programs which is not available to interested industrial firms, should not be permitted to compete with such firms for work relating to such plans or programs.

(b) Development contractors generally should not be prohibited from consideration as a supplier for a product which they develop and design. In development work it is normal to select firms which have done the most advanced work and which are the most experienced in the field. It is to be expected that these firms will develop and design around their own prior knowledge. Also, a contractor who participates in an early stage of development is not precluded from getting a contract for a later stage of development or production. As part of ERDA's overall planning for the development, design, and the production stages, consideration should be given to the likelihood of competitive solicitations for procuring parts of the design or product effort. The arrangement for such procurement should provide for the maximum competition consistent with satisfying ERDA requirements. Where the designer and developer is permitted to compete with others for the furnishing of the final product, Managers of Field Offices should take appropriate steps to see that the information furnished ERDA under the design and development contract is available to other potential bidders, on a timely basis.

(c) If a single contractor, other than a company which has participated in the development referred to in paragraph (b) of this section undertakes a contract which essentially is to assist the ERDA or a contractor of ERDA in preparation of a statement of work, or to provide material leading directly and predictably to a statement of work, to be used in the competitive procurement of a product or service, that contractor should not be allowed to supply the service, or the product or major components thereof either as a prime or subcontractor or vendor, except when it is determined and justified in accordance with established criteria that such contractor is a sole source for the required product or service. The content of a statement of work is not considered predictable if two or more contractors, unaffiliated with each other, are involved substantially in the preparation of material leading to it. Generally, feasibility studies which do not propose in detail the characteristics of a possible final product, are not work statements and a company should not be barred from bidding subsequently on the product.

(d) If a contractor agrees to prepare and furnish essentially complete specifications to be used in competitive procurement, that contractor should not be allowed to compete either as a prime or subcontractor or vendor, for a reasonable period including, at least, the initial procurement. This prohibition should not be applied to:

(1) Contractors who have furnished at ERDA request specifications or data with respect to a product sold to ERDA, even though the specifications or data may have been paid for separately or in the price of the product.

(2) Contractors acting as industry representatives who assist ERDA in preparing, refining, or coordinating specifications, if such assistance is supervised and controlled by ERDA representatives.

(3) Contracts for a developmental or prototype item. However, the principle in the concluding sentence of paragraph (b) of this section should be applied.

(4) Purchases from divisions of or companies affiliated with the performing contractor, provided such purchases are supervised and controlled by ERDA representatives.

(e) A contractor performing evaluation or consulting services for ERDA in connection with a competitive procurement should not be allowed to evaluate or give other consulting services: (1) On a product or service which the contractor provides; (2) on the product or services of any company with which the contractor has a consulting relationship; or (3) on his own product or on similar services which he has performed for others. Such a contractor should not be allowed to give consulting services to prospective bidders on a procurement item for which he has performed or will perform evaluation services for ERDA. It is recognized that under ERDA management contracts for the operation of ERDA facilities and certain research and development contracts, the performing contractor may solicit proposals and advise ERDA concerning proposed purchases from competitors as well as from its own affiliated divisions or companies not directly engaged in the performance of the ERDA management contract. In such cases the contracting officer should assure by appropriate review and supervision that the action taken is sound.

(f) A contractor's judgment may be biased because of past or present relationships of its officers or employees with other organizations and because of organizational relationships (e.g., interlocking directorships). In selecting a contractor to develop technical specifications in connection with competitive procurement or to perform evaluation services on technical proposals, consideration should be given to present and past relationships of the contractor's organization and personnel to the companies whose proposals are to be evaluated. In order to avoid or minimize organizational conflicts of interest and to avoid assignments of work which would create unavoidable conflicts of interest, these relationships may require that an organization be eliminated from consideration for selection, or that a reasonable period of restraint, for example, 1 year, be imposed on the organization or on the use of certain employees in the performance of contract work.

(g) Combinations of contracts for architect-engineering and construction services, which may result in self-inspection of construction work, tend to prevent a contractor from rendering unbiased decisions, or create difficulties in segregating costs between contracts, and should be avoided. However, it is recognized that sometimes it is advantageous under carefully circumscribed conditions for ERDA to obligate a single firm to perform both architect-engineer and construction work, or for ERDA to enter into a contract for architect-engineer and construction management services which may include performance of a segment of the construction work with the contractor's own forces. Unless otherwise authorized by the Director of Procurement, the following combinations of contracts shall not be awarded to the same firm or to affiliated companies:

(1) CPFF and fixed-price contracts for construction services, for on-site architect-engineer services, or for construction and on-site architect-engineer services on different construction projects, if the performance of any portion of the work under each contract is to be concurrent and in the same general location.

(2) A fixed-price contract or contracts, for both architect-engineer and construction services on the same construction project, or a CPFF contract for architect-engineer

services and a fixed-price contract for construction services on the same construction project. If a firm is to be responsible under such contractual arrangements for both design and construction services, title III architect-engineer services shall be performed by another organization selected by the ERDA.

(3) A CPFF contract for both architect-engineer and construction services on the same construction project (engineer-constructor contract). If this contractual arrangement is used, the contract shall provide for performance of the title III architect-engineer services by contractor's engineering personnel who are not responsible to the contractor's construction personnel, or the title III services shall be performed by another organization selected by the ERDA.

§ 9–1.5408 Commercial or other use of information and data obtained under ERDA cost-type contracts.

(a) Cost-type contractors may be permitted to use, in their private activities, information and data developed or obtained in the performance of such contracts as provided in this section.

(b) The contractor shall be required to inform the contracting officer of all situations in which such information or data is proposed to be used. To assure that no unfair competitive advantage results to the contractor, the contracting officer shall be guided by the following principles in permitting the use of such information or data for private purposes:

(1) No part of the plans, specifications, cost estimates, technical information, or other data which are developed or acquired in the performance of the contract and which are required by the terms of the contract to be reported to ERDA shall be used in the contractor's private activities, unless such information has been reported to ERDA. Where ERDA furnishes such information to the contractor for the performance of contract work, it shall not be used in the contractor's private activities, unless such information is generally available to others.

(2) Information which is reported to ERDA by ERDA contractors will normally be disseminated by ERDA to others.

(3) Employees of management contractors operating ERDA facilities may not be used to assist in the preparation of a proposal or bid for the performance of private commercial services similar or related to those being performed under the ERDA contract unless such employee has been separated, with ERDA approval, from performance of work under the ERDA contract for such period as the contracting officer shall direct consistent with the purpose of this section.

(4) ERDA management contractors operating ERDA facilities, and performing services, as a part of their contract work, for other Government agencies or private organizations, should not be permitted to utilize information which is furnished by such customers, for their own private activities, unless it is generally available to others, or unless the customer authorizes such use.

(c) As used in this section, the term "cost-type contractor" shall include affiliated companies, parent organizations, or wholly owned subsidiaries.

AMENDMENT NO. 1950

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

Mr. BROOKE. Mr. President, basic research in the nuclear sciences is still vitally important. There are some technicians and policymakers who would have us believe that the fundamental principles of the behavior of the atom's nucleus are so well known that we need only look at questions of engineering and application of the discoveries of the past. But nothing could be further from reality. Humankind has neither mastered nor tamed the power of the atom, and public officials are well aware that every day brings to light questions which require clearer understanding of the universe's physical laws than we now possess.

The Joint Committee on Atomic Energy, in its report on this program, stated unequivocally the position I believe to be the appropriately foresighted and responsible stand for the Congress to take. It wrote:

(1) Nuclear Science.—The Joint Committee is concerned over the continuing erosion of ERDA's support for basic nuclear research, and particularly over ERDA's policy of redirecting its priorities, which has resulted in a continuing erosion of the nuclear science program. In the Joint Committee's opinion, this trend must not be permitted to continue and instead should be reversed.

Nuclear energy is being relied on very heavily for meeting our future energy requirements. A very substantial part of ERDA's development and demonstration funding is expended in support of this approach. The need to maintain a strong and healthy research program in basic nuclear science to support these program expenditures and the Nation's firm commitments to nuclear power is evident. It was in large part through a vigorous supporting nuclear research effort that the Nation has reached the point it is at in nuclear power today, and it does not seem wise to change this approach now. The committee therefore finds it incongruous that ERDA is providing a lesser level of emphasis on basic research in support of this energy source which is an integral part of our national energy policy. Two important effects of the budget restrictions in nuclear science are already evident. First, there will be substantial underutilization of several major facilities that have become operational in recent years. Second, a number of other facilities may have to be shut down, and many university and laboratory research contracts will have to be terminated. The production of useful information in support of nuclear energy development will be adversely affected as a result of these measures.

When the Joint Committee raised the authorized outlays by $8.5 million over the President's request, it was acting on the best information available from nuclear scientists in universities and national labs about their funding requirements at that time. But since the process of hearings and authorizations decisions has ended, responsible nuclear physicists have completed more comprehensive reviews of their costs and needs and have told me and many other members that this addition will just cover the costs of inflation. Therefore, without the full amount ERDA requested from OMB, that is $89,400,000 in outlays, vital scientific research will be curtailed. Therefore, I am filing an amendment to raise the authorization by $5.3 million, which will bridge the gap.

These added funds will make possible fuller utilization of the new and expensive nuclear research facilities on which we have decided to rely in our basic energy sciences program. As many Senators remember, over the past few years we phased out smaller and older research facilities to make possible the development of vast accelerators at centers on which the national community of scientists could rely. And now these expensive facilities are grossly underutilized. For example, the big Bates linear accelerator at Massachusetts Institute of Technology is now running at 38 percent of capacity. Surveys indicate further that the heavy-ion charged-particle, and medium-energy facilities we have built will operate at a rough average of 50 percent of capacity.

Furthermore, without enough funds to beat the effects of inflation, research facilities face continuing deterioration of equipment and installations.

Perhaps even more important, we would further cut back the opportunity for young nuclear physicists. Mr. President, I fear that the administration's request to curtail nuclear research is simply a part of a larger national trend to cutting back on basic scientific research in all programs. And I am convinced such a policy would seriously jeopardize our Nation's longrun position as a major scientific power. Already our research budgets, our rate of new patents, our output of first-rate scientists are decelerating while other industrialized nations forge ahead. I have been working with my colleagues in the Senate Appropriations Committee to see to it that we at least hold the line on research in the National Science Foundation budget and on the other items of the ERDA basic energy sciences budget so that we do not fall further behind.

However, nuclear science has the possibility of offering us discoveries which clearly will vitally affect every aspect of our national life. And here the problems of lag in both scientific manpower and discoveries are especially acute. I ask unanimous consent that a report by Prof. Lee Grodzins of MIT, "The Manpower Crisis in Physics," be entered in the RECORD. He demonstrates that the shortfall in Federal fundings has led to a temporary oversupply of new Ph. D. physicists whose longrun response will be to leave the field, and thus leave the Nation short of the scientific wisdom we so need but are utilizing so badly.

I would also ask that a memorandum from Prof. Harvey Feshbach, who is also at MIT, to my office be entered in the RECORD. Professor Feshbach details the multiple uses of the knowledge we can expect to gain from continuing basic nuclear research. These include not only the improvement of nuclear reactors, but medical diagnostic and therapeutic tools, radioactive tracers for industry which may even help us locate new sources of oil, and finally, tools for monitoring and controlling pollution.

Mr. President, our scientists have not yet entirely mastered the use of the atom for domestic, nonmilitary purposes, but with the Nation's full support, they most certainly can and will. I hope my colleagues will enact this modest increment to the ERDA authorization and that I and my colleagues on the Appropriations

Committee can then report out the funds we realistically require for this important scientific enterprise.

AMENDMENTS NOS. 1954 THROUGH 1957

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

Mr. RANDOLPH submitted four amendments intended to be proposed by him to the bill (S. 3105) to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes.

AMENDMENT NO. 1958

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

Mr. ABOUREZK submitted an amendment intended to be proposed by him to the bill (S. 3105), supra.

AMENDMENT NO. 1959

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

Mr. GLENN (for himself and Mr. PASTORE) submitted an amendment intended to be proposed by them jointly to the bill (S. 3105), supra.

HEALTH PROFESSIONAL EDUCATIONAL ASSISTANCE ACT—S. 3239

AMENDMENT NO. 1951

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

Mr. BEALL submitted an amendment intended to be proposed by him to the bill (S. 3239) to amend the Public Health Service Act to revise and extend the programs of assistance under title VII for training in the health professions, to revise the National Health Service Corps program, and for other purposes.

AMENDMENT NO. 1952

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

Mr. BEALL (for himself, Mr. TAFT, Mr. BENTSEN, Mr. GARN, Mr. GRIFFIN, and Mr. HRUSKA) submitted an amendment intended to be proposed by them jointly to the bill (S. 3239), supra.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1977

AMENDMENT NO. 1953

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

Mr. PROXMIRE (for himself, Mr. FORD, and Mr. BUCKLEY) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 14235) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes.

ANNOUNCEMENT OF JOINT HEARING ON SMALL BUSINESS ADMINISTRATION FINANCIAL ASSISTANCE TO THE SINGLE AND MULTIFAMILY HOUSING INDUSTRY

Mr. NELSON. Mr. President, I wish to announce the continuation of the joint hearings by the Select Committee on Small Business and the Banking, Housing and Urban Affairs Subcommittee on Small Business on June 25, 1976, on the lack of Small Business Administration's financial assistance to the single and multifamily housing industry.

The first hearing on this subject was held on June 11, 1976, with witnesses representing the housing industry. The June 25 hearing will have witnesses from various areas of the country: Alabama, Oklahoma, Wisconsin, and North Carolina. SBA Administrator Mitchell P. Kobelinski will be the final witness of the day and will respond to all previous testimony in this matter.

The hearing is scheduled to be held in room 5302 of the Dirksen Senate Office Building at 10 a.m. Cochairing the hearing will be the Senator from Alabama (Mr. SPARKMAN), ranking majority member of the select committee, the Senator from North Carolina (Mr. MORGAN), chairman of the Banking Small Business Subcommittee, and the Senator from Oklahoma (Mr. BARTLETT), member of the select committee.

Further information on the hearing can be obtained from the offices of the Select Committee on Small Business, room 424 Russell Building, telephone 224-5175.

ANNOUNCEMENT OF HEARINGS

Mr. JOHNSTON. Mr. President, the Senate Commitee on Interior and Insular Affairs will hold a hearing on Monday, July 19, 1976, on the impact of Federal Energy Administration regulations on the price and allocation of crude oil owned by or accruing to State and local governments. In particular the effect of gravity differentials on the price of California crude oil will be examined.

This hearing will commence at 10 a.m. in room 3110 of the Dirksen Senate Office Building. The committee and members of the National Fuels and Energy Policy Study will receive testimony from the appropriate Federal agencies and selected private witnesses.

Inquiries with regard to this hearing should be directed to Ben Cooper of the Senate Interior staff at 224-0611 or Bob Szabo of Senator JOHNSTON's staff at 224-5824.

ADDITIONAL STATEMENTS

NATIONAL CATHEDRAL ROSE WINDOW CREATED BY ROWAN LECOMPTE

Mr. MATHIAS. Mr. President, life's achievements are measured in different ways. But surely, to create a rose window in a great cathedral must approach the zenith of man's aspirations. Rowan LeCompte, of Maryland, has accomplished this at the National Cathedral in Washington and we congratulate him. His window is glorious—his satisfaction should be immense. He has added a new jewel to the artistic treasures of Washington. I ask unanimous consent that an article from the June 6, 1976, New York Times which describes this great achievement, be printed in the RECORD.

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

NATIONAL CATHERAL WINDOW DELIGHTS MAN WHO SPENT 2½ YEARS MAKING IT

(By Linda Charlton)

WASHINGTON.—Some children want to be garbage collectors, or circus bareback riders. Others fancy themselves as astronauts or baseball players. Rowan LeCompte wanted to make a glorious rose window for Washington's National Cathedral—and, some 35 years later, he has done exactly that.

Mr. LeCompte says he has been "mad about the cathedral" since his first visit at 14. A year later, he made his "first studies" for the west window almost 26 feet in diameter in the cathedral's west transept.

A rose window is round, with its petalled form outlined by stone tracery. The West Rose, as the new one is commonly called, has petals and is recessed 15 feet into the cathedral's west facade.

Mr. LeCompte, a member of an old Maryland family and largely self-trained, has designed 20 other stained-glass windows for the cathedral, but he regards the West Rose as his masterpiece. On a recent visit, the 51-year-old artist saw the passage of the sun create different minute-to-minute pleasures from his window.

"It should twinkle like a mosaic," he said, gazing up, and it does. The pattern is an abstraction; the central theme is the creation—"and God said, 'Let there be light.'" Some of the window's glass is painted, and some is in the form of nuggets of Bohemian glass that sparkle and twinkle and throw vagrant rainbows of light across the gray stone pillars of the nave.

The day before, said Harriet Sayre, the wife of Dean Francis Sayre, Jr. of the cathedral, "a little boy was running around trying to catch one." Mr. LeCompte and his wife, Peggy, did not run, but they greeted each rainbow with murmurs of delight.

From start to finish, from first paintings to the window's recent dedication, the West Rose occupied two and one-half years of Mr. LeCompte's life. Still to be done by him are the 18 high nave clerestory windows.

IN PURSUIT OF RAINBOWS

"I hope I live to do the nave clerestory," he said, craning his neck to the vaulted ceiling.

In making—cutting, firing and leading—and then installing the glass, Mr. LeCompte worked with two "master craftsmen" in this centuries-old art—Dieter Goldkuhle and Melvin Greenland.

'PRAISE YE THE LORD'

"All I could ever see at one time were very small portions," said Mr. LeCompte, turning again to look up at the window, which glows red and blue, warm and cold, like the ember of a great fire.

"It's a celebrative window, a song of praise to the universe," he said. "I would like the windows to be sympathetic to the building, but above all passionate, emotionally moving."

Dean Sayre joined the LeComptes, leaning far back to look at the window.

"It just sings, Rowan, sings a 'Te Deum'" said the Dean, adding: 'Oh, ye little pieces of glass, praise ye the Lord!"

There are many styles and periods of stained glass in the cathedral, which was begun in 1907 and is not yet finished. Among them are windows whose colors were purposely dulled with a film of black paint to imitate the patina of time, and a window in which is embedded a sliver of moon rock.

Several other contemporary stained-glass artists besides Mr. LeCompte have done windows for the building, which is a Gothic

building, and still others are at work on commissions.

Tourists wandering through the huge building, whose nave is 534 feet long, invariably stopped in their stroll to lift up their eyes to the West Rose, whose tone changed as the afternoon wore on. A spot of prismatic color moved across the nave. Mr. LeCompte, departing, turned back for a final glimpse.

"I can never remember what it looks like," he said, and went off back to his studies to work on his fiery complexities of glass.

THE BITTER TRUTH ABOUT SUGAR

Mr. McGOVERN. Mr. President, the Senate Select Committee on Nutrition and Human Needs has been privileged to receive expert testimony from Dr. Jean Mayer, professor of nutrition at Harvard.

Among his concerns is the important connection between diet and health. In a recent article in the New York Times magazine entitled "The Bitter Truth About Sugar," Dr. Mayer describes in detail the extent of increased sugar intake in modern society, and the potential problems which result from this increase.

This in-depth description of an increasingly troublesome question should be read by everyone interested in the connection between diet and health.

Dr. Mayer has performed a valuable service in helping to educate Americans in nutritional matters. This is just one effort among many but an important one that I hope would be widely read.

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:

THE BITTER TRUTH ABOUT SUGAR

(By Jean Mayer)

Sugar is one of mankind's "new" foods. The ancient Greeks and Romans knew nothing about cane or beet sugar (except for those of Alexander's soldiers who reached the Indus Valley and met with sugar cane). The Promised Land flowed with milk and honey, the latter apparently a fairly scarce commodity. The Egyptian pyramid builders, Socrates, Jesus and the Roman legions never tasted sugar—and certainly their brains and sinews worked as well as ours do. Sugar from cane did not become available to Europeans—and then only to the rich ones—until the 16th century; beet sugar was not developed as a food until the beginning of the 19th century (in France, when the British blockade after the destruction of the French fleet at Trafalgar cut off sources of sugar in Brazil and the West Indies).

Today, although it is a major component of the American diet, most practicing nutritionists, particularly those who work with children and the poor, consider sugar a menace to good nutrition. After reviewing the evidence, I believe it is adequate to show that the habitual consumption of large amounts of sugar is highly undesirable from the viewpoint of health and that sugar consumption should be reduced.

We consume sugar in three different forms—sucrose, glucose and fructose. In the last few years, the consumption of cane and beet sugar (sucrose) in the United States has been hovering around 110 pounds per year for every man, woman and child. In 1974, it dropped to an average of 97 pounds, but the consumption of sugar syrups (glucose and fructose) rose from a per-capita average of 15 pounds (dry weight) to 25 pounds, leaving us with around 125 pounds of total sugar sweetener per person annually. This figure has been characteristic of the United States since at least 1960.

Of this sugar intake, 76 percent is invisible, contained in foods and beverages prepared outside the home—5.5 percent in eating places, the rest in processed foods. Next time you're in the supermarket, glance at the labels along the aisles and in every food case. Sugar is omnipresent, not just in sweet baked goods and frozen desserts (and soft drinks) but in ketchup, chili sauce and Worcestershire sauce; baby foods; cocktail snacks; "fruit" drinks; salad dressings; canned and dried soups; prepared main dishes; cured meats; some canned and frozen vegetables and most canned and frozen fruits; "fruit" yogurt; and, of course, the breakfast cereals, "natural" ones included. Some cereal manufacturers have been known to combine the various grains and separate the sugars on the list of ingredients. Only thus can they keep cereal first on the list. (Though there is no legal requirement that the proportion of ingredients be given quantitatively, they must be listed in decreasing order.) A 1974 survey of the sugar content of breakfast cereals, published in the Journal of Dentistry for Children, shows that of 78 cereals only 26 contained less than 10 percent sugar. King Vitamin is over 58 percent sugar, and Super Orange Crisp tops the list with a total of 70 percent—that's 14 percent more sugar than Hershey's Milk Chocolate Kisses!

Altogether, sugar represents between 20 and 25 percent of the calories in our diet, a diet which, with slight variations, scientists consider typical of industrialized, urbanized countries: high in fat (another 43 percent of our total calories), high in salt (on the average more than 10 times what the body requires daily), high in processed foods (above 50 percent of our total food intake), and low in fresh fruits and vegetables, whole grains and cereals and the dried legumes that together may make up 80 percent of the total calories of the diet of many nonindustrialized nations.

The long-term effect on health of many of the elements in our diet is increasingly being questioned. Our health statistics demonstrate that we have conquered the traditional infectious diseases and nutritional deficiencies only to fall prey to another set of ills: atherosclerotic diseases of the heart and blood vessels, cancer, diabetes, hypertension, obesity, dental caries.

Diet and mode of life are involved in these new pandemics. Nutrition research in the last three decades has yielded convincing evidence that the mere provision of enough calories, protein and other essential nutrients—including generous amounts of vitamins and minerals—while sufficient to insure growth and to avoid the classical nutritional diseases, is not an adequate prescription for long-term avoidance of diseases of the heart and blood vessels and other major premature killers of industrialized populations. We also know that total life style, particularly in the matter of physical activity, and the effects of diet are interrelated; not only are excessive caloric intakes undesirable but where the calories come from is important.

And so questions are being raised about the sugar content of our diet. Sugar, alone among our foods, is essentially a pure chemical species. (Its single small molecule of sucrose is formed by the linkage of two even smaller molecules of the monosaccharides, glucose and fructose.) Other carbohydrates, by contrast, are found as components of complex foods: the equally small molecule of the disaccharide lactose in milk, fructose in fruits, and the large molecules of starches, made up of long chains of glucose, in wheat, corn, rice and other cereals, in potatoes and legumes. The question is whether sugar is nutritionally equivalent to these other carbohydrates from which man has traditionally derived the bulk of his calories.

Not many years ago it was thought that all carbohydrates were identical in their use by the body and their long-term effect on health. It now appears that this is not the case. All carbohydrates are ultimately changed by digestion and metabolic processes into glucose (blood sugar), a primary fuel of the body. Starches, however, are digested comparatively slowly, in a series of steps in which intermediate products, dextrins and maltose, are produced to be finally separated into individual glucose molecules. Sucrose (cane and beet sugar), by contrast, is broken down in one step in the intestine into glucose and fructose. Both of these are quickly absorbed into the bloodstream from the small intestine; the fructose is metabolized into glucose in the liver. Differences in effect between carbohydrates may thus depend on their local effect, particularly on teeth; on the rate at which they are digested; and on possible specific reactions of fructose as compared with glucose.

Whether the various carbohydrates do in fact differ in their effects on health is the object of much debate. Many appear to have taken sides and express strong opinions with little critical consideration of available facts. Purveyors of health foods and "natural foods" enthusiasts are unanimous in their statements that white sugar is toxic, though brown sugar, for some reason, is safe. (The brown color can be derived from the incomplete last stage of purification or from the addition of a small amount of caramel pigment. Brown sugar seems in every material way identical in its physiological effects to white sugar.)

On the whole, the food industry acts on the basis that all carbohydrates are the same, and thus safe, (unless the producers sell "natural" cereals, in which case they join the brown-sugar-or-honey enthusiasts). Sugar advertisements play on the confusion between table sugar and blood sugar, assuring us that the body "has a need for sugar." Unabashedly, some even suggest that, inasmuch as mothers have observed that consumption of candy before meals "spoils the appetite," sugar "has a place in a weight-control program."

A small handful of nutritionists, without quite agreeing with these extravagant claims, still defend consuming a sizable proportion of the day's calories as sugar "as long as the rest of the diet is adequate in nutrients." At the opposite extreme, almost every noninfectious disease that afflicts industrialized man has been ascribed to sugar by one or another of the many equally simplistic books on food and health which have appeared recently.

Physicians, caught in the midst of these discordant views, are traditionally more concerned with the long-range prevention of degenerative diseases. By and large they pay little attention to sugar intake unless a patient has diabetes or certain uncommon forms of hyperlipidemia (high levels of fat in the blood). Dentists are the one group of medical practitioners who regard sugar as an unqualified threat.

Since sugar is a manufactured food and one that is entirely imported in many industrial countries, we have better records on its consumption than on that of any other food. World production has risen from 8 million tons in 1900 to 30 million in 1950 to 70 million in 1970, and is projected by the Food and Agriculture Organization of the United Nations to reach 93 million tons by 1980. In

the United States, this increase in sugar consumption has taken place in the face of a 25 percent decrease in the overall consumption of carbohydrates, principally because of decreased use of flour and cereal products (bread in particular) and potatoes. By now sugar furnishes more than 50 percent of our carbohydrate intake. From the health viewpoint, this change does not appear to have been beneficial.

Sugar is certainly associated with the most widespread degenerative disease in the Western world—dental caries. Studies of the impact of Western diets in general and sugar in particular on the prevalence of dental decay in hitherto isolated populations are striking. A classical example is the story of Tristan da Cunha. The people of that remote island were for many years essentially ignored by outsiders and free from commerce with the rest of the world. They subsisted on homegrown produce and fish and did not consume any sugar.

In 1932, scientists and physicians on the British warship Carlisle examined the islanders and found them to be practically free of dental caries. Thirty years later, in constant contact with the outside world and by then habituated to a high sugar consumption, they had developed a catastrophic prevalance of tooth decay.

More recently, in the 1960's, a U.S. Government agency compared the results of more than 100 international surveys of the prevalence of tooth decay in different populations. Except for the fluoride content of the water supply, the consumption of sugar was the only consistent relationship between nutrition and tooth decay. In nations of the Far East, where sugar intake per person per year ranged (at that time) from 12 to 32 pounds, the national averages for decayed, missing or filled teeth in adults 20 to 24 years old ran from 0.9 to 5. By contrast, in South American nations, where sugar intake was high (44 to 88 pounds per person annually) the averages for decayed, missing or filled teeth in the same age group ran from 8.4 to 12.6. As for the United States today, it has been estimated that 98 percent of American children have some tooth decay; by age 55 about half of the population of this country have no teeth.

Another serious health problem in the United States today is excessive weight. Statistics show that 10 to 20 percent of all U.S. children (depending on the geographic area) and 35 to 50 percent of all middle-aged Americans are overweight. We have fairly reliable data on food consumption in this country and on heights and weights of the population (particularly males, because of draft data), from the beginning of the century. Although our population has grown taller, we have grown heavier (and fatter) even faster—despite a slowly decreasing overall food intake. Clearly, the increased mechanization of our lives has diminished the level of physical activity much more rapidly than our caloric intake has dropped.

Our increased sugar intake must be seen in this context. At 4 calories per gram (it is essentially the same for every carbohydrate) the average 125 pounds per person per year we now consume represent 500 calories per day. That is the energy equivalent of more than 50 pounds of fat per year for each of us! People who have a weight problem, certainly don't need sugar.

Those 500 calories of sugar in our average daily intake are calories that should be partly dispensed with, partly replaced by calories from foods which make a more significant contribution to our nutrition. Whether sugar calories are called "empty," "naked" or "frivolous," they are unaccompanied by nutrients. Moreover, they increase the requirement for certain vitamins, such as thiamine, which are needed to metabolize carbohydrates. They may increase the need for the trace mineral, chromium, as well. Thus, a greater burden is placed on the other components of the diet to contribute all the necessary nutrients—other foods need to show extraordinary "nutrient density" to compensate for the emptiness of the sugar calories. Yet sugar has invaded many foods in which it never had been thought to belong, and in every food into which it has been introduced, nutrient density drops.

At a time when food intake needs to be reduced further if we are to reduce excessive weight, we cannot afford the size of this otherwise useless caloric contribution. To be overweight is not only a sad affliction in itself, it is a condition often associated with hypertension and high blood cholesterol. It can also trigger the onset of diabetes in adults with a genetic predisposition to the disease. Diabetes is a major cause of death in the United States. Between 5 and 12 million Americans are classified as diabetics, depending on the cut-off point chosen in the definition of the disease in terms of blood-glucose levels. About 1,000 new cases are reported every day. There is a strong suspicion that a large sugar intake may be causally related to diabetes, both indirectly by promoting obesity and directly as a source of repeated stress on the insulin-producing mechanism of the body.

The relationship of extra calories to adult-onset diabetes—the fat-and-forty type (by far the most prevalent in industralized socities)—has been noted. Unlike juvenile diabetics, in whom insulin circulating in the blood is dramatically reduced, adult diabetics usually have near-normal levels of insulin but apparently not enough to cope with the demands of the organism. Keeping the food intake and weight way down (by exercise and caloric reduction) is the best way to both prevent and treat maturity-onset diabetes.

Sugar, however, is suspect as more than a source of unnecessary calories. A large sugar intake means that huge amounts of rapidly digested and absorbed simple sugars (glucose and fructose) flood the body at intervals. The sudden glucose influx, in particular, may represent a stress with which the insulin-secreting islets of the pancreas of individuals genetically prone to diabetes cannot cope. After a period of hyperactivity, the cells which produce insulin gradually exhaust themselves. Other endocrines such as the adrenals may be additionally affected. A number of studies in populations, though not totally conclusive, seem to support the view that a large sugar intake promotes diabetes.

The limited bill of particulars against sucrose which can be documented is sufficient to justify a drastic decrease in our sugar consumption, starting in infancy. Recent research indicates that, by the time they are a year old, children already prefer sucrose and fructose to lactose. Data show that a preference for sugars and sweets in such things as soft drinks, cakes, pies, cookies, candy, jams and syrups increases with age up to the early teens, then slowly decreases.

The highest consumers are boys in preadolescence or adolescence, the very time of life when, to lower triglycerides as well as blood cholesterol, sugar intake should be cut along with a considerable decrease in saturated fat and cholesterol. Furthermore, in that age group, it has been shown that the "average" sugar intake in unequally distributed. Some of our young people find sugar as addictive as tobacco or alcohol. More get used to sweet desserts and snacks and feel deprived if these are not available. Clearly, it is better to restrict sugar use from birth than to try to cut down later.

There are a number of things we can do to decrease our sugar consumption. We can keep sugar-based producers—candy and the like—out of the house; we can rely on vegetables, dried beans and peas, whole-grain flours and cereals and milk, whole or skim, to provide the necessary carbohydrates, and choose fruit for desserts. These foods will also provide protein, B vitamins, vitamin E, iron, zinc and other trace minerals, some essential fatty acids and fiber. When we do eat or drink something with sugar in it, the teeth should be brushed, or at least rinsed, as soon as possible. Children, especially, should be trained to observe this rule; they can learn the "drinking-fountain swizzle" to use at school.

Some of the strong opponents of sugar have proposed various stringent measures, everything from an outright ban on it as a dangerous product to warning labels bearing the message that, like tobacco and saturated fats, sugar may be "dangerous to your health."

I do not believe that such measures are either feasible or necessary. Americans of their own accord, are beginning to decrease their consumption of saturated fats and are identifying and avoiding foods high in cholesterol. Cigarette smoking is decreasing among college youth. (Less than 4 percent of the entering Harvard freshman class smoke). Clear information about the sugar content of foods and frank nutrition education that calls a spade a spade should also lead intelligent consumers to a more healthy, less sweet, diet.

KILLJOYS IN FLIGHT

Mr. BROCK. Mr. President, the Federal Aviation Administration has been petitioned to prohibit pilots of air carriers from smoking not only during flights, but 8 hours prior to flights. The ridiculousness of this request is eloquently stated in an editorial entitled "Killjoys in Flight." I ask unanimous consent that this editorial be printed in the RECORD.

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

KILLJOYS IN FLIGHT

The latest campaign of the Naderites is an attempt to deny pilots the solace of nicotine. The Federal Aviation Agency has been petitioned by a coalition of "public interest" lawyers to prohibit smoking by flight crews, not only in the cockpit but for eight hours before take-off. This is a trivial but characteristic example of the mentality involved.

The proposed regulation purports to further public safety on the basis of alleged evidence to the effect that smoking affects the blood and therefore the proficiency of pilots. Just as Nader failed to contrast the safety of the Corvair with that of other compact cars, his acolytes have made no effort to compare the safety records of smoking and non-smoking pilots, nor have they considered the possible effects of long abstinence on pilots' nerves. Given their cavalier indifference to practical problems of enforcement, perhaps it is needless to note that Nader's young lawyers have neglected to advise the FAA how to prevent pilots from smoking eight hours before flight time.

But one of the Naderites advises us of a deeper motive—to deny pilots the innocent company of stewardesses who pop into the cockpit for a quick puff. Comstockery runs

deep in the American grain, so it cannot be expected that we will soon be rid of our self-appointed spoilsports.

A. WESLEY BARTHELMES

Mr. PELL. Mr. President, I was deeply saddened to learn late yesterday of the death of A. Wesley Barthelmes, a man I have known and admired for many years as a consummate staff assistant to several of my colleagues.

Wes, as everyone on Capitol Hill knew him, was a gentle and humorous man who approached the national issues with which he dealt with wisdom and commitment. During his years of Senate service, Wes particularly left his mark in the field of foreign policy.

I extend my deepest sympathies to his wife, his mother, and to his children. In their grief, I hope they will find consolation in the knowledge that he served his Nation proudly and well.

ANOTHER VIEW OF KISSINGER'S AFRICA

Mr. BROCK. Mr. President, Walter Darnell Jacobs has just recently retired from the U.S. Army and is director of the American African Affairs Association. In the June 25 issue of National Review, Mr. Jacobs has contributed an interesting article on Africa, entitled "Another View of Kissinger's Africa." The article is a quick, but well done, review of African nations and their plight today. Mr. President, I ask unanimous consent that Mr. Jacobs article be printed in the RECORD.

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

ANOTHER VIEW OF KISSINGER'S AFRICA

(By Walter Darnell Jacobs)

LAGOS, NIGERIA.—Flying into Lagos one sees a great fleet of ships. Surely nothing like this has been assembled since D-Day 1944. The ships, tankers and freighters, stretch to the horizon. Any attempt to count them is futile. But before we land the count gets well beyond two hundred.

On the ground in Lagos, our Pan Am plane is immediately searched by a Nigerian soldier with his AK-47 slung over his shoulder. After the search, I ask where the great armada of ships came from and where it is going.

The actual number of ships now sitting in the Bight of Benin is close to 300. At times the number of has reached 500. Most of the commercial ships have been waiting to get into Lagos since the middle of 1975. The crews have become accustomed to the humid tropical atmosphere of the area. They have also become accustomed to the pirates trying to loot the cargo of the waiting ships. The crews occasionally visit the fleshpots of Lagos but mostly they spend their time at sentry duty and chess or checkers.

Part of the trouble is that the port of Lagos can handle only about 7,500 tons of cargo a day, and the incoming ships each day equal or exceed that. So the idle armada continues to grow. Some of the blame belongs to the government of General Yakubu Gowan, deposed in July 1975. It ordered enough cement to pave over half of Nigeria. Gowan's successor, Brigadier Muritala Muhammad, didn't cancel the orders. Nor has his successor, who came in a few months ago after Muhammad was assassinated. As a result, the armada grows, the cement spoils in the equatorial sun, the pirates raid, the sentries snipe, the crews visit town and play checkers.

Salisbury, Rhodesia—The representatives of the world press are gathered in the Monomatapa Bar to preside over the liquidation of Rhodesia. Their faces and costumes are similar to those seen a few years back in Saigon's Caravelle bar. They sit quaffing gin and tonic, exchanging stories, damning the system. The newsmen wear all the accoutrements of battle—web equipment, dirty khakis, even grenade pouches—but retain a lounge pallor.

Most of them turn down invitations from the Rhodesian Ministry of Information to tour action areas. They prefer making news in Monomatapa's more hospitable atmosphere. When they do get out into the sun, they camp in front of the Prime Minister's office a few blocks away or run up to the farm of the odd white Rhodesian who is ready to leave.

Some journalists do not fit into such a pattern. There was the correspondent from the London *Daily Mirror*. The *Mirror* had published the story of a deserter from the Rhodesian forces, McCarthy by name, who said that he and his fellow soldiers had engaged in numerous My Lai-type atrocities. The *Mirror* told their man in Salisbury to look into the matter. He did. The army commander, General Patrick Walls, proved to the newsman that McCarthy's unit was not in the area described at the time alleged. A dispatch was sent off to London. Not good enough, said the *Mirror;* get yourself out to the area and find evidence of the atrocities. Off to the area he went with camera and recorder. Several interviews. No evidence of a massacre or other atrocities. The correspondent reported all this to London, but the *Mirror* printed nothing, letting its original story stand.

Abidjan, Ivory Coast—God made Abidjan one of the most beautiful spots in the world. Unfortunately, He also made it hot and humid. But man has supplemented God's work. The Hotel d'Ivoire complex is a marvel of comfort. Not far from it, a consortium of European and African investors is completing a development called the African Riviera. It looks like the French Riviera—only more grandiose, more luxurious, and with more people on the beaches. President Felix Houphouët-Boigny manages the government thoughtfully and progressively.

Nevertheless, the French are not as welcome in the Ivory Coast as they once were. The detente that had been developing between South Africa and the black countries suffered a setback because of Angola. Observers now believe this detente will end and the Ivory Coast will look to Dar es Salaam—not Paris or Pretoria—for its future.

To the casual visitor, these predictions seem groundless. Abidjan's prosperity stands in sharp contrast to the squalor of most of the rest of West Africa. The competence and efficiency of the Ivory Coast is a welcome change from the indecision and bureaucracy found on its borders. In the food shops of Abidjan one finds canned goods from South Africa and a product called *boeuf à Zambezi*, which, as everyone seems to know but won't admit, is imported from Rhodesia.

With luck, the Ivory Coast may become a bridge not only between Africa and Europe but also between black Africa and southern Africa.

Kanyemba, Rhodesia—After tea and brandy and probably more questions than he really cared to answer about majority rule and one-man-one-vote, your European host tells you about the Vadoma people of Rhodesia. Numbering about 400, they live on the lower Zambezi near the Mozambique border. They are extremely shy, avoiding all contact with outsiders.

What distinguishes the Vadoma, aside from their extreme shyness, is a physical abnormality. Many of them have only two toes on each foot, and the toes are splayed out in a condition known as syndactylism or "lobster feet." This abnormality makes it easy for them to climb trees—they appear to run up them rather than to climb them. The Vadoma have Stone Age features: wedge-shaped faces; heavy, broad cheeckbones; and very large eyes. Their homes are caves, crevices, and ant bear holes. Their food consists of grain, honey, mushrooms, and fish.

The Vadoma once tried to reach the moon by building a huge tower of rocks, but the tower collapsed and they never made it, allowing America's Neil Armstrong to make the first giant step for mankind.

Dakar, Senegal—West Africans are not nearly as emotional about the "race war" with southern Africa as are most American politicians and journalists. In Dakar, I heard it said that the South Africans are by now really Africans. They have nowhere to go. Unlike the Portuguese, they can't get in their planes and fly home.

At the same time, Senegalese often refer to southern Africans (including Rhodesians) as the enemy. As the term is used in Dakar, it doesn't imply the use of force or violence. Dakar would probably like to see the matter settled peacefully but its spokesmen insist that the problems of southern Africa are internal and should be settled by those who live there. As the world knows, many in those areas have chosen the path of the arsonist and the terrorist. The Senegalese deplore this choice and do not, like some Westerners, try to paint guerrilla actions as glorious or even justified.

The confusion over American policy at the time of Angola has been compounded by Secretary Kissinger's Lusaka pronouncement during his recent trip.

Pretoria, South Africa—It is difficult to get anyone to talk about the South African action in Angola. Some think the Angolan operation should not be discussed because it was a failure. They believe that the Pretoria forces were pushed out of Angola by the supermen that Castro sent.

That view is incorrect. South African troops were not defeated in the field and definitely not by the 12,000 Cuban soldiers. Another story is closer to the truth. The South African troops went in to protect the Cunene dam—the water source for arid South West Africa—and then gave guidance and support to the combined forces of FNLA and Unita. The forces in Angola did not include infantry; their largest artillery piece was the ancient 25-pounder, and they used air power sparingly. The troops were mostly recruits still in training. Nonetheless, in engagements in which South African forces met Cubans, the Cubans were routed. There is even a report of the destruction of a T-34 with a 25-pounder. Pretoria withdrew its forces under pressure from Western countries. There was no military defeat, however much South Africa's enemies might like to claim there was.

Dakar, Senegal—If it is true that the United States did not support South Africa in its Angolan intervention, it is probably also true that it did not support other African countries—such as Senegal—that opposed the MPLA. Before the MPLA won in Angola, the Organization of African Unity had considered the matter of recognizing the MPLA as the successor regime to Portugal. The vote was 22 to 22, a defeat for the MPLA supporters, who had expected much more.

To some extent, America engineered that defeat by urging its African friends not to recognize the MPLA.

When the tide turned in Angola, most African states extended recognition, but some of America's friends held out. By late March, there were only four black African states that had not recognized the MPLA—Kenya, Zambia, the Ivory Coast, and Senegal. When the Ivory Coast indicated its intention to do so, Senegal found itself more and more isolated. And the U.S. did nothing to support Senegal's position.

There was no discernible resentment toward the U.S. for its lack of support. In fact, the Senegalese are pushing for lively and imaginative U.S. participation in Africa. They want the United States to serve as a counterweight to the Soviet Union so that small African states, such as Senegal, can remain independent.

Chiwese, Rhodesia—In an attempt to combat terrorist penetration, Rhodesian authorities have established a series of "protected villages" in the northeast area of the country. At the same time, they have required relocation into the villages. In one area there was an old man who was so crippled that he had to be pulled about in a cart drawn by a faithful donkey.

When the removal to the protected village was undertaken, the old man begged the Rhodesian soldiers to let him bring his donkey. They did so, placing the donkey in a sling underneath a helicopter. It is said that the reunion of the old man and the donkey was most touching.

Inkomo, Rhodesia—If a race war is coming to southern Africa, it is coming to Rhodesia in a strange garb.

At this camp near Salisbury, a scout troop or two are in training. The Selous Scouts are honing their tracking skills. A visitor to the Selous Scouts area is met at the club by a mixture of whites and blacks, males and females. The atmosphere is relaxed and easy. At the bar a black matches a white to see who will pay for the next round. Throwing darts in the rear are a servicewoman and a muscular serviceman. After several rounds the visitor hears shouts. They turn out to be an invitation to what is called the other-ranks mess.

The other-ranks mess is in a typical African building, round with a thatched roof. Much larger than the usual bushland cabin, its floor has a diameter of about fifty feet. Around the inside wall, a long bench of seats is filled with troopers. In the middle of the room there are a few tables and chairs and, of course, the bar.

Two drinks are available, Chibuku beer or Lion beer. Lion beer is a typical European brew. Chibuku is made from local maize and is served in a plastic container that must hold about two liters of the liquid. At the mess, Chibuku costs about 10 cents and Lion about 50 cents. The troops are drinking both types: some whites are drinking Chibuku; some blacks, Lion.

The visitor is immediately offered a gallon or so of Chibuku. The sergeant major, by tradition, shares a drink with every guest every time the guest is served. The taste isn't bad. A bit tart for American palates; and the sediment does not make it look all that appetizing. Still, not bad. In fact, after a few liters, it's very tasty.

The troops are singing regimental songs—not in English, in Shona, the local African language. They are songs about how the regiment destroys terrorists. The rich African voices are joined by European tenors, and altos and even a few contraltos from the servicewomen present. It is a serenade by all ranks. The young Sandhurst-trained captain is just as loud as the black private standing next to him. The black sergeant major has his guest locked in one huge arm while the other skillfully juggles a container of Chibuku.

The sun has been down for many hours. The boastful, spirited singing goes on. All in all, an odd way to prepare for a race war.

Johannesburg, South Africa—An American abroad is lost without his daily paper. Fortunately, South Africa has a lively English-language press. Johannesburg's *Rand Daily Mail* has good news coverage, comics, and a devilish crossword puzzle.

Today's issue must be atypical. It carries a lead story that deals with an attack by Chief Gatsha Buthelezi of KwaZulu on the government's policy of "homelands." (The homelands scheme would create independent homelands for the nine major black races of South Africa. One of these would be KwaZulu, to be headed by Buthelezi.) An editorial inside supports Buthelezi and opposes the government policy.

Other days and other papers indicate that not just the *Daily Mail* but the entire English-language press of South Africa is vigorously anti-government. It condemns almost every government policy, including the racial policy, the Angolan action, even Vorster's African detente. The editorials direct a steady sniping fire at the government.

South Africans who support the government—and many who do not—suggest that the "democracies" of Transzambezi Africa are really different from the Republic. None of these strongholds of majority rule has an opposition press. To find that in Africa one must travel to that "racist police state" called South Africa.

Accra, Ghana—"There is no room in Africa for American blacks." A chance meeting in the Accra airport with a West African brought forth this remark. The speaker had described his many meetings with American blacks who had come to Africa for various reasons. Some had come to study, some to observe African culture, others to maintain an American political presence in African forums.

"These blacks from America," said the speaker, "always try to tell me what Africa should be doing. I tell them that you are trying to be more African than I am. But you aren't an African. You are a black American. To me, you aren't even black: you are just another foreigner in Africa."

Dakar, Senegal—President Leopold Senghor of Senegal is seventy years old; so is President Felix Houphouët-Boigny of the Ivory Coast. Both led their nations to independence and are revered as true heroes.

In Senegal and in the Ivory Coast there are a number of young men who are preparing for the time when the influence of Senghor and Houphouët-Boigny is over. Some of these young men are protégés of the old leaders and have had experience working in governmental ministries and the armed forces. Others of the new generation are opposed to the old line in politics. These men have been influenced by the revolutionary policies emanating from Guinea, Mali, Guinea-Bissau, and from further afield. Their chance to take power depends not only on internal support but also on what help they can get from Moscow, Algiers, Havana, or Peking. That help will surely be offered.

Unfortunately, the followers of Senghor and Houphouët-Boigny cannot look for support outside their own countries. America's isolationism signals to them that they must go it alone. If America has any desire that Senghor and Houphouët-Boigny's policies be followed, some way should be found to make that desire known to the young men in West Africa.

THE QUESTION OF SUFFICIENT STUDY OF THE NONDEGRADATION ISSUE—CLEAN AIR

Mr. MOSS. Mr. President, I ask unanimous consent that my further comments on Mr. MUSKIE's nondegradation factsheet be printed in the RECORD. I am offering this additional information to put to rest the debate over whether sufficient studies of the economic implications of nondeterioration have been made.

There being no objection, the comments of Senator Moss on the factsheet was ordered to be printed in the RECORD, as follows:

FURTHER COMMENTS OF SENATOR MOSS ON "NONDEGRADATION FACTSHEET"

(CONGRESSIONAL RECORD, May 26, 1976, pages 15572–15576)

The Senate will soon consider S. 3219, the Clean Air Act Amendments of 1976. Without question, the most important provision of S. 3219 is Section 6, the nondeterioration proposal, which if adopted, will set the course of future national growth policy of this country and its 215 million citizens. Without question, this is also the most controversial provision of S. 3219. In its present form as administrative regulation of the Environmental Protection Agency, the policy of nondeterioration is being challenged in the courts as too extreme on the one hand, and not stringent enough on the other hand. In this climate of uncertainty, the Clean Air Act of 1970 has come up for amendment. Since present law leaves unclear Congressional intent on a national nondegradation policy, it is up to Congress to make this determination.

The amendment offered by the Senate Public Works Committee goes considerably beyond existing law. It is my concern that this amendment may not present a balanced approach between national priorities on environmental protection and necessary future economic development. It is my further concern that this Body does not have the necessary facts and inputs to make such a decision of lasting importance to the nation. For this reason, I introduced an amendment, which shares the bipartisan cosponsorship of 19 Members, which calls for a comprehensive study of the full ramifications of this proposal on our environmental goals, energy self-sufficiency, economic recovery, consumer costs and State and local planning initiatives.

This study would be conducted by a National Commission on Air Quality, which created under these amendments, which would enable a resolution of all the fragmented and divergent analyses that have been conducted on a "crash basis" over the past months in reaction to the Committee proposal. Surely there is no national emergency that dictates an instant decision by the Congress. Nondegradation relates to esthetic values, not life or death decisions on our people's health and welfare. The present law wisely provides this protection. Moreover, the present EPA regulations would remain in force until this study is completed.

Surely this body, if it is to act judiciously and wisely in the public interest, is entitled to all the facts. But it has been argued that there is no need to consider my amendment and that reasoned delay, as I propose, is totally unnecessary. It has been stated that all the facts are known and that this issue has already been "studied to death." It has been stated that the legislative proposal before us has been developed only after extensive legislative hearings, that the Committee has received comments from virtually all

interest groups affected and has worked closely with State and local government officials.

I wish to draw my colleagues' attention to certain "facts" and "allegations" contained in the May 26 Congressional Record to set the record straight that this Body does not have all the necessary facts and inputs to make a decision that will place an indelible stamp on the lives and livelihood of all Americans. And of equal importance, to set the record straight that there is not the general consensus of support for this provision as implied.

ALLEGATION

Extensive legislative hearings were held on the nondegradation proposal contained in S. 3219. To quote from the May 26 Congressional Record, "In 1975, 14 days of hearings were held . . . One entire day of hearings was focused completely on nondegradation in 1975, and the subject was discussed in numerous other hearings that year."

FACT

Comprehensive legislative hearings were not held on the issue of nondegradation. No hearings were held on the language contained in Section 6 of S. 3219. The nondeterioration amendment was drafted and revised during Subcommittee and Committee markups, and the final version bears little resemblance to any proposal on which testimony was received.

Going to the official four-volume documentation of the Committee hearings record, contained in 1895 pages of recorded testimony and submissions for the record, it is accurate that the Subcommittee did conduct 14 days of hearings on provisions of the Clean Air Act. However, only one day was "focused completely on nondegradation," and this "entire day," as cited in the May 26 Congressional Record lasted a total of only three hours. (The Subcommittee convened at 10:00 a.m. on April 23, 1975, and recessed at 1:00 p.m.) Moreover, only four witnesses were heard—two in support of a national nondegradation policy, one with mixed views and one witness opposed. The witness list for this single session included:

Mr. Richard M. Lahn, Washington Representative of the Sierra Club, accompanied by Mr. Bruce Terris.

Mr. Cubia Clayton, Director, Air Quality Section, New Mexico Environmental Improvement Agency.

Mr. J. D. Geist, Executive Vice President, New Mexico Public Service Co.

Mr. C. Howard Hardesty, President, Eastern Hemisphere Petroleum Division, Continental Oil Co., representing the American Petroleum Institute.

Other than this "one entire day" of specific hearings on nondegradation, the subject was not discussed "in numerous other hearings," as cited in the May 26 Congressional Record. Again, going to the official Committee record, no other witnesses devoted full testimony to the subject of nondegradation.

Only eight witnesses out of 64 who appeared before the Subcommittee made any reference to nondegradation—and this was only in passing as part of their overall testimony on other provisions of the present law. Such comment was only in general terms and is contained in relatively few sentences in the hearing record. These comments sparked *only three questions* by the Subcommittee.

Following are the dates and appearances of witnesses:

March 19, 1975: Environmental Protection Agency—Administrator Russell Train briefly referenced nondegradation in the closing three paragraphs of his prepared statement; there was no discussion throughout the 123 pages of the hearing transcript.

March 20, 1975: Federal Energy Administration—Administrator Frank Zarb included nondegradation in prepared testimony on the Administration position on Clean Air Act Amendments. The statement was not read and there was no discussion of nondegradation in the entire 417 page transcript.

April 21, 1975: National League of Cities—Mr. Walter Rockenstein commented that without a national nondegradation policy, industry would leave the cities and relocate in rural areas. When questioned that his statement "almost sounded selfish," the witness replied that in part he was misunderstood, but "Obviously we don't care to lose the industries which provide jobs for our people." It may be noted that this question to the witness came after 707 pages of transcript in the Committee Record wherein the Senator posing it commented, "For the first time I heard someone talk about nondegradation."

April 22, 1975: Iron and Steel Institute—Mr. David M. Anderson, Environmental Quality Control, Bethlehem Steel (who also serves on the Environmental Protection Agency Air Quality Criteria Advisory Committee) observed that the steel industry will require construction of approximately 30 million additional tons of steel capacity but it may be necessary to import this with resultant loss of jobs for American workers as a result of overly stringent air quality standards. The steel industry would have to commit an additional $4.2 billion, over and above the $1.1 billion already spent and that the industry cannot finance such pollution control costs while at the same time expanding steel capacity to meet domestic needs. He advised that other major industries would face the same problem.

April 24, 1975: Mr. Lane Kirkpatrick, Director, Air Pollution Control Division, Colorado Department of Health touched on the concept of nondegradation in one paragraph of his prepared statement. He suggested that perhaps certain pristine areas such as national parks should be preserved from growth but other areas could be used for growth or to boost a state's economy based on the desires of the general public. There was no questioning and none of the other nine witnesses, including state officials from Texas and New York, made any comment on nondegradation. The hearing related to land-use controls and transportation controls.

April 29, 1975: Mr. Benjamin Wake, Montana Department of Health and Environmental Sciences structured his statement to the hearing subject of Intermittent Control Systems, but in response to one committee question, advised that there is a need for a standard more stringent than primary and secondary. His view on ICS is that it will "make air uniformly dirty" and that "a tricky plant manager could quickly learn when to release great volumes of pollutants."

May 1, 1975: Pacific Power & Light Company—Mr. George D. Rives, Counsel, advised the Subcommittee that he would support elimination of the nondegradation requirement from Federal law.

May 1, 1975: American Steel Institute—Mr. Fred Tucker advised that no other nation has regulations or limits based on significant deterioration and if domestic steel needs are to be met, we will have to import foreign produced steel.

Mr. Tucker also advised that because of the steel industry problems of compliance in maintenance areas it may be necessary to construct a new "grass roots" complex in a Class II area where air quality is above standards. But the Committee proposal would not allow this. The Senate Public Works Committee staff summary of nondegradation states in the April 1 Congressional Record, "Class II, as defined by EPA regulations and the Senate proposal, typically permits the individual siting of a 1000 megawatt coal-fired power plant and any one of a major new grass roots steel complex—none of which are planned." In correspondence to the Committee, also referenced in the April 1 Congressional Record, EPA Assistant Administrator for Air and Waste Management, Roger Strelow, makes the same comment.

ALLEGATION

States have been adequately involved in developing these amendments.

"Twenty states joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy.

"Eight states testified in 1975 during the Clean Air hearings. All submitted comments on nondegradation. It was on the basis of the suggestions made in such meetings and statements from these witnesses that caused the Committee to make substantial changes in the legislative proposal regarding nondegradation."

The National Governors' Conference supports the Committee bill and "opposes the Moss Amendment."

FACT (20 STATES)

Twenty states did join the Sierra Club in its suit for a national nondegradation policy. But why?

According to testimony of the Sierra Club in the nondegradation hearing April 23, Mr. Richard Lahn advised the Subcommittee that a paramount reason 19 states joined the Sierra Club brief was to prevent industry from "fleeing" to rural areas.

To quote from Mr. Lahn, "Aside from the environmental aspects described, perhaps the most important reason for preventing significant deterioration of air quality in clean air regions is the possible impact the lack of this provision might have on the economic well-being of our already industrialized, urban centers. The incentives to develop in rural areas, draining the industrial development in urban areas was a major concern of the 19 states which filed friend of the court briefs before the Supreme Court.

"The brief filed by 16 of the states makes the point well: 'The health of the economies of urban-industrial regions is dependent upon industrial continuation and growth. It is in the best economic interest of these regions that sources remain in them and utilize the emission controls necessary to reduce pollution levels to the numerical limits of the standards.

" 'Thus, it is beneficial to those regions that the requirement of no significant deterioration prevents rural regions from allowing lenient emission controls that are so much less expensive that an industry will have a financial incentive to relocate in a rural region. . .

" 'The requirement of nc significant deterioration removes the possibility of economic coercion between competing regions based on the stringency of emission control requirements.' "

FACT

In short, industrialized areas of the country were fearful that industry would migrate to rural areas and therefore supported the concept of nondegradation in order to hold industry "hostage." This same concern was expressed by the National League of Cities in testimony April 21—the only comment made on nondegradation in that hearing.

This but represents another misconception of the highly complex issue of the nondegradation proposal and the present law itself. This phenomenon simply would not happen because of the "new source performance standards" (NSPS) required by the law. The

present law carefully plans for the control of pollution that might result from industrial growth in new areas. Any new industry must meet the most stringent pollution reduction emissions possible to attain primary and secondary air quality standards. If they do not, they would not be granted permits.

Section 111 of the law requires the Administrator of EPA to establish performance standards applicable to new or modified stationary sources that may contribute significantly to air pollution. Such standards, known as "new source performance standards" (NSPS), require the "best system of emission reduction available" and are applicable even in those areas of the nation where the ambient air quality is better than that required under the national primary and secondary standards.

Nine of the 19 states which originally joined the Sierra Club suit, have now expressed strong concern or opposition to enactment of a national nondegradation policy. Of the 19 states that joined the suit—Alabama, California, Connecticut, Florida, Illinois, Kansas, Louisiana, Maine, Massachusetts, Michigan, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Vermont and Texas—the nine states that have advised of their grave concerns with the impact of such policy are: Alabama, Florida, Kansas, Louisiana, Maine, Michigan, Ohio, North Carolina and Texas. Their comments, together with those of other State Governors follow:

GOVERNORS COMMENTS ON PROPOSED NONDEGRADATION LEGISLATION

Alabama—Honorable George C. Wallace—

". . . the way nondegradation is defined can have a significant effect on growth plans and employment in our State. I urge you to oppose any specific definition of nondegradation. (Proposals) will concentrate development more heavily in already impacted areas and completely shut off further development in the relatively underdeveloped areas. The several states are in a better position than Congress to define areas needing specific controls." (2/12/76)

Arizona—Honorable Raul H. Castro—

"Consequently, the economic development of this State could be unduly determined at the Federal level. It is essential that State rights are preserved and that opportunities to participate in the decision making process are provided to local governments particularly when standards to protect human health and welfare are not exceeded. I urge Congress to establish a study commission to investigate and analyze the implications and consequences of the non-deterioration provisions as promulgated and proposed and to consider the alternative approach outlined by my staff in the enclosed report." (2/19/76)

Florida—Honorable Rubin O. D. Askew—

"One resource which is vital to Florida is the quality of air and the tourism which depends on it. Florida's air quality is for the most part better than secondary air quality standards. Florida has enacted a rule to prevent significant deterioration and the Florida Environmental Regulation Commission has resolved to continue the protection of areas with air quality better than the primary and secondary standards. I strongly urge you to carefully consider the consequences of adopting (nondegradation) and empowering the federal Environmental Protection Agency (EPA) to preempt the states' prerogatives in these areas. It is our position that the States are more capable of evaluating the economic and social implications of desired air quality within their boundaries than EPA." (2/11/76)

Georgia—Honorable George Busbee—

"I have previously taken a strong public position against the provisions . . . and I shall continue to speak out against them where possible. I have advised our Congressional delegation of our position with respect to proposed amendments to the Clean Air Act." (3/16/76)

Kansas—Honorable Robert F. Bennett—

"We share your concern that the proposal, as well as the existing federal involvement in the issue seriously erodes the state's authority to make the decisions necessary to strike a reasonable balance between environmental, economic, energy and social needs." (3/24/76)

Louisiana—Honorable Edwin Edwards—

"The Air Control Commission has requested that every effort be made to remove the offensive 'Significant Deterioration' provisions from the bill since each State already has the right to choose small increments of deterioration in favor of economic and social gain for its populace and the proposed law effectively curtails that prerogative. Defeat of the entire bill may be in the best interest of the state if the offensive 'Significant Deterioration' provisions cannot be satisfactorily resolved." (4/20/76)

Maine—Honorable James B. Longley—

"I share your concern over the possibility of further encroachment by the Federal government on the rights and destinies of Maine citizens and I concur with you that decisions affecting the local communities of Maine and other states should, whenever possible, be made at the local level. The State of Maine through our State Legislature and our Department of Environmental Protection has enacted some of the most sound and comprehensive environmental laws and regulations to be found anywhere in the entire nation. However, these laws and regulations are not so stringent as to preclude economic development. The people of Maine are justifiably proud of their State and its environment, but they are also very much concerned about the present economic picture in which there are not enough jobs for the people who want to work." (2/25/76)

In letters to members of the Michigan Congressional delegation: "The amendments pending in Congress could lead to a federally mandated land-use program based on air quality. I have consistently maintained that land-use planning should be performed at the local level, and the legislation I have supported in Lansing (HB 4234) requires that planning be done at the local level. It is inappropriate to base a land-use program on air quality. The quality of the earth—not the quality of the air—is the only appropriate and sound basis for land use decisions." (4/29/76)

Mississippi—Honorable Cliff Finch—

"If pending amendments to the Clean Air Act are passed, it will virtually halt economic development in our state. I am a firm advocate of the stated objectives of the Clean Air Act; that is, that the State takes action to protect the health and welfare of its citizens through the adoption and enforcement of the National Ambient Primary and Secondary Standards. Court rulings and EPA regulations that go beyond the attainment of the National Ambient Primary and Secondary Standards should be overturned. The proponents seem to be anxious to get these provisions set in concrete in the law before the present court rules on this matter again." (3/17/76)

New Hampshire—Honorable Meldrim Thomson—

"Resulting zero growth and adoption of a National Land Use law by this indirection would ruin the economy of small states such as New Hampshire as well as create an economic vacuum in enormous areas of the larger states. The punitive results of this amendment will fall upon our most needy citizens first and most heavily. Is there no end to these attempts by the Congress to hoist this country on its own petard?" (2/18/76)

North Carolina—Honorable James E. Holshouser, Jr.—

"North Carolina is well aware of the provisions of both the House and Senate versions of amendments, and we have actively opposed and intend to continue to oppose the enactment of either of these amendments in the Law." (3/31/76)

Ohio—Honorable James A. Rhodes—

"The Governor has asked me to inform you that the Ohio Environmental Protection Agency has strongly opposed the nondegradation aspects of the U.S. Environmental Protection program. It is our opinion that such standards as are proposed by the subject amendment represent overreaching by EPA and would have a serious effect upon land use in our state. The Governor appreciates receiving your comments regarding this very important matter." (Thomas J. Moyer, Executive Assistant to the Governor, 3/12/76)

Oklahoma—Honorable David L. Boren—

"Thank you for your letter concerning the Clean Air Act. I have already expressed my opposition to various Congressmen. I feel that environmental protection should be left at the state level, and I will continue to oppose federal regulations in this area." (3/19/76)

South Carolina—Honorable James B. Edwards—"We are asking the members of the South Carolina delegation in Washington to oppose the proposed amendments to the Clean Air Act of 1970." (3/19/76)

Tennessee—Honorable Ray Blanton—"The concern is that these amendments, if adopted, may infringe upon our state's authority and inhibit industrial expansion. I would appreciate your attention for your consideration and appropriate action you may be able to do to protect the rights of the State of Tennessee." (3/12/76)

Texas—Honorable Dolph Brisco—"I urge your support for any provisions that will accomplish the principles stated in the resolution" . . . adopted by the Interagency Council on Natural Resources and the Environment. The significant deterioration proposals would restrict growth in areas where the standards are not exceeded. In these clean areas where public health is not threatened, such arbitrary limitations on growth simply are not acceptable to the majorty of the citizens of Texas. Any decisions affecting growth must take into account the wishes of the people in the affected areas and must include a broad spectrum of considerations. Growth determinations must not be based solely on air quality as now perceived by the federal government. . . . The provisions of the amendments proposed by the Senate and the House infringe upon the right of the states and the citizens to determine growth rates and patterns according to local needs and goals. The proposed increments are arbitrary and far too restrictive. These increments will allow the Administrator of EPA to exercise undue control over land use throughout the country." (Undated)

Utah—Honorable Calvin L. Rampton—"While there is much to be regretted in the bill from a technical and practical standpoint, I find that the legislation is even more offensive administratively. The state is the ostensible administrator for the program, but in reality the states' role is purely ministerial. The air quality standards to be enforced are federally imposed, the land area to be included in each class are specified, and the limited discretion left to the state to redesignate can only occur after certain conditions are met. This bill is an example of good intentions run riot and what results

from the lack of a coherent national energy policy. In the interest of environmental protection it imposes a no-growth policy on Utah without any regard for the long-term national interest." (3/11/76)

Virginia—Honorable Mills E. Godwin, Jr.—

"If this legislation is enacted in its present form, Virginia would feel impelled to ask the courts to set it aside as unconstitutional. The National Governors' Conference adopted a resolution in September, 1975, which recommended that each State retain the flexibility to determine for itself what is "significant deterioration" consistent with local values. The Southern Governor's Conference also in September, 1975, expressed serious concern that "significant deterioration" provisions might arbitrarily prohibit economic development of many areas, even though the air quality would be much better than the level required for good health. The organization of State and Territorial Air Pollution Program Administrators also recommended, through resolution, that the Clean Air Act be amended to expressly provide that there shall be no requirement to establish air quality standards more stringent than the primary and secondary standards.

"At the very least, the Committee should refer the non-deterioration provisions to a study commission for a thorough analysis of their implications, to be followed by public hearings where the full impact of any resulting recommendations may be focused on by State and local government representatives and concerned citizens." (1/15/76)

FACT (EIGHT-STATE TESTIMONY)

Eight states did not testify on nondegradation as cited in the May 26 Congressional Record. Only one state, New Mexico, presented testimony during the session devoted to this issue. Of the remaining seven, Nebraska, Texas, Colorado, New York, California, Montana and West Virginia, only two officials—from Colorado and Montana—made passing reference to this issue in the course of their testimony. The officials from these states appeared before the Subcommittee to review such provisions of the current law as automobile emissions, transportation controls, land-use controls and implementation of state plans.

FACT (NATIONAL GOVERNORS' CONFERENCE)

The National Governors' Conference adopted a unified position on the issue of nondegradation at its conference in New Orleans in 1975 and there has been no indication that the basic position has changed since then. As cited in Policy Positions 1975–1976, National Governors' Conference: "The significant deterioration issue should be resolved by Congress in a manner which gives each State the flexibility to determine for itself what is meant by 'significant,' consistent with local values."

In a letter dated April 18, 1975 to the Senate Subcommittee on Environmental Pollution, Governor Salmon, Chairman of the National Governors' Conference Committee on Natural Resources and Environmental Management conveyed this same position:

"The issue of significant deterioration should be resolved by Congress in a manner which gives each State the flexibility to determine for itself what is meant by "significant," consistent with local values." (Implementation of the Clean Air Act—1975, Hearings, Part 2, page 1939).

Subsequent to that time, concensus of the 50 Governors has not been reached on legislative proposals. This was brought to the attention of the full Public Works Committeee in January 1976 by Governor Thomas P. Salmon, Chairman, Committee on Natural Resources and Environmental Management, National Governors' Conference: "As Chairman of the Natural Resources and Environmental Management Committee of the National Governors' Conference I have followed this controversial issue closely. The Committee's Clean Air Task Force has attempted to reach a concensus on prevention of significant deterioration, but the varying policy positions of the 50 Governors has precluded formulation of a legislative amendment which would gain unqualified NGC support.

"Our Clean Air Task Force has advised me that the prevention of significant deterioration provisions contained in Senate Print No. 6 are unacceptable. However, the Task Force has been unable to develop an alternative proposal that would be acceptable to the National Governors' Conference."

The concern of the Governors for State determination was reiterated in the telegram of Governor Ray, Chairman, quoted in the May 26 Congressional Record.

SOUTHERN GOVERNORS CONFERENCE

The 18-member Southern Governors' Conference adopted the following resolution at their 41st annual meeting in Florida in September 1975 which expresses grave objections to a national nondegradation policy over states' rights. Member states are: Arkansas, Alabama, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Texas, Tennessee, Virginia, West Virginia and the Virgin Islands. The text of the resolution follows.

Southern Governors' Conference Resolution on Air Quality

"Whereas, the Congress of the United States passed the Clean Air Act and established certain standards of air quality and timetables to meet those standards, and

"Whereas, many rural areas of the country still suffer serious economic problems and improved quality of life can come only with better jobs and improved economic developments; and

"Whereas, the interpretation of "significant deterioration" presently being made arbitrarily prohibits any economic development which will cause significant reduction in the air quality in any area, even though the air quality would still be well above the level required for good health; and

"Whereas, this definition of 'significant deterioration' will condemn many areas of this country to continued poverty and substandard quality of life;

"Now, therefore, the Southern Governors' Conference urges Congress to amend the Clean Air Act so as to define the term 'significant' deterioration' to permit attainment of primary and secondary standards already established, and that the Act be further amended to clarify the rights and responsibilities of the State to administer air quality programs within the states in whatever manner they choose to meet the national standards."

STAPPA RESOLUTION

In their December 1975 conference in Austin, Texas, the 25 State and Territorial Air Pollution Program Administrators (STAPPA) who are charged with implementing the provisions of the Clean Air Act in their respective states unanimously adopted the following resolution which opposes standards stricter than present law: "That Sec. 101(b) of the Clean Air Act should be amended to read as follows: '(1) to protect and enhance the quality of the Nation's air resources by establishing, achieving and maintaining national ambient air quality standards, standards of performance for new stationary sources and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the Nation, but nothing in this Act is intended to require the establishment by the Administrator of air quality standards more stringent than primary and secondary ambient air quality standards; and that Section 110 should be amended by adding the following subsection (g) thereto: '(g) Each state plan shall determine what degradation of air quality, if any, is to be permitted.' "

The State pollution control officials endorsing this resolution included:

Arkansas, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New York, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming.

ALLEGATION

"Legislative proposals submitted to the Committee and considered by the Committee included: The American Paper Institute, the American Mining Congress, Dupont, the National Association of Manufacturers, Shell Oil, Utah Power & Light, Cast Metals Federation, Chamber of Commerce, National Association of Counties, the Electric Utility Industry, Continental Oil Co., the Sierra Club, and the State of New Mexico." This was in addition to the President's proposal.

FACT

The fact of submissions is not the case in point but the extent to which the Committee "considered" these proposals is questionable. As stated earlier, full accord was given by the Subcommittee to the Sierra Club and the State of New Mexico, proponents of a nondegradation policy. But as previously stated, the President's proposal, which was to have been presented by FEA Administrator Frank Zarb, was in fact not discussed during his appearance before the Committee. The fact is that the President's proposal was ignored in the hearing process. While it is printed in the Committee record it was certainly not given the consideration normally accorded the presentation of any Administration witness on policy recommendations to the Congress that affect the entire nation.

Moreover, the remaining legislative proposals received from industry were not treated during any hearing but merely appear as statements for the record, in large part contained in the Appendix of the hearing report.

Without exception, all of these statements for the record express grave concerns with the job and economic implications of the Committee proposal.

It is universally agreed—probably the only area of agreement in this controversy—thus the utilities industry will be the most heavily impacted by this proposal. Estimates range from $11 to $16 Billion. But there is no record of economic input data from the electric utility industry in the hearing record.

Following are the excerpts from the Industry statements on nondegradation which are contained in the hearing record appendix. Since industry will pay the initial tab, to be passed on ultimately to the American consumer, their views should be noted.

SUMMARY OF API POSITION ON NONDEGRADATION

American Paper Institute—See Appendix A, pp. 1812–13:

The relationship of the nondegradation issue to the pulp and paper industry is seen in high relief when it is clearly understood that this industry, in order to meet demand, must either build new pulp and paper mills or expand existing mills. Because of the diminishing lands areas available for new

sites as a result of the dependency of a pulp and paper mill on sustained long-term forest yield and need for water in the manufacturing process, the industry perceives that it will be expanding more mills than building new mills. The issue then is how does nondegradation affect expension.

API believes that the bold interpretation seen in "no significant deterioration" regulations amounts to an unwarranted and unauthorized subjective land use program not contemplated by Congress nor envisioned in the judicial interpretation of Section 101 of the Act. Further, API submits that the complete concept of nondegradation was never before Congress in any meaningful way. The problems of fuel allocation and cost, as well as economic planning, management and balanced judgment vis-a-vis nondegradation were never the subject of debate. It can be said that the issue of fuel availability and cost were not fully appreciated at the time the Clean Air Act of 1970 became law.

American Mining Congress—See Appendix A, pp. 1796–97:

In considering this matter it is not necessary to decide whether Congress in 1970 intended to include the general notion of no significant deterioration in the Clean Air Act; that issue has already been decided affirmatively by a U.S. District Court and was ultimately affirmed by an equally divided Supreme Court which issued no opinion. (It is interesting to note that the District Court case, which established the doctrine of no significant deterioration, was filed, aruged, and decided all in one week—May 24–May 30, 1972—the government having only two days to prepare its brief on this complex and far-reaching matter.) The issue that exists now is whether or not the notion of no significant deterioration, as pronounced by the District Court, should remain in effect. This Subcommittee should examine the District Court determination and decide whether or not to allow the decision to remain in effect or to legislate a different policy. The theory of no significant deterioration as pronounced by the Court and interpreted by EPA is unclear, confusing and ineffective. Further, EPA's regulations attempting to administer a program to implement this theory can be considered an administrative nightmare at best and an impossibility at worst. These regulations are the subject of over ten lawsuits in various courts throughout the country, and it does not appear that these challenges will be resolved within the next year or more.

Accordingly, the American Mining Congress recommends the adoption of legislation such as that proposed in S. 594 (Section 601) and in S. 693 which are currently pending. These bills propose to amend the findings and purposes of the Clean Air Act so as "to protect and enhance the quality of the nation's air resources by establishing, achieving, and maintaining national ambient air quality standards, standards of performance for new stationary sources, and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the nation, but nothing in this Act is intended to require or authorize the establishment by the Administrator of standards more stringent than primary and secondary ambient air quality standards."

Cast Metals Federation—See Appendix A, p. 2046:

To establish that the individual states have the right to decide matters of "significant deterioration" of air quality. States would make the judgment as to whether secondary air quality standards are sufficient protection or whether more stringent limitations are necessary.

Chamber of Commerce of the United States—See Appendix A, p. 2058:

On the subject of significant deterioration, the National Chamber supports Section VI of S. 594, the Administration's "Energy Independence Act of 1975." This section is designed to provide legislative relief from court interpretations which require EPA to prevent "significant deterioration" of the air quality better than that required to protect the public health and welfare. This is not only unnecessary, but highly expensive and a possible illegal form of land use control by EPA. This non-degradation policy, applied to all areas with air quality better than national secondary standards, imposes substantial economic and social hardships and dislocations by foreclosing economic development in large areas of the United States. It thereby adds to concentrated growth in existing metropolitan areas where our greatest social problems lie.

However, the National Chamber realizes that it is appropriate for some geographic areas of undeniable scenic or aesthetic value to be the subject of preservation. These pristine areas should be set aside by the concerned state agency after public hearings on the record to hear from all sides with an interest in such a ruling. Where such areas are contiguous to cities, the municipal growth impact appraisal should be mandatory in setting standards.

Du Pont—See Appendix A, p. 1854:

In our opinion, the court decision prohibiting the "significant deterioration of existing air quality" in those areas where the existing air quality standards are presently being met is entirely too broad, and has had a detrimental impact on the siting of new industrial and power generating facilities which are badly needed. We believe that Congress should take action to carefully define the scope of federal authority under the Clean Air Act to only those instances where the national ambient air quality standards are not being met.

National Association of Manufacturers—See Appendix A, pp. 1913–1917:

We believe that Congress should clarify its intent in respect to "non-degradation" and "significant deterioration." These terms which are neither used nor defined in the Clean Air Act and in its legislative history, have resulted in a major and as yet unresolved controversy, a controversy based on interpretation of legislative intent.

Literally interpreted, "non-degradation" means no growth, and the court decisions have had the effect of instituting just such a policy nationwide.

In testimony before the House, Mr. Frank G. Zarb, Administrator of FEA, candidly admitted that he did not know what "significant deterioration" meant, and that he doubted that Mr. Train knew either. To this statement, Rep. Hastings replied, "The courts don't know what it means and Congress doesn't either." In his prepared statement, Mr. Zarb stated:

"The additional uncertainties created by yet another layer of regulatory requirements on the energy industry is not compatible with the goal of expeditiously developing needed domestic energy resources. There is a need to simplify and rationalize the complex regulatory constraints on the domestic energy industry. . . ."

"Reports by the National Academy of Sciences and others, have shown that current scientific evidence does not support the need for ambient standards more stringent than the currently promulgated primary and secondary ambient air quality standards for particulates and sulfur dioxide. Accordingly, FEA does not believe the potential benefits from the significant deterioration program justify the potential cost of constraining the development of domestic energy resources."

The highly questionable nature of alleged benefits of a "non-degradation" policy from the social, economic and environmental standpoints were best expressed by the U.S. Department of Health, Education and Welfare in its comments to EPA Administrator Russell Train on October 16, 1973 on EPA's proposed rulemaking on Prevention of Significant Air Quality Deterioration (Federal Register, July 16, 1973). DHEW's summary stated: "While we lack detailed data from the EPA or other sources about the specific impacts of the proposed non-deterioration regulations, we believe that their costs might outweigh their benefits by a significant margin.

"According to EPA, the only documentable benefits to be achieved by non-deterioration regulations would be 'aesthetic, scenic, and recreational.' (Proposed Rulemaking, p. 18987). However, these regulations might in fact produce no consequential benefits of this kind, and alternative regulatory approaches could probably attain equal (or greater) benefits without imposing substantial costs. Against these benefits must be weighed the risk of negative impacts on economic growth, urban development capabilities, energy resource development, consumer prices, the status of low-income persons, and the public health. Non-deterioration regulations would produce a national land-use policy giving singular attention to air quality criteria. Serious land-use distortions might result, particularly if only a few regions would be capable of absorbing population or economic growth.

"While non-deterioration regulations risk imposing substantial net costs on the nation as a whole, a disproportionate share of those costs might be borne by persons of limited economic means and residential mobility. These persons would benefit relatively little from the preservation of air quality in rural areas, while they would disproportionately bear any impacts of curtailed economic growth, altered urban and rural development trends, constrained national capacity to absorb anticipated population increases, and higher consumer prices for energy and manufactured goods. These impacts could compound the difficulties faced by all levels of government in responding to the needs of the poor, the eldearly, racial minorities, and persons otherwise disadvantaged.

"The health impacts of non-deterioration regulations could also be adverse. Present national ambient standards account for all but inconsequential or unforeseeable health risks. If, after time passes, those standards are found to be sufficient to protect the public health, then superseding non-deterioration standards would produce no health benefits. The latter standards might well create adverse health effects should cities be delayed in their efforts to achieve the national ambient standards. Conversely, if the national ambient standards are unexpectedly found to permit dangerous levels of air pollution, then non-deterioration standards would have imposed more substantial health problems by having perpetuated a greater concentration of air pollution in densely-populated urban areas than would otherwise have occurred. Other adverse health effects might arise from energy shortages and from the possible health-impairing consequences of economic hardships imposed on low-income families.

"All adverse impacts risked by non-deterioration should be investigated, quantified if possible, and weighed against any aesthetic and recreational benefits before any specific regulations are promulgated. Particular attention should be accorded to possibly ir-

reversible effects of any alteration of national or regional development trends. . . ."

"If the legal situation makes this review impossible, the regulations selected for promulgation should minimize the risk of major adverse impacts by providing for a minimum of Federal impingement on local preferences. The Federal government, in this neutral role, should avoid altering economic or demographic trends in any manner not now known to be beneficial. It should also avoid imposing substantial uncompensated costs on disadvantaged persons.

"If the courts are likely to interpret *Sierra Club* v. *Ruckelshaus* and the Clean Air Act as mandating a more aggressive Federal regulatory role, it may be necessary to consider legislative amendment of the Clean Air Act to clarify where and how 'significant deterioration' should be prevented."

Since the legal basis for the courts' decisions has been the "protect and enhance" language of Section 101(b)(1) of the Act, we believe this section should be modified to read along the following lines:

"(1) to protect and enhance the quality of the Nation's air resources by establishing, achieving, and maintaining national ambient air quality standards, standards of performance for new stationary sources, and national emission standards for hazardous air pollutants so as to promote the public health and welfare and the productive capacity of the Nation, but nothing in this Act is intended to require or provide for the establishment of ambient air quality standards more stringent than national primary and secondary ambient air quality standards;". By thus making clear the legislative intent, the controversy would be resolved and, at the same time the public health and welfare would be "protected and enhanced" by standards designed to protect against "any known or anticipated adverse effects."

Shell Oil Company—see Appendix A, pp. 1954–55, 1960–61:

To commit the Nation and its people to the attainment of a "zero-risk" goal of air quality while simultaneously subjecting them to the corollary "infinite risk" of all other needs, comforts and benefits inherent to the broadest concept of public health and welfare appears to be an irresponsible course of action. Herein rests the first basic fault of the Clean Air Act, as presently amended.

We submit that it is time for Congress, the EPA, and the Nation to acknowledge these facts and to abandon the "zero-risk" goal of air quality implicit in the Clean Air Act, as presently amended. To this end, we recommend: that Section 101(b)(1) be amended to provide appropriate statutory definitions of each word, term or phrase contained in the Act's statement of purpose, i.e., ". . . to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population;",

Despite the many known or suspected inadequacies of the technical basis for the Nation's early air pollution control efforts under the amended Act, they could be endorsed and supported by nearly everyone on the grounds that an air pollution problem existed, that some remedial action was required, that the potential benefits of success were appreciable and that the social and economic dislocations due to possible errors were of acceptable or tolerable magnitude.

This situation does not apply to the newer EPA programs such as "transportation and land use control," "indirect source" "no significant deterioration" and "air quality maintenance area" programs. Even EPA acknowledges that these programs, individually or collectively, can have very serious impacts on society, the economy and the future development of the Nations and, yet, they are designed to achieve only modest incremental improvement in air quality. Such programs forceably demonstrate the necessity for having substantial evidence and solid documentation to support the policies and environmental justification for the programs.

Section 110(a)(2)(b) of the amended Act authorizes and directs EPA to take certain actions as may be necessary to insure attainment and maintenance of the national ambient air quality standards including land-use and transportation controls. Party by reason of this authority and direction, partly by reason of Court decisions and partly by reason of the tight deadlines imposed by Congress in attaining the national standards. EPA has been obliged to promulgate land use control measures in the form of "indirect source" regulations and "no significant deterioration" measures in addition to the "transportation and land use control" measures we have discussed earlier in this statement.

It seems needless to belabor the degree to which the Nation's people rely on the availability and use of their respective communities' roads, airports, educational centers, medical and clinical facilities, shopping centers, churches, recreational facilities, stadiums and other vital services which now are covered by EPA's "indirect sources" program. The people's dependence on these facilities for continued good health, welfare and safety should be apparent. It seems equally apparent that it is improper to subject them to land use controls that may limit their future accessibility and utility solely on the basis of air quality considerations.

The other example of land use planning based solely on air quality considerations in EPA's "no significant deterioration" program. If for no other reason, this program also is improper. It however, is based on a false or faulty air quality issue.

The "no significant deterioration" program severely limits the possibilities of locating industry in parts of the Nation presently having air quality better than the national standards. In reviewing the merits of the lawsuit on this subject, the court seems to have been guided more by the ambiguities of the "to protect and enhance" phrase of Section 101(b)(1) rather than the specifics of Section 110(a)(2). One would have expected the court, in doing so, to have provided EPA and the Nation with a meaningful definition or explanation of the expression "to protect and enhance." This was not done. The court simply provided a substitute term, i.e., "no significant deterioration" of air quality without any definition or clarification. The court thereby perpetuated the use of ambiguous language. Under any semantic term or equivalent, the "no significant deterioration" or "anti-degradation" issue is a false issue. It seeks to maintain the status quo of air quality over about three quarters of the Nation's land surface without any justification. Keeping in mind the scope and severity of the definition of the term "public welfare" as found in Section 302(h) of the amended Act which properties and esthetic values the national secondary ambient air quality standards seek to protect, changes in air quality below the secondary standard cannot be subjectively observed nor instrumentally measured in any meaningful way.

Thus, EPA has employed the authorities and directions contained in Section 110(a)(2)(B) to inaugurate land use control programs based solely on air quality considerations in the effort to comply with the statutory deadlines for attaining and maintaining the national ambient air quality standards. Herein rests the third basic fault of the Clean Air Act, as presently amended.

We submit that it is improper and not in the best interests of the Nation or its people to promulgate land use control programs based solely on air quality considerations. Land use decisions are far too important and involve far too many diverse factors to allow them to be dictated by any single consideration.

We recommend that Congress, by further amendment of the Clean Air Act, prohibit EPA from adopting, promulgating or enforcing land use control measures. We further recommend that EPA be prohibited from requiring the States to promulgate land use regulations or programs for air quality control purposes.

Utah Power and Light Company—See Appendix A, pp. 1984–85:

Significant deterioration is a high sounding phrase. In theory, it means protecting and maintaining clean air in presently underdeveloped areas. In practice we fear it means continued poverty in many rural areas of the west, an ever greater concentration of industrial pollution and population in already crowded urban centers and an ever increasing national dependence on imported energy and mineral resources because of an inability to develop our own resources under these restrictions.

A clarification should be made in the statute tying the concept of deterioration to an avoidance of ambient levels which are harmful or at the very least to allow areas to increase to ambient levels equal to the Federal secondary standards and to require only those emission controls which can be justified based on a comprehensive cost benefit analysis as outlined above.

The present regulations promulgated by EPA are devastating to the West because of their treatment of Federal and Indian lands. It is not possible for development of power plants or other industry within the state of Utah to be kept sixty miles from Federal or Indian lands. There is no such place in the state of Utah. Federal and Indian lands constitute more than 50% of all lands in the state and far more than 50% of all the lands from which energy resources can be produced.

Significant deterioration as now applied is a serious impediment to development of the best energy resource which this nation possesses, namely low sulphur coal. If this nation is to reduce its dependence on imported energy supplies and if we are to achieve the best air quality for the nation as a whole, it is imperative that we move ahead without undue delay on a program which will allow, under proper control and without overkill, the utilization of this resource.

ALLEGATION

No studies have been done. A further 1-year study is necessary to have adequate information upon which to base a decision.

FACT

No one has claimed that no studies have been done, indeed a minimum of 20 individual studies have been made in an attempt to analyze impact of the Committee proposal on such vital issues as employment, coal development, oil imports, consumer costs, and economic growth. It should be noted that because these studies were put together on an individual piece-meal basis it is impossible to provide for a comprehensive overview of total impact. It should be further noted that these studies were developed in reaction to the Committee amendment; and, therefore, any conclusions of potential adverse consequences were not

part of the consideration in developing this nondegradation proposal. The very fact that so many studies were developed in reaction to the Committee proposal, of itself, indicates the serious questions raised on the effect of this proposal on the nation's economy.

Of the studies annotated in the May 26 Congressional Record, it should be noted that 21 of these were prepared, not in connection with the proposal before us, but prior to 1975 in relation to the EPA regulations. Since the Committee proposal, and its impacts, is far different from the existing regulation, it is questionable if this listing is relevant to the questions now being raised.

I wish to call my colleagues' attention to the Annotated Bibliography "Studies on Nondeterioration of Air Quality," prepared by the Department of Commerce Regulatory Policy Committee in May, 1976, which I am inserting in the Congressional Record.

This compilation lists 17 studies done to date on proposed nondegradation legislation and provides summaries of conclusions for each of the studies. I believe this will be very helpful to my colleagues to review—1) to point out the specific questions being raised on inhibiting effects of Section 6 on diverse economic sectors of the country and 2) in demonstrating the need for unified, comprehensive study of this issue, as my amendment would do. To quote from the Department of Commerce Summary to this compilation of studies, "These studies have contributed valuable insights on the technological and economic ramifications of nondeterioration proposals. In the process of doing so, they have shown the difficulties involved in developing an overall assessment. They point out the gaps in knowledge and point the way to completing the necessary industrial and regional analyses which would fill the gaps."

Geographically, these analyses attempt to cover the implications of nondeterioration for the following localities:

Colorado, Florida, Iowa, Maine, Minnesota, New Mexico, Texas-Louisiana, West Virginia, Wisconsin.

Boston, Dallas-Forth Worth, Four Corners, "East", "Central", "West", Rural Areas, Urban Areas, Regions, General.

While the nondegradation proposal of Section 6 in S 3219 applies to 28 major sources, the analyses cover only 9 major industrial sources. This again demonstrates the gap in knowledge of the full effects of this proposal. Following is the listing of major source coverage of studies:

MAJOR SOURCE COVERAGE OF STUDIES

List of 28 major sources in S. 3219—Source studied, not studied

1. Fossil-fuel fired steam electric plants, Studied.
2. Coal cleaning plants, Not Studied.
3. Kraft pulp and paper mills, Studied.
4. Portland Cement plans, Studied.
5. Primary zinc smelters, Studied.
6. Iron and steel plants, Not Studied.
7. Primary aluminum ore reduction plants, Not Studied.
8. Primary copper smelters, Studied.
9. Municipal incinerators, Not Studied.
10. Hydrofluoric acid plants, Not Studied.
11. Sulfuric acid plants, Not Studied.
12. Nitric acid plants, Not Studied.
13. Petroleum refineries, Studied.
14. Lime plants, Not Studied.
15. Phosphate rock processing plants, Not Studied.
16. Coke oven batteries, Not Studied.
17. Sulfur recovery plants, Not Studied.
18. Carbon black plants, Not Studied.
19. Primary lead smelters, Studied.
20. Fuel conversion plants, Studied.
21. Sintering plants, Not Studied.
22. Secondary metal production facilities, Not Studied.
23. Chemical process plants, Not Studied.
24. Fossil-fuel boilers, Studied.
25. Petroleum storage and transfer facilities, Not Studied.
26. Taconite ore processing facilities, Not Studied.
27. Glass fiber processing plants, Not Studied.
28. Charcoal production facilities, Not Studied.

Major sources not listed in S. 3219

Coal mining, studied.

Oil and gas extraction, studied.

Industries, generally, studied.

The analyses cite a number of factors which enter into considerations of the impact of proposed nondeterioration legislation such as industry factors of size and location of plants, energy source and use, availability of water and raw materials and plant design; and regional factors such as meteorological conditions, terrain, background emissions and availability of land. The assumptions, methodologies and analytical measures of impact vary widely but certain conclusions are common to many of the studies:

Class I areas, including "buffer zones," appear to be a major obstacle to economic growth for the industries analyzed;

Capital costs required to meet the nondeterioration requirements are higher than the Clean Air Act current requirements;

Nondeterioration requirements will necessitate the use of smaller size plants, the installation of additional control technology, the construction of taller stacks, and relocation of plants at alternative sites.

Future growth opportunities will be restricted without a Class III designation or a variance from Class II requirements.

To highlight some of the individual study conclusions:

Oil refineries—Production costs would increase due to reduction in plant capacity, the necessity to use stringent control technology and locating plants at less advantageous sites. Dislocation of planned industrial plants to non-impacted sites would cost $640 million to $1.8 billion in capital investment in 1975 dollars in order to meet 1985 demand growth. The regulations will affect energy independence. (Bonner & Moore Study)

Power plant capacity—In flat terrain, a 2000 megawatt powerplant could be built; but in hilly or mountainous terrain, only a small plant could operate in a Class II area. For example, in New Mexico, the maximum size calculated allowable was 158 megawatts, an inefficient size for a new facility, and in very hilly terrain, such as West Virginia, 49 to 64 megawatts would be the maximum size allowable. (ERT Study)

Western coal mining—For air quality control regions (AQCR) where more than one surface mine is proposed, the proposed amendments would prohibit new surface mining operations in such AQCR's. (ERT Study)

State of Maine—Industrial development in Maine would be more severely restricted than in many other states. The presence of hilly or mountainous terrain and the potentially large number of Class I areas would exclude industrial development in many parts of Maine. (ERT Study)

State of Florida—Significant deterioration proposals will add $120 to $300 million to costs of electricity supplied to Florida Light and Power Company customers (Fla. Power & Light Co. Study)

States of Minnesota and Wisconsin—Impact on both Minnesota and Wisconsin would be severe in terms of the siting of new power plants and providing electricity for new industries in these states. (Hoffman & Bechthold Study)

Rural Areas—Rural area development will be higher in cost due to added control requirements; not locating plants where they would otherwise have been located; plants would be built smaller than otherwise. (ICF Study)

Urban Areas—Economic development and employment in urban areas violating NAAQS would not increase; this is attributable to current Clean Air Act. Nondeterioration provisions may result in siting new facilities further from urban centers than would otherwise occur. This would tend to contribute to further urban sprawl, a lengthening in job travel time, adverse environmental effects and other socio-economic effects. (ICF Study)

Energy Development—Oil consumption would increase by 1 million barrels a day (MBD) of largely imported oil. Oil field development, such as tertiary recovery, could be inhibited. Natural events which degrade air quality, e.g., dust storms, could preclude development of energy and material resources such as oil shale, coal, and copper. (ICF Study)

Consumer Utility Bills—In the absence of nondeterioration, the Clean Air Act will cost each American household $1,500 between 1975–1990. The nondegradation amendment to S3219 would add $299 to $673 per household. (NERA Study)

Jobs—The electric cost per household between different regions "indicates the extremely disparate regional effects of the legislation. To the extent these costs are passed on to industrial customers regionally, they are likely to discourage the expansion of electric-intensive industries in high-cost areas, and, as a consequence, adversely affect employment and economic growth in those regions." (NERA Study)

Electric Utility Industry—The electric utility industry will experience the major economic impact. The Senate proposal will increase the electric utility industry capital requirements by about $11.5 billion over the next 15 years. (EPA Study)

Based on the projected growth rate of 7.5 percent in generating capacity, capital requirements for production equipment in the utility industry would range from $107 billion to $127 billion over the 1981–1990 period. Total production costs would range from $170 to $250 billion. (GE Study)

ALLEGATION

EPA's basis for requiring pollution clean up has been challenged and EPA staff has been charged with deliberately distorting data regarding the effects of pollution. "These charges have effectively been laid to rest by the hearings held Friday, April 9, by the House Interstate and Foreign Commerce and the House Science and Technology Committee."

FACT

These charges have not "been effectively laid to rest." There still remain many questions on the veracity of this study. The House Science and Technology Committee Subcommittee on Environment and the Atmosphere, chaired by Congressman George Brown of California, is now conducting a technical field investigation of the EPA CHESS study because of the controversy and its relation to sulfate standards promulgated by EPA. The Congressional hearing of April 9 served only to clarify the issues involved; the Congressional investigation underway is intended to examine the methodologies employed by EPA in arriving at the results of the CHESS study in order to resolve the present controversies as far as the Congress is concerned.

I wish to call my colleagues' attention to the May 4 Congressional Record 12331–

H3896) House consideration of H.R. 12704, EPA's authorization for research and development, during which considerable time was devoted to questions on the CHESS study. Chairman Brown advised the Membership of the Committee's investigation into the methodology of the CHESS study and submitted the following memordandum outlining the Committee investigation: Committee on Science and Technology, Washington, D.C. April 23, 1976, Memorandum.

COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, D.C., April 23, 1976.

MEMORANDUM

To: Olin E. Teague, Chairman

From: George E. Brown, Jr., Chairman, Subcommittee on the Environment and the Atmosphere

Subject: Investigation: Sulfate Health Effects Program (CHESS) and EPA Evaluation Plan

After reviewing the results of the Joint hearing of my Subcommittee and Mr. Rogers' Commerce Subcommittee on April 9th, I feel we should keep up the momentum established by undertaking further investigations by our Committee. In previous hearings (as well as on April 9) we have established that there were technical and methodological problems with the original CHESS studies, For example, a Subcommittee report now being printed will recommend that EPA conduct another sulfate health effects study with goals similar to the CHESS goals, but avoiding the mistakes of CHESS.

However, our earlier hearings have not documented in detail what were the problems with earlier studies, exactly how these studies impact EPA regulatory policy (i.e., why they are so important), and how the next generation study should be done. In order to do this, we need to get a clear understanding of the reliability and precision of the health effects data in the concentration levels reported in the CHESS monograph, and see how the data relate to present and projected SO_2 and sulfate standards. Further, we need to see if more substantive conclusions might be drawn from analysis of the subsequent four years of data taken and not yet translated. A second task of the investigations will be to review the EPA program for sulfate health effects determination, testified to by Mr. Train on April 9, to see if the program appears likely to produce the timely results required to support standards and if the resources planned for that program are adequate.

The draft study plan is attached. The field visits portion of the investigation will require three staff people plus the assistance of two or three GAO investigators for at least two weeks. We will require several days travel to the CHESS data gathering sites for two people at each site two days. The team will require a week at EPA Triangle Park Lab in Durham, North Carolina. The balance of the investigation can be carried out in Washington, D.C. Your concurrence and approval of this program is solicited.

INVESTIGATION PLAN

EPA SO_2 and sulfate epidemiology research program (CHESS)

Scope and Objective

The purpose of this investigation is twofold: first, we wish to follow up on the hearings held jointly on April 9 by the Science and Technology and Interstate and Foreign Commerce Committees. The hearings were initially called to investigate the allegations in the Los Angeles Times of improper interpretation of the CHESS study data. As a result of the hearings the question has shifted from one of impropriety in the conduct of the CHESS studies to a question as to the scientific rigor and adequacy of the CHESS studies. To answer this remaining question requires review of the data gathering techniques used in the program with associated limitations, uncertainties, etc., together with a review and evaluation by unbiased experts of the methods used in analyzing and interpreting the data to assess if unwise or biasing techniques were used in arriving at the results in the CHESS monograph. These reviews will lead to a review of the issue as to whether or not the CHESS results alone provide a sound basis for establishing primary and/or secondary air quality standards for sulfates. It may well be that the uncertainty recognized for these results at lower concentration levels are such that any biasing of analysis can have little or no effect or influence on the standards. Nonetheless, the rigor and adequacy of government sponsored research must be established or measures must be found to correct any deficiencies uncovered in this review.

The second issue which arose in the April 9 hearings is the pressing need for a sound technical basis for establishing air quality standards for sulfates. The EPA Administrator testified that a program was in place to do just this. The investigation team should review the EPA program considering all unevaluated and unpublished CHESS data and other studies that have been made to access if the program appears sound and expeditious and to assess whether or not necessary resources are available to assure success in the program.

Phase I—CHESS Data Gathering

There were 6 or 7 data gathering regions each with several instrumented sites. The research program in each region was carried out by a team of researchers.

Each area program will have to be reviewed by interviews with scientists who conducted the study and examination of procedures and data. The review will address at least the following items:

Data sites

Review of test procedures and practices

Time and intervals of data acquisition

Instrumentation used, calibration techniques, etc.

Special deviations from standard practice

List of data gathered

Known differences from other areas or sites

All anomalies established at each site during test interval

Averages/totals/regressions/etc., carried out on data before it was forwarded to the management center for compiling

Interview researchers as to comments on how data was gathered and its use in summaries reported in CHESS monograph.

Each area will take two to three days by two investigators—each two-man team can cover two areas in a week. This phase of the investigation can be carried out by six men in one week. They should return with taped interviews and data review results.

Phase II—Review of Analysis of CHESS Data

In Phase II investigators must visit the EPA Triangle Research Center Lab and interview researchers who participated in computation and analysis of the data. The following information will be sought:

What area data not used—why?

Follow-through the entire procedure used compiling, combining, averaging, and otherwise stratifying, summarizing, and interpreting data. What bands of confidence established—why?

Interview researchers who participated for reaction to correctness or soundness in handling data.

This place should take three men one week.

Phase III—Review and Final Drafting of CHESS Report

In the third phase the investigators will obtain names of EPA and outside reviewers of the draft results of the CHESS Report and recommendations generated from the research program for sulfur oxide air quality standards. The following steps will be taken:

Compare first draft and final version.

Find which suggested modifications were and which were not used—why?

Interview selected EPA officials and consultants.

Track modifications to draft results suggested by above officials and consultants.

This phase should take four men three to five days.

Phase IV—Review EPA Sulfate Health. Effects R&D Plan

This phase will include the following items:

Review a compilation of all results of sulfate health effects studies now in EPA's hands, together with new data from CHESS program.

Review EPA R&D plan with agency personnel.

Inventory of projects in EPA—elsewhere.

Staffing.

Budget.

Feedback session with EPA.

This phase should take three men four days.

Phase V—Report of Investigation

Phase V will encompass the following:

Write report of findings.

The report generation will take three men one to two weeks.

Note: Each investigative group must have one member familiar with and experienced in research methods and hopefully epidemiology studies and/or accepted statistical data analysis techniques.

Completion of the study will require three scientific consultants augmented by three or four statistical or other personnel from GAO.

We want to get to the roots of all of these allegations with regard not only to whether or not there was a deliberate falsification of the data, which may not have occurred, and we feel probably did.

SUMMARY

In summary, as the Committee record indicates, the actual hearings on this issue were limited at best. But more important than the actual limited testimony on nondegradation, the most critical amendment to the Clean Air Act, is the limited scope of hearings that were held on this issue. The limited scope of the hearings did not address properly any of the major unknowns to national interests related to the economy, jobs and energy resource development. They were conducted "before-the-fact" and "not-after-the-fact", treating the issue of nondegradation only in the broadest philosophical terms without considering any of the pragmatic questions that must be resolved before formulating national policy which could be detrimental to our national welfare.

There was no discussion in Committee hearings on the technical questions arising from the final Committee proposal; there was no discussion of the cost of compliance and if this cost could be met by industry; there was no discussion regarding the capability to meet the stringent emission increments under the Class I and Class II areas; there was no discussion of how states would address how to grant construction permits to industries competing for the same limited increment; most important, there was no discussion of what would be the full ramifications on the national economy in terms of capital cost requirements, job constraints, unemployment, and energy re-

source development. Surely this Body should have the full and complete picture before making a final legislative decision for the country that will affect the lives and livelihood of virtually all Americans.

Further, we can ill afford having the American people subjected to a national policy which, without proper study, could lead to lasting and possibly severe penalties—particularly during our Bicentennial Year.

NATIONAL DEFENSE

Mr. TOWER. Mr. President, one of the most important issues in the current debate on national defense is the future role of naval power in the national security picture. Adm. James L. Holloway addressed this issue at the Navy League National Convention in Boston on May 21.

As Chief of Naval Operations, Admiral Holloway is uniquely qualified to speak on the future of naval power in the national defense structure and the importance of American seapower to the cause of world peace and stability.

His speech is an important contribution to the debate on the global maritime balance. I commend it to my colleagues most highly, and I ask unanimous consent that it be printed in the RECORD.

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

REMARKS BY ADM. JAMES L. HOLLAWAY III

It is a great pleasure for me to be here with you tonight at this National Convention of the Navy League of the United States. It is fitting, I think, that in our nation's Bicentennial year, we meet in Boston where so much of the American Revolutionary movement began.

Since pre-Revolutionary days, Boston has been a city closely tied to the sea. This was the site of my first active duty as a naval officer as it has been a duty station for so many of our career personnel over the years.

Tonight I am going to talk to you about the Navy, taking up where the Secretary of the Navy left off. To understand the Navy one must first put into perspective our total national defense needs.

There is consensus that U.S. military capability and strength today can be described as "sufficient." That is, we have "rough equivalence" to the Soviet Union and this essential equivalence is the foundation we must maintain.

However, the trends of the past 5–10 years are adverse with respect to the miltary balances. No one chart or statistic can provide the complete picture—but a sweeping look at resources, procurement, research and development, construction, and force levels can make clear what has taken place.

The facts drive one to the inevitable conclusion that the U.S. must act now to arrest these adverse trends, by providing real increases for national security. Unless we act the United States will find itself in the position of having to alter its policy of maintaining rough equivalence with the Soviet Union. I share the conviction of the President and the Secretary of Defense that the American people are not willing to accept a policy of inferiority.

Our National Defense Policy and Defense Budget for the coming fiscal year reflect the deep concern of our nation's leaders for the security of our country. They are advocates of strength, and deterrence through strength is the heart of our defense strategy.

I don't believe there is any question in the minds of responsible persons, that the United States needs a Navy. But there is debate centered around what kind of a Navy, and how large.

The mission of the Navy is to conduct prompt and sustained combat operations at sea in support of our national interests.

To carry out this mission the United States Navy needs ships, aircraft and people. It needs ships and aircraft individually capable of coping with the weapons systems technology that they may face in future battle, and competent and professional people who can maintain and operate those ships and aircraft to the limit of their design capabilities. We must have enough of those ships, aircraft and people to constitute a fleet, which, in coordination with our other services and in combination with our allies, can defeat the total maritime forces of our potential adversaries.

At no time since World War II has the role of the United States Navy been more important to our national defense than it is today. The military strategy of the United States is a forward strategy. It is overseas oriented, driven by basic geopolitical considerations. There are two superpowers, the United States and the Soviet Union. The Soviet Union dominates the Eurasian land mass. Her allies, the WARSAW PACT nations, are contiguous to her western border. Her principal adversaries, the Peoples Republic of China and NATO Europe, lie on her flanks, adjacent to her borders.

The Soviet Union can defend itself, support its allies, or launch an attack against its principal opponents without ever having to cross a major body of water.

In contrast, the United States is characterized by its insular position on the North American continent. We have only two international borders and not a potential enemy on either one. One of our states, all of our territories, and forty-one of our forty-three allies lie overseas. This forward strategy can be described as one in which we use the oceans as barriers in our defense, and as avenues for extending our influence abroad to those areas around the world in which we have vital national interest.

A forward strategy requires two things, allies and overseas forces—forces deployed to protect our allies and deter potential aggressors.

The Navy's role in this strategy is twofold—to provide components of those overseas forces such as the Sixth Fleet in the Mediterranean and the Seventh Fleet in the Western Pacific and Indian Oceans; and to protect those essential sea lines of communications between the United States and its deployed forces, between us and our allies, and between the U.S. and those areas of the world vital to our national interests, such as the Persion Gulf and South America.

To carry out these responsibilities our fleets must be offensively powerful enough to defeat the enemy forces routinely present in their theater of operations, strong enough to defend against attacks by long-range aircraft, able to project power ashore in support of our allies and our forces, and our fleets require a high degree of logistic independence from overseas bases.

A balance fleet is necessary to give our Navy these capabilities. There must be balance among types: carriers, surface combatants, submarines, amphibious forces, and support ships. There must also be, within a constrained budget, balance between those very capable multi-purpose ships such as carriers and cruisers, which are relatively expensive, and the single-purpose vessels which, being less costly, can be procured in larger quantities and so provide our fleet with the density of forces is needs to be effective on a world-wide basis.

As I have said, I believe there is little disagreement in these basic premises upon which the naval requirements for the United States must rest. The debate lies in the translation from these naval requirements to the military characteristics, or the designs of the specific ships and aircraft, and the number of these which should comprise the operating forces. As is any debate there are two sides. And in the course of this debate myths have been generated which require a rational response. I think there is no better time or place than this occasion to confront mythology with reason.

There is a myth that the United States Navy as a matter of policy has emphasized its power projection role to the detriment of its sea control responsibilities. In reality, power projection is an essential part of sea control. Our power projection forces consist of U.S. Marines embarked in Navy amphibious shipping to constitute the nation's only major capability for injecting U.S. ground forces into a hostile environment in an opposed amphibious operation. The second main form of power projection resides in the capability of our carrier-based aircraft to strike targets more than 500 miles away from our task forces with a variety of weapons, conventional or nuclear. The use of carrier aircraft and Marines in the projection of military force can be an absolute requirement in insuring our control, or continued safe use of areas of the high seas essential to our national needs. Long range air strikes contribute significantly to our ability to control the seas by destroying enemy warships at their home bases or enroute to those ocean areas which we desire to protect, before the enemy forces come within range of our own. Marine amphibious forces, supported by carrier air, can seize and hold land areas either to deny them to the enemy for their use in interdicting our sea lines of communication, or to permit our own forces to exploit these areas as advance bases to attack enemy forces which would interdict our own.

This function of power projection as a major component of the Navy's responsibility for controlling the seas is clearly reflected in the assigned functions of the Navy, which are to "seek out and destroy enemy naval forces . . . gain and maintain general naval supremacy, to control vital sea areas and to protect vital sea lines of communications, to establish and maintain local superiority including air in an area of naval operations, to seize and defend advanced naval bases, and to conduct such land and air operations as may be necessary to the prosecution of a naval campaign."

It is interesting to remember that the island hopping campaigns in the Pacific in World War II were not to acquire real estate, but for the sole purpose of seizing advanced bases to gain control of the sea approaches to the recovery of the Philippines and the invasion of Japan.

There is a myth which states that the U.S. Navy's operational concepts are defensively oriented, citing the emphasis on fighter interceptors on our carriers, and surface-to-air missiles on our surface combatants. It is suggested that these aircraft, missiles and ships exist for the sole purpose of "defending the carrier". In reality, these fighters are for the purpose of destroying enemy aircraft or cruise missiles attacking any friendly ships, combatant or commercial, U.S. or allied. The fact that our car-

rier based fighters are able to effectively intercept targets more than 500 miles away make them effective in destroying hostile threats to friendly forces over large areas of the ocean's surface. The suface-to-air missile systems, such as the AEGIS controlled standard missile incorporated in the design of the strike cruiser and guided missile destroyers, is an area weapon which can intercept and destroy enemy aircraft and cruise missiles, protecting all friendly ships within the envelope of its effective range. The tactical doctrines of the U.S. Navy emphasize the adage, "the best defense is a good offense." We defend the convoys, amphibious forces, ASW groups, and striking forces by destroying enemy surface ships, aircraft and submarines which have the capability to attack friendly forces at sea. A defense designed and calculated to destroy hostile launch platforms contributes to the overall war fighting objectives of our strategy by destroying the enemy's military forces through which he would wage war.

There is a myth that states that the Navy is concentrating its efforts on the construction of the complex nuclear powered ships, which, because of their expense compares to their conventionally powered counterparts, will reduce the total number of ships available to the Navy in a limited budget.

In reality, the Navy's policy for the new construction of nuclear powered warships is straightforward and designed to support a limited but fundamental exploitation of the advantages of nuclear propulsion within the overall requirements of our naval strategy. This policy states that all submarines should be nuclear powered, because with nuclear power the submarine attains the ultimate capabilities of the true submersible. Among surface combatants, only carriers and cruisers should be nuclear powered, and only enough of these to constitute a strategically significant segment of the U.S. operating forces. This would amount to five or six all-nuclear powered task forces, each consisting of a carrier, two to four cruisers, and one to three submarines. These all-nuclear powered task forces would have the ability to steam unlimited distances at high speeds, without the necessity to refuel, replenish or rearm, and arrive at a crisis point ready to conduct combat operations, for a sustained period of time, until the crisis was resolved, or conventional forces with logistic support arrive. Three of these task forces in the Atlantic Fleet for example would permit one to be forward deployed at all times, one to be combat ready based on the U.S. East coast, and the third all-nuclear task force in maintenance.

Our buildup toward this all-nuclear task force capability has been modest. The current Navy shipbuilding program includes only a total of three nuclear powered surface ships and about 50 conventionally powered surface combatants, including AEGIS destroyers and fleet frigates.

There is a myth that says that the U.S. Navy is outbuilding the Soviet Navy. In reality the situation is this: in the past fifteen years since the Soviet Naval buildup began, the Soviets have delivered to their fleet a total of 1,312 naval vessels and logistics ships. During this same time the U.S. Navy has delivered a total of 326 new ships.

If all the ships constructed over the past fifteen years for the navies of the Soviet Union and the United States are compared, regardless of size, mission, or type, the Soviet Union has clearly produced more ships at a greater dollar cost. However, if from that total list certain categories of ships are selected over specified time frames, for example surface combatants over 3,000 tons constructed between 1970 and 1975, then different stories can be told in each case depending upon the data and the criteria used. What I'm pointing out is that it is easy to manipulate this data to confuse the real issue.

A second point to be made is that the United States is not engaged in a shipbuilding race with the Soviets. What we are determined to do is to maintain maritime superiority in the face of Soviet expansion. Shipbuilding is a part of this. But the strategies of the United States and the Soviets differ. We need one kind of Navy, and they need another. We are each procuring the kinds of ships required for our own particular strategies. Therefore, it is not so much who has built the most ships of what kinds, as it is how capable a Navy each of us has to do a particular task. Our analyses indicate that unless we devote more effort to our own Navy, the upward trend of Soviet maritime expansion is going to place our maritime superiority in jeopardy within the next decade.

There is a myth that says the day of the carrier is over. That, like the battleship, it has outlived its usefulness. The realities of the situation are this. The carrier represents airpower at sea. Manned aircraft remain an essential and irreplaceable part of the military force structures of all our services.

Naval warfare includes many subsidiary warfare tasks, and naval aviation is a major contributor in a number of these. Aircraft are used in an anti-air role to shoot down hostile aircraft and cruise missiles; in an anti-surface warfare role to attack hostile surface ships with bombs and missiles; in an ASW role to detect, localize, and attack submarines; and in mine warfare to implant mines or to conduct mine countermeasures operations. Aircraft have the prime responsibility for early electronic warning of hostile air and surface targets. Aircraft and prime platforms for intelligence gathering through photography and signals intelligence.

There is a myth that says we should build no more carriers because they are vulnerable. In reality carriers are vulnerable, but carriers are the least vulnerable of any surface ship afloat. With its extensive compartmentation, protection, armor, and damage control facilities it is designed to take punishment and fight on. But much more important, the carrier, with its aircraft, reduces the vulnerability and improves the survivability of all surface ships, including itself, the accompanying surface combatants, the tankers, ammo carriers and troop ships.

It has been suggested that because of its large size, a carrier is an easy target for a guided missile. With today's guidance techniques, that provide virtually no miss distance for guided missiles, no vessel on the high seas can escape the effect of such accuracy. But where a single warhead would sink or disable a smaller ship, the carrier can absorb these blows and fight on.

So the carrier is not only the least vulnerable of all surface ships, but also its very presence reduces the vulnerability of the merchant fleet, the protection of which is raison d'etre for our Navy. As long as we are determined that we are going to move people and resources across the oceans, then we must be prepared to protect them. If in our efforts to protect these vital lines of communication, we lose some ships—merchant and combatant—then so be it. But we must try to protect those ships, otherwise we are defeated before we begin.

In this debate concerning the size and composition of the future Navy, I consistently attempt to relate the composition of the fleet to the needs of the nation, in terms of the force structure that is required to enable the Navy to carry out its responsibilities within the national military strategy. That national stategy is today an overseas-oriented concept. The Navy's principal responsibility within that strategy is to make secure the sea lines of communication so vital to the United States and its allies. To carry out these responsibilities the Navy must be able to control the sea. Not all the seven-tenths of the world surface covered by the oceans, all at one time, but those selected areas of the sea through which we want our friendly forces to pass unharmed. To accomplish this we must have forces that can meet and defeat the total threat which a potential enemy could bring to bear against us.

We know that the Soviets are steadily improving their capability to conduct warfare at sea in open ocean areas, far from their homeland, in all three dimensions: above, on, and below the surface. They have a growing force of supersonic naval aircraft capable of delivering air-to-surface missiles against our surface ships over vast areas of the ocean. They are continuing to build large ocean-going, long range surface combatants equipped with anti-ship missiles, and are now completing their third aircraft carrier. And the Soviets continue to produce large numbers of modern nuclear powered submarines of varied advanced designs, many of which are capable of launching anti-ship missiles while submerged.

Our Navy must be able to fight against this array of weapons systems and win. We cannot make the mistake of overemphasizing any single area of our naval capability. To do so would simply invite the enemy to exploit an area of neglect. We must also be prepared for conflict situations which involve aircraft, surface ships and submarines simultaneously. Experience has shown that is the way that wars are most effectively fought.

The response to this maritime challenge must be to build a superior fleet of balanced forces. We cannot build only carriers because these multi-purpose ships are too expensive to be procured in the quantities required for our global responsibilities. We cannot build only submarines because, although they have no equal in those tasks for which they have a capability, they are nevertheless incapable of doing everything, such as protecting convoys from air attack or providing support to Marines in assault landings. We in the Navy feel that our shipbuilding programs achieve the proper balance among our force types, and between the powerful, expensive, and nuclear powered units and the single purpose less expensive, and more procurable smaller ships

Debate is healthy, and I welcome this opportunity to clarify the issues. But we must get on with building a fleet. And we must recognize that numbers of ships are only part of the answer. We must have the requisite numbers of individual ships which in themselves have the inherent military characteristics which will in aggregate give us a total maritime force which will permit the United States to carry out its national military strategy.

To maintain an overall level of rough equivalency with the Soviet Union, the United States Navy must maintain its seapower preeminence. The naval programs before the Congress as a result of the President's decisions will maintain that slim edge which the United States Navy now enjoys. I think it is our responsibility as American citizens with an understanding of seapower, and an awareness of the issues, to do our part to insure that we do not now or in the future vacate our position as number one in terms of maritime superiority.

I welcome your involvement and I value your support.

DR. MAURICE S. SAGE

Mr. McGEE. Mr. President, it was with a deep sense of shock that I learned of the death of Dr. Maurice S. Sage, president of the Jewish National Fund. Dr. Sage died in New York City Tuesday night during the gala National Bicentennial dinner inaugurating the American Bicentennial National Park in Israel.

My association with Dr. Sage has spanned more than a decade. A prominent New York City chemist, religious Zionist, and communal leader, Dr. Sage was the driving force behind one of the most ambitious projects undertaken by the Jewish National Fund—that of creation of the American Bicentennial National Park in what is presently a wilderness area southwest of Jerusalem. As a member of the National Committee for the Park, I can attest to the dedication and vision of Dr. Sage.

Dr. Sage's life was characterized by exceptional dedication to the state of Israel, to the American Jewish community, and to humanitarian ideals so valued in our country. He occupied many important posts in American Jewish life including that of president of the Religious Zionists of America, treasurer of the Conference of Presidents; cabinet member of the United Jewish Appeal, chairman of Special Projects for the State of Israel Bonds, member of the Actions Committee of the World Zionist Movement, member of the board of Bar-Ilan University, and vice president of the American Section of the World Jewish Congress.

Dr. Sage's death is a loss to not only the Jewish community, but to us all. Yet, his spirit, dedication, and vision will continue to serve as a high standard for all of us. I express my deepest sympathy to his wife, Lillian; their sons, Martin and Malcom; and their daughter, Ann.

KERMIT GORDON

Mr. McGEE. Mr. President, the death of Mr. Kermit Gordon, the president of the Brookings Institution, is both a professional and personal loss to me. I will miss his intellect, wit, companionship, and invitations to participate in Brookings' functions.

The Washington Post editorial this morning: "Kermit Gordon," which I ask unanimous consent be printed in the RECORD at the end of my remarks, best portrays the qualities of the man. His character best typifies the imperative of keeping one's head while all about are losing theirs. Kermit Gordon not only always maintained a keen sense of level-headedness, he had a rare talent of finding the humor in situations which some might have termed disaster. This also applied to times when he himself was on the firing line.

He stood tall in all respects and, as McGeorge Bundy said:

> You always knew where you stood with Kermit.

Mr. President, I am fortunate to have stood beside Kermit Gordon.

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

KERMIT GORDON

Kermit Gordon, the president of the Brookings Institution, who died on Monday at the age of 59, was one of those very rare creatures in this town—a dedicated public man who managed over the years to maintain a sense of duty and a sense of humor at the same time. Neither ever failed him. Mr. Gordon, by training a professor of economics, was the least dismal practitioner of that so-called "dismal science," and there was a vital, organic connection between his very human energy and wit and his capacity to understand the meaning of the great issues of government with which he was concerned.

One of his favorite anecdotes about himself—and, by extension, about all public servants who tend to lose touch with the meaning of reality in general and with the meaning of the sums of public money they are dealing with in particular—dealt with a luncheon he had with his wife in the White House mess while he was the Director of the Budget. Mr. Gordon relished recalling how he had had continually to let his wife be interrupted by a procession of administration types who came to their table to tell him that they really couldn't handle some particular $15 million or $20 million budget cut he was insisting that their agency take, and how he had heard himself saying, again and again, "Oh, that's okay—I'm sure we can get that much back in." At last, over dessert, Mrs. Gordon got to say what she had wanted to talk about when she suggested that they have lunch in the first place: The man who was going to repair the garage had finally come in with his estimate and it was going to cost $1,400. "$1,400!" Mr. Gordon liked to recall he had veritably shouted—*"What do you mean $1,400? I never heard of so much money!"*

In the past 15 years, Mr. Gordon had served in the administrations of Presidents Kennedy and Johnson, and Richard Nixon called on him while he was at Brookings to become a member of the controversial Pay Board. It was typical of Mr. Gordon, who needed that last busy, tiresome, unprofitable and difficult job like a hole in the head, that he should have both accepted and become an exceptionally diligent and tireless member of the board. It was also typical, we fear, of the Nixon White House that took advantage of his talents and sense of duty, that even as Mr. Gordon was giving them his all, they were engaged in a dangerous and preposterous plot to discredit and destroy the Brookings Institution over which he presided. You will remember the scene as it was to be disclosed in the Watergate proceedings: the talk of firebombing the building, the plans to purloin internal Brookings documents, the campaign to smear the Institution's reputation. The inspiration of this disgusting conspiracy seems to have been the dim inability of the conspirators to understand the meaning of intellectual independence and disinterested public purpose: they regarded every dissent from the wisdom of their own programs and proposals as evidence of some kind of self-interested partisan maneuver. But people in this city who were capable of seeing reality—as distinct from seeing a reflection of their own shortcomings in everyone else—knew a different truth. It was that under Mr. Gordon's direction, starting in 1967, the Brookings Institution had taken on a new vitality; it had been energized and brought with great skill into the center of the arena of informed discussion of public problems and public issues; and this had been achieved without its succumbing to the obvious dangers of politicization, of becoming a "shadow" government or a producer of "counter" programs—terms and conceptions which Mr. Gordon himself despised.

We can sum it up in a sentence: Kermit Gordon was a great guy and a fine public servant—and, on both accounts, he will be missed.

SENATOR BEALL PRAISES WASHINGTON EAR

Mr. BEALL. Mr. President, on June 22, I had the pleasure of being a guest on the Washington Ear, a nonprofit corporation which provides closed circuit free radio services for the blind and physically handicapped. The signal of the Washington Ear is transmitted over the service carrier channel of WETA-FM and its listeners receive the signal with a special receiver which is made available to them.

Washington Ear provides a 7-day-a-week, 100-hour schedule, which includes the daily reading of the Washington Post and the Washington Star and selections from other leading newspapers, the reading of weekly magazines, shopping ads, current plays with professional performers, the reading of best selling fiction and nonfiction, and other special features on sports, music, and home management.

With the exception of a small staff, this service is provided through volunteers. Over 100 volunteers weekly read, so that the "ears of the listening audience can do their reading." As one can imagine, this has taken a tremendous organizational ability and leadership. Washington Ear is fortunate to have as its director, Dr. Margaret Rockwell, who herself is blind. In addition to her organizational abilities, one is immediately struck with her contagious enthusiasm and dynamic personality, which I am certain have contributed both to the success of Washington Ear and its ability to attract volunteers.

Mr. President, time and time again when I have the opportunity to visit with citizens in the communities and see the good efforts that are taking place, my faith in and optimism for the country are strengthened. Last night, I was terribly impressed with the public service performed by Washington Ear and the tremendous commitment of Dr. Rockwell and her staff.

As for the listening audience, the Baltimore News American last July did a story describing the service's importance to the listener and in the words of the headline: "Press Broadcasts A Godsend, Blind Say." That is precisely what they are. I ask unanimous consent that the article be printed in the RECORD.

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

PRESS BROADCASTS A GODSEND, BLIND SAY

(By Mark Bowden)

ANNAPOLIS.—When it comes to the news, blind people are at the edge of a crowd. They can hear the excitement and get the gist of what's happening, but the entire story is always just out of sight.

For 600 sightless Anne Arundel County citizens that frustrating curtain fell last week

as the Washington Ear began installing radio receivers that bring nonstop broadcasts of Washington newspapers and national magazines to their homes.

"Ads!" rejoiced Mrs. Marian Houch of Severna Park. "They even broadcast the ads! I was busy yesterday noting all the discounts and specials, something I haven't been able to do for years. My husband will go crazy."

Mrs. Houch is 40. Glaucoma gradually destroyed her sight until she was declared legally blind 15 years ago.

She lost her ability to read five years ago, but she said it had been close to 10 years since she could read a newspaper.

"All you get on radio and television are headlines and captions," Mrs. Houch said. "They never really get to the meat of a story. You just hear the same summary of the headlines over and over again all day."

An $8,000 grant by County Executive Robert A. Pascal has opened the news service broadcasts to all Anne Arundel's blind residents free of charge.

A small walnut receiver with hookups for earphones and tape recorders is available to the area's blind on request.

The Washington Ear broadcasts 10 hours each day, reading the Washington Post, the Star News, the Wall Street Journal and selections from recent periodicals as diverse as Rolling Stone and the Christian Science Monitor. It broadcasts on a substation of WETA-FM.

"Before I had this receiver I had to get another person to read me the full account of something in the newspaper if I was interested," said 25-year-old Jane Wilkerson, an employe in the county Public Works Dept.

"Whenever I did that, the other person usually lost interest in the reading about halfway through, and when the person who is reading is not interested it's not that much fun to listen.

"I like newspapers because they give you a more indepth look at what's going on—and I love politics.

"The other good thing about this is that I can get a hold of recent magazines and books. "Most magazines and current books don't come out in braille until six months or a year after they're issued.

"I've been so anxious to read something that I've pursued people with a magazine or a book to try to get them to read it to me.

"It's a great thing, and they ought to have one in the Baltimore area so we could read the Baltimore newspapers."

Edison Cramer of Davidsonville led an active life right up to his 79th year, working as a banker and then economic adviser for the American Banking Assn.

Looking forward to a retirement at 80 that would afford him lots of time to catch up on his reading, Cramer suffered hemorrhaging in both eyes and went blind.

"It has been a terrible blow for him," said Mrs. Cramer, who is 75.

"As active as Edison's been all his life, and suddenly he can't read. Not even the newspapers. This receiver came last week and it's working wonders. He listens to it almost all day.

"He's especially pleased that he can hear the Wall Street Journal and the editorials in the Post. It couldn't have worked out better."

Joseph Gibson, 57, of Tracy's Landing, lost his sight 10 years ago and had to give up farming. He subscribes to "talking books," a reading service that provides all kinds of books for the blind.

"But this little receiver has opened up a lot more for me," Gibson said. "I've really missed the in-depth news coverage you get in newspapers, and now after 10 years I can follow the news again.

"I'm out here on the farm alone most of the time, and this has been a wonderful addition to my daytime activities."

SUPPORT FOR ENERGY CONSERVATION AMENDMENTS

Mr. KENNEDY. Mr. President, last week the Senate adopted important amendments to the FEA extension legislation that would launch the United States on a serious, comprehensive effort to make new and existing housing, commercial buildings, and industrial plants more energy efficient. We have calculated that implementation of this program would, at a minimum, reduce our daily energy requirements by a minimum of 1 million barrels by 1980. In this period of growing dependence on imported oil, such an opportunity to reduce energy demand should not be missed.

It is very encouraging to learn of the strong endorsement of these amendments by the American Institute of Architects, as communicated through a full-page advertisement in Wednesday's Washington Post. In addition to urging the House-Senate conferees to adopt these energy conservation amendments, the AIA in this advertisement outlines the major conclusions of a 2-year study to determine the potential energy savings of a nationwide energy efficiency program for new and existing buildings. By 1990, the AIA estimates, we could reduce energy consumption by some 12.5 million barrels per day of oil equivalent through measures such as contained in the amendments to the FEA extension legislation.

The breadth of support for these amendments is also illustrated by the favorable letters that I have received from Andrew J. Biemiller, director of legislation, AFL–CIO and from David Cohen, president of Common Cause. I also call to the attention of my colleagues to the editorial supporting the energy conservation amendments that appeared in Wednesday's New York Times.

Mr. President, I ask unanimous consent to have printed in the RECORD the full-page advertisement by the American Institute of Architects, the letters from the AFL–CIO, and the editorial on energy conservation from the New York Times.

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

[From the Washington Post, June 23, 1976]

THE U.S. SENATE HAS TAKEN THE FIRST STEP TOWARD MAKING THIS A NATION OF ENERGY EFFICIENT BUILDINGS

One week ago the Senate overwhelmingly approved a bill to stimulate the application of known but largely unused techniques that can dramatically reduce the energy now wasted in the built environment.

Today, these same issues are up for an even more crucial vote in a Senate-House conference.

The Senate-passed legislation should be accepted. It would authorize the federal government to:

Guarantee loans for energy conservation investments in homes and larger buildings.

Repay a part of such loans.

Make grants to low-income homeowners for the insulation of their dwellings.

Pay a quarter of the cost of residential devices for harnessing such renewable energy resources as sun and wind.

In additional, the bill would authorize the development of standards, to be embodied in state and local building codes, to facilitate the design and construction of energy efficient buildings.

For these initiatives, the Senate has earned the wholehearted thanks of the 26,000 members of The American Institute of Architects, and of every other American who still believes there's an energy crisis.

BY 1990, MEASURES LIKE THESE COULD YIELD A SAVINGS OF 12.5 MILLION BARRELS OF OIL A DAY

We of the AIA know this from the findings of a two-year study during which we calculated the energy lost through the nation's traditionally profligate, energy-intensive methods of design and construction.

The study was grounded in three convictions, drawn from our collective experience in the design of every conceivable kind of structure, from airline terminals to zoos:

1. At least one third of the nation's total energy is consumed by the built environment.

2. The energy used in the construction and operation of new buildings could be reduced 60 percent through energy-conscious design.

3. A saving of at least 30 per cent could be achieved by making existing buildings more energy efficient.

The savings are manifestly feasible. Within 15 years they could amount to as much oil every day as the nation's 104.7 million passenger cars now use every three days.

That's as much energy—12.5 million barrels of oil a day—as the projected 1990 production of any one of the prime energy industries—domestic oil, nuclear fission, or coal.

The cost? We estimate up to $1,045 billion over 15 years; a sum significantly less than the value of the energy now being wasted.

Clearly, then, it is in the public interest to propose as a key element in a comprehensive national energy policy:

A NATION OF ENERGY EFFICIENT BUILDINGS BY 1990

The current and seemingly abundant supply of foreign oil must not blind us to the urgent need for such a policy. We must still move aggressively to reduce our dependency, not merely on overseas sources but on fossil fuels.

To do this we will obviously need more than legislation.

Successful execution of a national policy will require the cooperation of that broad segment of the economy responsible for the built environment—financial institutions, developers, the building trades unions, engineers, the designers and manufacturers of building materials, and, of course, architects. It will also require the enthusiastic support of the federal establishment, beginning with the White House. (The present Administration has been far too obsessed with the supply side of the energy crisis.) The cooperation of state and local government is essential.

NO ONE CAN GO IT ALONE

No single institution or profession should or could carry out this strategy singlehandedly—or even try to dominate the process. But the AIA is ready and eager to coordinate the effort. We have no illusion that our extensive research and careful deliberations contain the last word on energy conservation in the built environment. We're interested in other ideas; we have more of our own to share.

If you'd like a summary of our study report; if you want more information about the policy we're proposing and would like

to help develop it further and put it into effect—write:

THE AMERICAN INSTITUTE OF ARCHITECTS,
Washington, D.C.

COMMON CAUSE,
Washington, D.C., June 15, 1976.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: Common Cause strongly supports your efforts to enact meaningful energy conservation legislation during this session of the Congress. The failure of the Congress to take even the first steps toward encouraging the development of increased end-use efficiency in buildings and industry negates any movement toward a coherent national energy policy.

The measures which you will introduce as amendments to S. 2872, the Federal Energy Administration Act, will save energy by assisting businesses and consumers in the purchase of more efficient energy devices. These proposals do not require curtailment. They will encourage greater employment. They will particularly assist those hardest hit by rising energy prices.

Every observer of our current energy difficulties has concluded that increased conservation should be this nation's number one energy priority and that it is the only strategy which can signficantly reduce our dependence, on declining reserves of oil and natural gas in the short term.

Common Cause supports the proposals contained in Amendments 8101 and 8102 including the provisions for tough building standards for new housing, energy conservation assistance for existing buildings, energy insulation assistance for low-income persons and loan guarantees to facilitate industrial energy conservation.

The Senate has a significant opportunity to break the deadlock of the past three years and lay the groundwork for a rational energy policy by enacting these proposals. We support them in full.

Sincerely,

DAVID COHEN,
President.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., June 15, 1976.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: As you know the AFL-CIO is firmly committed to achieving the national goal of energy independence. The Federation is particularly supportive of the federal government's efforts in the area of energy conservation which our 1975 Convention termed "indispensible" to energy independence.

One focus of energy conservation efforts we feel should be directed at reducing, where practicable, residential and commercial energy consumption. For example, the Project Independence Blueprint estimates that the equivalent of almost half a billion barrels of oil per year could be saved by 1985 through an accelerated energy conservation program in residential and commercial buildings.

At the present time nearly one-fourth of all the energy used in the United States is consumed by space heating and air-conditioning systems of existing buildings. Many of these systems, installed prior to the advent of the energy crisis, are energy wasteful. Modification of these systems to make them more energy efficient could significantly lower national energy consumption. Yet the full potential of energy conservation in this area cannot be attained until both the high cost of conservation hardware is lowered through mass production and the difficulty of obtaining a loan to pay for this hardware is likewise reduced. S. 3424, the Energy Conservation Act of 1976, sponsored by Senators Kennedy, Hollings and others is designed to help overcome these dual obstacles.

Reported favorably by the Senate Commerce Committee, S. 3424 would, among other provisions, provide low interest loans and grants to homeowners and small businessmen as well as loan guarantees to industrial concerns for either installation of, or conversion to, such systems as solar air and heating, heat recovery and transfer mechanisms and other energy conservation devices. Of primary importance are the industrial loan guarantee provisions of S. 3424. By promoting conversion installation at the largest installation, such loan guarantees appear to have the greatest potential for generating energy savings as well as spurring development and production of newer, less expensive conservation technologies. Equally as important, thousands of jobs would be created for unemployed workers.

We understand that the major provisions of S. 3424 and the loan guarantee program will be voted on as separate amendments to legislation extending the Federal Energy Administration. Given the energy and employment impact of these amendments, we strongly urge your support for them.

Sincerely,

ANDREW J. BIEMILLER,
Director,
Department of Legislation.

[From the New York Times, June 23, 1976]

CONSERVING ENERGY

A package of Federal incentives for conservation of energy in the heating and cooling of buildings has suddenly leapfrogged a host of legislative barriers and now stands on the verge of enactment. Through a variety of procedures, the Government would finally give energy consumers—both large and small—tangible financial credit to back up all the talk about saving energy.

The measures are contained in the Senate version of a bill prolonging the life of the Federal Energy Administration, which is due to go to conference with the House of Representatives today.

The main part of the bill sets up a schedule of rebates to homeowners and small businesses for insulation, installation of heat pumps and other energy-efficient heating and cooling appliances. Any approved investment in household solar energy devices would be subsidized at the rate of 25 percent, up to $2,000. Low-income families could receive direct grants of weatherizing and other building materials.

Larger corporations would benefit from Federal guarantees of loans, up to a total value of $4 billion over two years, to help finance energy-conserving investment in existing plants. Forty percent of that loan guarantee authorization is specifically earmarked for universities and non-profit institutions which might have particular difficulty raising funds for capital improvements.

Alongside these incentives for retrofitting existing structures, the pending bill, sponsored by Senators Kennedy of Massachusetts and Hollings of South Carolina, would mandate energy efficiency standards for new construction, starting three years hence. The American Institute of Architects has estimated that no less than 12 million barrels of oil per day could be saved by 1990 through extensive retrofitting of existing structures and proposed efficiency standards for new construction.

The Administration favors the mandatory efficiency standards and shows no sign of opposing the system of credits and loan guarantees contained in the pending bill. Congressional approval of this meaningful energy conservation program would be an impressive achievement to put before the voters this November.

PRICE GOUGING AT THE DEMOCRATIC NATIONAL CONVENTION SITE

Mr. BROCK. Mr. President, I could not help but be appalled at a recent news story from the Associated Press regarding the alarming costs being incurred in preparation for the Democrat National Convention in New York. The article points out that not only is our free press subject to such an outrageous gouging, but such costs will ultimately end up coming out of the pocketbooks of every American through higher consumer prices. The tragedy of such news lies in the fact that it simply does not have to happen—it is a classic example of a few groups taking advantage of a situation. Just this week, another article has appeared in the Washington Post indicating that some news services are cutting back in their coverage, partially because of the outrageous prices.

Mr. President, I ask unanimous consent that the Associated Press article and the Post article be printed in the RECORD.

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

N.Y. PRICES ALARM PRESS: A COSTLY CONVENTION

News organizations planning to cover the Democratic National Convention in New York City July 12–15 protested to Democratic National Committee officials yesterday about a variety of problems.

Complaints focused particularly on what was described as exorbitant prices for construction work on news media work areas in Madison Square Garden and for rental of office equipment.

Rental prices cited included $50 a day for a television set, $37.50 each for stack chairs, $55 for a typewriter stand, $140 for a filing cabinet and $8 for a wastebasket plus $5 delivery charge.

One supplier was reported to be charging $15 a foot for the installation of work space divider drapes.

Hal Buell, executive newsphoto editor of The Associated Press, complained of a "ridiculously high" estimate for installation and removal of photo equipment and facilities in the Garden, including triple percentage markups by prime and subcontractors.

The price quoted to the AP was $46,420 for one-time installation and removal of equipment and facilities that were installed and removed twice at the Democratic and Republican conventions in Miami Beach in 1972 for a total of $14,000.

NEWS AGENCIES CUT DEMOCRATIC CONVENTION COVERAGE

(By William Claiborne)

NEW YORK, June 23.—The Hearst newspaper chain today canceled plans to set up office space at Democratic National Convention headquarters, bringing to 11 the major news organizations that have withdrawn in protest of alleged price gouging in the rental and delivery of equipment.

Charges of "rip-off" and the prospect that the expected nomination of Jimmy Carter may be less than suspenseful have caused other news organizations to scale back their coverage of the Madison Square Garden event.

News executives are also complaining about inflated security deposits on equipment rented to furnish temporary news offices at the convention. The deposits sometimes run ten times the fair market value.

Moreover, inter-union jurisdiction disputes over which laborers will unload the rented equipment—coupled with snarled red tape inside the Democratic National Committee—have resulted in increasingly bad feelings between the convention planners and the news organizations.

"This is lunacy. The charges seem to get higher every day, and, frankly, I don't want to be a party to that kind of thing," said Nathan Glasser, chief of the New York bureau of Hearst newspapers, who is in charge of convention arrangements for the chain's eight newspapers.

Hearst had planned to rent 1,700 square feet of temporary office space at the Statler Hilton convention headquarters.

Today, however, Glasser and J. Kingsbury Smith, Hearst Washington bureau chief, said the 30 reporters representing the newspapers and King Features Syndicate would work out of local corporate offices and hotel rooms.

Exorbitant prices and unexpected delivery charges mandated by members of the International Brotherhood of Electrical Workers have caused news-gathering organizations also to make alternate arrangements.

They include the Booth newspaper chain, Newhouse newspapers, Denver Post, Daily Oklahoman, McGraw-Hill magazines, London Daily Mail, London Daily Mirror and London Express, Salt Lake City Deseret News and Orlando (Fla.) Sentinel-Star.

Associated Press, the world's largest news-gathering organization, cut back its office space from 2,850 square feet to 450, and will convert a cafeteria in its Rockefeller Center headquarters into a convention headquarters.

Chief among the complaints by news executives are the high costs of renting and installing office equipment, unusually high security deposits required by the rental firms, and a requirement that union laborers employed by Madison Square Garden have exclusive jurisdiction in unloading shipments.

The news organizations cited such prices as $6.50 a linear foot for curtains to partition work areas, $30 rental for folding chairs, $40 for a coat tree, and $110 for the use of a small desk for the convention week.

On top of those charges are delivery fees—$15 an hour per man—charged by the Garden's union workers, consisting of $12.64 an hour for the workers and a surcharge for administrative and supervisor's costs.

Ben West, superintendent of the House of Representatives press gallery, which is responsible for accrediting newspaper reporters, said the bureau chief of one newspaper that canceled convention space cited $360 security deposits for used manual typewriters having an apparent re-sale value of $50.

Glasser estimated that Hearst would have spent $10,000 for rentals alone, plus telephone charges and other costs.

Because of special "convention service charges" being levied by the New York Telephone Co., a $29 six-button phone is costing $127. Units that cost $4,000 in 1972 at the Miami conventions are going for $7,000 in New York.

Robert Longstreet, administrative assistant to the editor of The Washington Post, said that telephone costs this year will run about 300 per cent higher than at the Democratic and Republican conventions in Miami in 1972.

Associated Press estimated that it will save $20,000 on furniture and drapery costs alone by moving its workplace to its Rockefeller Plaza headquarters.

In a meeting in Washington on June 14, Democratic National Chairman Robert Strauss listened to the media's grievances, after which he discussed the alleged price gouging with officials of Madison Square Garden and A-J Contracting Co., hired by the city to refurbish the Garden for the convention.

Since the complaints, A-J's $15 per-foot charge has been lowered to $6.50 by giving the work to another company, Manncraft, and several office equipment suppliers have been suspending the security deposit requirements.

Charles Uribe, an A-J executive who attended the meeting, said the curtain costs were so high because the company had to hire union carpenters to do the job. A-J, which also controls the scheduling of deliveries to the Garden's single truck ramp, said the office furniture costs were high because the firm had to go to a subcontractor.

Vincent Clephas, director of communications for the Democratic National Committee, attributed some of the cancellations to a declining interest by news organizations in the convention because of the expected lack of excitement in balloting.

Clephas said that as a result of a series of meetings with the contractors the "climate has improved."

"But I cannot deny that some people got hurt. We were in no position to do any hand-holding for the small users, and they are the ones who got stung the most," Clephas said.

COOPERATIVE EDUCATION

Mr. HARTKE. Mr. President, three conferences were held in fiscal 1976 on cooperative education. This form of learning which combines college classroom study with off-campus work has been institutionalized in our Government's education policy following the 1967 Cooperative Education Amendment to the Higher Education Act of 1965, which I had the honor to introduce. In recent years, increased Federal appropriations have been adopted to support the expansion of cooperative education as a manifestation of the desire of the Congress to help build a bridge between the world of learning and the world of work.

One of the necessities for the success of cooperative education is the availability of job opportunities for students in the private sector. To hasten the attainment of this goal, the U.S. Office of Education and the National Commission for Cooperative Education have jointly sponsored during the last 3 fiscal years so-called employer institutes in 10 cities throughout the country. Their purpose is to persuade more and more business leaders to collaborate with colleges in strengthening the vital link between work and study.

During fiscal 1976, three such employer institutes were held: In Seattle, on October 7, 1975; in Atlanta on April 13, 1976; in Chicago on May 19, 1976, and I had the privilege of addressing the last. The substantive material presented at these institutes has been successful in persuading business leaders that cooperative education is good for students, and also good for business. The excerpts from the proceedings of these three conferences testify to these values.

I ask unanimous consent to have the excerpts printed in the RECORD.

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

REMARKS BY DR. SAMUEL B. MCKINNEY

I am indeed pleased to have this opportunity to express thanks to all of you for joining us today in the first employer institute on cooperative education being held in Seattle, Washington.

Cooperative education has been with us for many years as you are aware. From its early days when it was established at the University of Cincinnati in 1906 right up through the present time when it can be noted that nearly 1,000 institutions of higher education are offering this approach to learning.

In 1962, when the National Commission for Cooperative Education was established there were only 60 cooperative education institutions. Obviously the growth can be attributed to some of the same values and ideals which have assisted us in the OIC movement.

OIC—the Opportunities Industrialization Centers of America was founded in 1964.

Reverend Dr. Leon H. Sullivan, a Baptist minister believed that there had to be a way out for disadvantaged and minority members of society. So we came into being. OIC was conceived as a program of training and education which would bring together the resources of business and industry in a partnership with the Government and private sector to establish a new way of learning—a new method of skills training and educational development.

Just as cooperative education would be designed to develop and supply much needed manpower resources, OIC would be designed to meet the needs of business and industry.

In 1966, we established the Seattle/OIC program. We took the best of what we could from Rev. Sullivan's Philadelphia OIC prototype and combined our own needs here in Seattle and came up with a training program that has been meaningful and successful in this community.

To date, in just less than 10 years, we have trained and placed into employment more than 4,000 Seattle area residents. We have a work force in the Seattle area made up of S/OIC graduates which represents an economic impact of more than 18 million dollars annually. The majority of our graduates are minority individuals and the majority of them were persons who might otherwise have never had the opportunities in which they now find themselves.

Now, our success has not been a one-sided affair. We honestly are successful because we work hard at doing what we do and because we have been able to get support and assistance from the business and industry community. It has been our good fortune to have had the private sector working along with us in developing our training program and in hiring our graduates. The Government has been there, too.

It is through the resources of the comprehensive employment and training act (CETA) that we will be training some 1,600 individuals at Seattle/OIC this year alone. Under contract with the king snohomish

manpower consortium we will be providing pre-vocational training and vocational training along with job placement services to disadvantaged and minority residents of our community, and it is through these Federal resources, coupled with private sector funding, that at this very moment there are 92 OIC students attending community colleges and university classes here in the Seattle area.

What then is OIC's interest in cooperative education?

Our first interest is parochial. We are a minority operated, community-based organization dedicated to helping disadvantaged individuals to gain the skills and capabilities which will enable them to function as productive citizens in the free enterprise system of our Nation. We see cooperative education as an excellent vehicle in this effort.

We see the opportunity for individuals to "learn and earn" their way through post-secondary education. Many of the young men and women who we currently serve cannot afford higher education—they cannot financially handle the costs of a college education. We believe that through cooperative education these OIC students will have a chance that they otherwise may never have.

We believe that our unique relationship with the leading business and industry leaders of our community can open doors for job placements for cooperative education students that will enable our graduates to pursue and complete their academic careers.

At Seattle/OIC we have developed a five year plan which will enable our educational institution to function as a feeder program for the area's community colleges and for our area's four year institutions of higher education. Already we are placing our training program graduates on college campuses where they are studying for health careers. We will soon be implementing a pre-technology program which will enable Seattle/OIC graduates to complete pre-college training at OIC and go on to career training on college campuses in course work involving drafting, marine engineering, chemical technology, electrical and electronic engineering, environmental careers, and industrial skills.

The same OIC graduates hired daily by Seattle area businesses can form the nucleus of a work force that can meet the manpower needs of companies that want to hire pre-professional and professional employees. We see individuals completing training at Seattle/OIC as automotive mechanics and going on to advanced training as automotive technicians at Seattle Central Community College.

We offer training in ten (10) different vocational areas. And as we look over the list published by the U.S. Department of Health, Education and Welfare (HEW) that outlines twenty-five (25) technical careers that can be achieved in two years of college preparation, we note that all of the areas we train in are contained on this list.

Our curriculum is designed with the direct assistance of technical advisory committees made up of industry and union representatives. We make our education "relevant to the world of work". And in this concept we see cooperative education.

Cooperative education, per se, is not new to OIC. For several years now we have contracted through OIC of America to recruit and prepare students for attendance at the General Motors Institute in Flint, Michigan. This fine institution of cooperative education is administered by the staff of the General Motors Corporation and Rev. Leon Sullivan, our national chairman, is a member of the General Motors Board of Directors.

Additionally, local OIC's have served as job placement opportunities for training of a Great Black College's Cooperative Education Students. Students from Wilberforce University have served as instructors and counselors in our local OIC programs.

That this concept called cooperative education should appear to be relatively new is not unlike what our own OIC movement sometimes suffers.

We are not new, nor is cooperative education new. Rather it is an idea whose time has come.

Education must be made relevant. Students must attain skills that will enable them to secure productive employment. We cannot allow our academic institutions to operate in a vacuum offering courses in history and the arts while failing to offer training in the skills needed to produce goods and services.

Just as OIC came about as an answer to educational systems failures, so too, does cooperative education strives to put our institutions of higher education on the right track.

Whether the new words and rethoric of the future changes the terminology from cooperative education to career education or to some other even higher sounding title, we at OIC stand ready to work with post-secondary education to make opportunities in the real world—the world of work.

For a long time we have said "don't give a man a fish with which he can feed his family for one day, teach him *how* to fish so that he can feed his family for a lifetime."

We believe in the concept of continuing education. We believe that individuals must constantly be studying and gaining new skills in order that they will be able to compete in the marketplace. We want our OIC trainees to become involved in cooperative education projects. We want to develop new programs with our business and industry supporters so that we can impact upon the educational scene and so that we can continue to serve as a major resource for their manpower needs.

Hand-in-hand we want to work with the Federal Government and our local educational institutions to create new and better means of training and job opportunities for minority and disadvantaged individuals. This is what opportunities industrialization centers (OICS) are all about and this is what we believe cooperative education can do.

REMARKS BY DR. WILLIAM F. PIERCE

I find myself this afternoon both pleased to be a part of this Eighth Regional Employer's Institute on Cooperative Education and, at the same time, rather perplexed. Pleased, because I've been asked to address myself to the educational virtues of Cooperative Education, something of which I can do easily because of personal convictions. Perplexed, however, because I'm the eighth luncheon speaker in the series and, therefore, must follow speakers like Senators Hartke, Montoya and Stevens, Dr. Asa Knowles, President of Northeastern University and Dr. Robert Kibbee, Chancellor of City University of New York, and noted Industrialists and Businessmen like Edward Cole and John Binbow. And that's only a small sample of the speakers who have preceded me. I feel rather like the Penguin with a speech impediment who announced, after sitting on an iceberg, "My tail is cold." So I accepted this invitation with more than a little concern over being redundant. I accepted for two reasons, however. First, because I personally feel that the promotion of Cooperative Education will help us to make some rather drastic changes in the educational system of this country, which I feel are badly needed; and secondly, because the Secretary of HEW asked me to. Incidentally, the new Secretary of the Department of Health, Education, and Welfare, Dr. F. David Mathews, was unable to arrange his schedule in order to be here himself this afternoon. He regrets that, and so do I, because as the President of the University of Alabama, which has a Cooperative Education program, he could have shared with you very special insights into the value to both students and private sector employers of Cooperative Education.

I'd like to ask you to think with me this afternoon about several social and educational issues which I will not pretend can be totally solved by more cooperative education, but which I do contend can be partially resolved by that educational technique. In my position as Deputy Commissioner for Occupational and Adult Education, I deal daily with programs for secondary as well as post-secondary students. I would be remiss if I didn't add a dimension to my remarks that I have not detected in the addresses of the previous speakers. And that is the importance of Cooperative Education or at least its precursor, work experience, to junior high school and high school students.

The various forms of media which surrounds us is replete with attacks on the attitudes, values, morals and work habits of our citizens and more specifically our youth. As we rush toward our Bicentennial Year, we find ourselves engaged in a great deal of introspection; and what we find both thrills and disturbs us. And most often, those things which disturb us are laid squarely on the doorstep of this Nation's education system. For example:

The unemployment rate for youth, ages 16–19, stands at 21.1 percent. Lack of skill training during the high school years is often cited as the cause.

One-third of those who start college will never finish. That is often credited to poor motivation, inappropriate and uninteresting course work, and a lack of direction caused by poor career counseling.

Some high schools have a larger dropout class than they do a graduation class. Clearly, the education being offered these young people is not meeting their needs. The call for relevant education is seldom heard any longer. We've gotten tired of the term and, perhaps, even a little embarrassed by it. But the need for more relevance is just as strong as it ever was.

Youth do not show respect for either their elders or their traditions and the public schools are asked to at least share the blame for that because, according to some, they have not enforced discipline, no longer teach values and have abolished all reference to religious training.

Half the freshmen admitted to the University of California in 1974 were required to take a remedial English course.

One-third of the recent applicants to the University of Wisconsin School of Journalism could not meet the minimum requirements in spelling, grammar, word usage and punctuation. These latter two factors are the fault of the Nation's secondary schools.

The average score on the College Entrance Board examination from a midwestern state have gone down for the 12th consecutive year. Again, a reflection of the failure of our school system.

These are only a few of the indicators of serious trouble in our educational system to which people have been addressing themselves for the last few years. Such concerns have led to a number of studies over the last two or three years all of which agree upon the need for educational reform. These studies, American Youth in the Mid-Seventies, by the National Association of Secondary School Principals; Youth: Transition to Adulthood, by the President's Science Advisory Committee; The Reform of Secondary Education, by the National Commission on

the Reform of Secondary Education; and the Report of the National Panel on High Schools and Adolescent Education and the Greening of the High School, by the Institute for the Development of Educational Activities/Educational Facilities Labs., all were unanimous in urging that high schools:

Dejuvenilize the whole operation. Drop the 8:00 a.m. to 3:00 p.m. custodial function. We know that strictly academic subjects occupy only part of the school day. Today's students won't tolerate being trapped in meaningless activity the rest of the day.

Develop more work-study arrangements with local business and nonprofit organizations to broaden student awareness of the adult world.

Provide more opportunities, plus credit toward graduation, for students to work as volunteers in hospitals, day-care centers, government agencies, and the like.

Offer greater flexibility in class scheduling so that students can spend part of the school day in a museum, or attending a concert, or sketching in the park, or engaging in other intellectually stimulating activities.

Reduce the age and cultural isolation of students by giving them opportunities to meet people of all ages and cultural backgrounds—in school and out. Bring in artists, artisans, business and professional people to work with students. Let students visit these people in their own working environment.

Open schools to researchers seeking answers to basic questions—How students learn, what makes teachers effective, which instructional approaches work best with disadvantaged and handicapped students, and so on.

The adjustments in the educational system, which these studies suggest must be made, seem to me to be very compatible with the philosophy and the process of cooperative education.

I warned you that I was going to ask you to think about Cooperative Education as a viable alternative for high school students. You will have noticed, I'm sure, that the studies just cited all concern themselves with secondary education. Recent studies don't spare postsecondary education from analysis or criticism either.

Take, for example, the recently released "Report on Higher Education" which points out that:

"With the exception of summer jobs, most young people in college have no firsthand knowledge of any occupation save that of being a student. A great deal of student concern about the relevance of their education can be attributed to their isolation. Many, perhaps most students lack the experience and sense of adult roles that would help them to see how courses can be relevant."

A perfect example of the result, at the collegiate level, of that isolation is reflected in the following quote which, in my opinion, represents one of the greatest wastes of human and financial resources that faces this Nation. The quote is taken from a publication of one of this country's largest universities, and reads:

"While a 1973 English major tends bar in a local nightspot, a social work graduate labors in a steel mill. A math major washes dishes in Florida, an education graduate works as a bank teller and a psychology major serves cocktails in Maine.

"These actual post-college career calamities are just what students in a recently formed class want to avoid. The class, 'Career Planning and Academic Programming,' aims to inform students of career options and job market trends so they won't end up unemployed or underemployed like some of their predecessors."

Unfortunately, that sad tale of waste is repeated over and over again in colleges and universities across this country. Thousands of college students find themselves in the same situation. And when we add the numbers of high school graduates and dropouts who are forced to take jobs as equally unrelated to their education and training, the numbers swell to the tens of thousands. And until we begin to make the need for a close relationship between education and work a national policy which undergirds the educational experience of every student, we will continue to be faced with such incredible waste of this country's most precious resource, its people.

What does all of that have to do with Cooperative Education? Quite a lot, I think. I promised you I would not ascribe more to Cooperative Education than it either deserves or could logically produce. But several constants seem to emerge from all the discussions about the ills of American education on the one hand, and all the studies which suggest solutions on the other. These constants are:

1. Young people and their parents assume that one goal of education is to prepare the student to find a job when he or she leaves the formal education system.

2. For the majority of students, one of the greatest contributors to a satisfying life is finding an appropriate job.

3. Many, if not most students have insufficient information or firsthand knowledge about the labor market to make educational choices which prepare them properly for later occupational choices.

4. Most studies assume or recommend that the solution to these problems will require vastly greater involvement in the educational process by business and industry.

It is of course obvious to this audience that cooperative education, or variations on that theme, does address itself very specifically to each of those constants. It should be just as obvious that the lack of labor market knowledge by college students would have been greatly reduced if those same students had had some meaningful work experiences as high school students. And apparently there are more opportunities for meaningful work experiences than some of us seem to think. There are currently 7,760,000 seventh and eighth graders enrolled in junior high and middle schools. High school enrollments stand at 14,242,000 students while our 2nd and 4th year colleges and universities enroll another 9,000,000 students. Consequently, there are approximately 31,000,000 students (grades 7–16) who conceivably could take advantage of some type of program offering work opportunities.

Reliable figures regarding the number of students who are actually engaged in work experience are unobtainable. However, some fairly accurate estimates, based upon samples of students in various studies indicate that as many as 50% of all students (grades 7–16) are engaged in some type of paid or nonpaid work experience program. It is estimated, however, that as little as 13.5% of those students are engaged in jobs which are related to their educational programs. In terms of numbers, about 15,500,000 students work at something but only about 2,500,000 are engaged in a program which relates their work experience to their educational program. This of course includes the approximately 180,000 students enrolled in college cooperative education programs.

In addition to the 180,000 college cooperative education students, there are several other programs at both the secondary as well as the postsecondary level, both paid and unpaid which account for a portion of those 15½ million working students.

College work-study, which differs from cooperative education in that it is primarily a student aid rather than an educational program, currently provides employment for about 620,000 college students. It is estimated that 25% of those students work at jobs which are directly related to their educational program.

In addition, some college students participate in other federally supported social service programs. For example, the "University Year for Action" enrolls 1,380 college students. Finally, at the postsecondary level, many thousands of students participate in nonpaid, strictly voluntary work experience, either as a service to someone or as a way to gain practical knowledge about what happens in a particular vocation or profession.

Secondary students can find work experience in one of the following programs.

Vocational Cooperative Education programs under Part B of the Vocational Educational Education Act of 1968. Over 340,000 students are enrolled in this program.

Part G of the Vocational Education Act of 1968 made Cooperative Education available for disadvantaged students. There were over 170,000 young people in this program during 1974.

Part H—The Secondary Vocational student aid program provided work-study experience for over 35,000 students during last fiscal year.

About 550,000 secondary students are enrolled in these federally supported programs but, given a total secondary enrollment of about 9,000,000, only about 6% are found in cooperative education and work experience programs.

Like their postsecondary colleagues, many additional thousands of secondary students join, on a voluntary basis, other types of nonfederally supported cooperative or work experience programs. In perfect compatibility with President Ford's call for closer relationships between the world of work and the world of academia, many secondary schools are currently developing and implementing nonpaid, nonfederally supported cooperative education programs which are designed to provide the students with educational and occupational experience which cannot be obtained in the traditional classroom. Most students in these programs are considered nonvocational.

The central point of this discussion is that there seems to be an incredible amount of student energy going into some type of work experience. If we could but redirect much more of that energy into activities which relate the students' work to the students' education program we could, it would seem, drastically reduce the level of isolation from the labor market and assist students in making more enlightened choices. That, of course, is a very big if. And big ifs have a way of leading one to rather tortured conclusions. For example:

A rather young and attractive Englishman was invited to have dinner with a rather less young and less attractive Duchess. English social etiquette demanded he attend. The next morning he was asked by a friend about his evening. The young man replied that:

If the water had been as cold as the soup and
If the soup had been as warm as the wine
and
If the wine had been as old as the duck and
If the duck had been as young as the maid
and
If the maid had been as willing as the
Duchess,
Why, I would have had a hell of a time!

I really hope my conclusions about the value of work experience are not as tortured as the conclusions drawn about the word If. I really don't think they are. For example, in an Office of Education Study entitled "The National Longitudinal Study of the High

School Class of 1972," although 76 percent reported they were involved in some type of paid or unpaid work experience, fully 59 percent of them felt their high school should have provided more practical work experience.

Current studies and stated student attitudes, coupled with current student working habits lead me to believe that increased cooperative education programs at the secondary and college level are both feasible and desirable.

If my conclusions have not been too badly drawn, I can summarize what I have said to this point this afternoon by saying the system needs changing, students are asking for changes and cooperative education is able to provide at least some of the desired results.

Cooperative Education clearly provides something very valuable to the student. What's in it for those of you who are private sector employers? Many of your fellow businessmen will provide you with very specific examples during the course of this conference. I will, therefore, touch on only a few of the advantages to the businessman. Many who have participated know that co-op students often remain with the business or industry as a well trained, company-oriented full-time employee. Business and industrial leaders find co-op graduates much more mature and much more realistic in their attitudes toward the free enterprise system.

Cooperative Education gives you, the industrialist, a special opportunity to respond to your firm's need for affirmative action regarding minority and female employees.

These are but a few of the most obvious advantages to business and industrial leaders of the Cooperative Education program. The fact that 2,300 employers participate in a program at one university suggests that they are motivated by something more than a desire to assist the university. After all, when as conservative an employer as mine—the Federal Government—provides slots for 7,500 students—and is indeed the largest single cooperative education employer in the country—you've got to believe there's something pretty good about the program.

Assuming you accept my assessment of the value of cooperative education for both students and private sector employers, you might well ask why, out of 9,000,000 college students only 180,000 or 2% are enrolled in cooperative education after 70 years of effort. Quite obviously, there are some problems and some limiting factors to the expansion of cooperative education. These can be characterized as follows:

Too few training sites in the private sector. Cooperative Education must have private sector sponsors. And that does represent an investment on your part. An investment in time, in money, and in an added activity in your place of business which you may feel simply adds an unwanted diversion to your primary reason for existence. The production of goods and/or services.

After 70 years, there are still a large number of educators who view cooperative education as an unwanted intrusion into their comfortable teaching style. The following quote is illustrative:

"For all its success, cooperative education still faces problems. . . . For example, some faculty members are disturbed by the 'contaminating' influence of the outside world on their superior students, who may be attracted to the pursuit of lucrative careers rather than to graduate study."

I'm sorry, but I for one have very little patience with that argument. Those educators seem to have lost sight of the fact that they are supposed to be preparing their studens for the outside world—not protecting them from it. Unfortunately, too many teachers, both secondary and postsecondary, are committed to their academic discipline, not to the students they teach. Therefore, they educate for the sake of education.

The current high unemployment rate certainly contributes to the problem. Employers are reluctant to provide jobs to cooperative education students when they are, at the same time, forced to reduce their permanent labor force. This condition is, of course, temporary but it still contributes to the problem.

Some students view the work sequence of the cooperative education program as simply an unwanted interruption in their "learning" experience. Unfortunately, those students have come to believe what too many educators have for too long professed. That real learning can only take place in a traditional classroom setting.

Insofar as federal funds are a limiting factor, this must also be viewed as a problem. Although the total authorization has been allocated for the last two years, to increase the cooperative education enrollment to even 10% of the college and university enrollment, assuming federal money were the only limiting factor, would require an additional $45 million! Given, a federal budget deficit in the neighborhood of $60 billion dollars and given the fact that the federal government already is investing over $700 million in Fiscal Year 1976 in the Basic Opportunity Grant program, additional federal funds for cooperative education are not too likely in the near future. How can we overcome these barriers to the expansion of cooperative education? There are, I'm sure, many ways which either have or will be discussed by experts in cooperative education during the course of this conference. I do not pretend to have all the answers. A recently computed study, by the College Entrance Examination Board, entitled "Bridging the Gap: A study of Education-To-Work Linkages" provides some suggestions which I feel both cooperative educators and public sector employers may wish to consider:

1. Opportunities for unpaid work experience should be provided for all students in all major programs at both the secondary and postsecondary levels.

2. Secondary and postsecondary graduation requirements should reflect the importance of work experience for all students.

3. Follow-up studies of secondary and postsecondary school graduates and dropouts who did not immediately continue their education should be conducted annually to discern the extent and nature of misalignment between education exit requirements and work entry requirements.

4. Community Education and Work Councils, comprised of educational, business, labor, government, and other community leaders, should be established. Sponsorship may come from the educational sector, the work sector, or the community sector—whichever is willing to assume the initiative.

5. The state legislature or governor should establish a state-level interagency Career Competency Assessment Board that would report to the highest levels of state educational and labor government.

This study, as the title indicates, did not deal with cooperative education specifically but all programs providing an education-to-work linkage. Even so, the recommendations are applicable to cooperative education.

If I have accomplished the task I set for myself this afternoon, I should have convinced you of several things.

First, that the educational system of our country, both secondary and postsecondary, is not meeting the needs of most students.

Second, Cooperative Education is one logical, reasonable and effective way to solve the unmet educational needs of many students.

Third, Cooperative Education is as advantageous to the private sector employer as it is to the student.

Fourth, with only 2% of postsecondary students and only 6% of secondary students currently enrolled in cooperative education, there are two basic requirements—greater student enrollments and a comcomitant greater involvement of employers to provide work experience opportunities.

And finally, that there are a great many people, both professional educators and laymen who are willing and able to provide our children the quality of education they have every right to expect.

I recently saw a bicentennial bumper sticker which did two things. It undoubtedly set every grammar teacher's teeth on edge, and second, it captured the honesty, the optimism, the pioneer spirit of this country. It showed our pride in what we have and, at the same time, our willingness to constantly strive to improve it. The sticker said, simply and ungrammatically, "America, it ain't perfect, but we ain't done yet!" As an educator, I'm compelled to change the language slightly but, at the same time, I'd like to capture the flavor of that bumper sticker as it relates to American education. In closing, therefore, may I leave you with this paraphrased thought. "American education—it isn't perfect, but we're not finished yet!" As we try to perfect the system, we ask you to consider cooperative education as one viable approach.

REMARKS BY DR. JOSEPH M. PETTIT

Georgia Tech has had a long and rich history in the field of co-operative education. Our program started in 1912 and has operated continuously since that time through wars and depressions. Although a majority of Georgia Tech students attend as regular four-year students, some 1,100, or 20%, of our undergraduate students are enrolled as co-ops.

Co-op to us is a "method of education"—a method which encourages employers to share with us in the educational process. For more than half a century Georgia Tech and co-operative employers, working together, have provided well-rounded and enriched education for many thousands of young men and women. Graduates of the program have risen to positions of responsibility throughout American industry. At a national conference on co-operative education to be held later this month, one of our graduates will deliver the keynote address.

Academically, our students have established excellent records. Only above average students are admitted to the program, and more than half of the co-ops enrolled at Tech are named each quarter to the "Dean's List."

Our co-ops also are active in extra-curricular affairs. The editor of the student newspaper is a co-op. Several have served as president of the Georgia Tech student body. As a matter of fact, a co-op (Chis Bagby) was president of the student body when I came to Georgia Tech from Stanford, and Mrs. Pettit and I had the pleasure of witnessing his marriage to another young co-op at our home on the Tech campus.

I am enthusiastic about the co-operative program. Those of us from Georgia Tech are happy to be with you today, and to share with you our experiences in and our enthusiasm for co-operative education.

REMARKS BY ELTON JOLLY

One of the most significant problems we face in America is the chasm that exists between the schoolroom and the workplace. Early in his term of office President Ford pointed to this problem and indicated "I will do everything in my power to bring educators and employers together." Throughout the nation there is a quickening of interest in

various approaches to collaboration, one of the most significant being today's subject.

COOPERATIVE EDUCATION

The chasm between learning and earning has always been a significant problem in America, and for over a century, starting with the establishment of land grant universities to provide agricultural and mechanical—A and M—education, the nation has turned its resources towards bridging it. However, despite the best efforts of educators, the chasm has grown wider and more treacherous as jobs become scarcer relative to the numbers of people seeking them, and qualifications to hold them become more stringent in the face of more sophisticated technology and more demanding organizational systems.

Thus, interest in cooperative education and related areas such as career education could not have occurred at a more timely point. Today, millions of youth are both out of school and out of work. Our national teenage unemployment rate hovers between 19% and 20%, while all other categories have begun to decrease as a result of initial upswings in the economy. Unemployment among minority youth is approximately double that rate. And these only describe those who are still seeking work, and omit those who may have temporarily or permanently left the workplace. In large urban areas it is estimated that the unemployment rate among out of school inner city youths may be as high as 70%.

Finding ways of addressing this incredible waste of America's most precious resource—its human resources—has become a major focus of national policy. The effects of this waste is felt in every part of the nation, by rich and poor, urban and rural alike. Rising crime, alienation, increased drug and alcohol usage, disassociation by the chronic poor from the institutions that are not working on their behalf, distrust and lack of faith in the government and our capitalistic system itself are all explicable and understandable—if not acceptable—responses by people who feel they are not needed or wanted. Until recently, however, policy implementation has focused on putting the responsibility for dealing with this chasm almost entirely on those involved with the learning side of the chasm. In a valiant effort to respond, vast vocational training systems at the secondary and post secondary level have emerged. Yet, they still have been unsuccessful in fully meeting the need, for they represent only half measures. With the creation and expansion of the cooperative education approach, we finally see, full measure, a way not of bridging, but closing the gap, for new participants. America's employers are now to be fully involved in that part of the education process that involves preparing young people for the world of work.

The experience of OIC provides a unique perspective on the importance of and methods being used in implementing the cooperative education approach. OIC is geared to address the most serious aspect of the problems I have outlined above, creating opportunities through self help and skill development for those who have not successfully made the transition from school to work, America's poor and unemployed.

Before getting into the subject of cooperative education too deeply, I would first like to talk a little about OIC, for the goals of OIC and those of cooperative education have much in common.

OIC was founded over 12 years ago as a pragmatic response to the problem facing too many of the poor in America, the lack of skills. After a lengthy and successful program of selective patronage OIC's Founder, Reverend Leon H. Sullivan, had overcome the artificial barriers facing blacks who applied for jobs, only to find that large numbers were still unable to compete for jobs because they had no preparation and no experience. So OIC emerged, and because the same problem continues to exist in all parts of the nation, OICs now are operating or developing in over 200 American cities.

OIC leaders quickly learned that it was not only the hands but the heads of our trainees that needed attention. We created the Feeder Program concept, or prevocational training, which has since become a standard component of any manpower training effort. In feeder, in addition to basic skills such as reading and mathematics, we teach trainees about a world many have never experienced—the world of work. Attitudinal and motivational training really focuses on the whole array of subtle differences that exist on-the-job, that require self-discipline, tolerance, and a professional approach. It creates an understanding of differences, and why they exist, and how each must learn to adapt to the conditions that are implicit to job holding, while maintaining identity, confidence, and continuing to succeed and grow on-the-job. In feeder, trainees are prepared for choosing their training area by having an opportunity to observe and try different skills areas. All training is geared towards the day the trainees will start a new job, self sufficient and prepared for both the demands and responsibilities a continuing career, will entail.

OIC was a response to a problem, and similar to the cooperative education movement, it was a shared response. OIC has, from the opening of its first center, had a strong and effective partnership with industry at both the local and national level. This partnership is exemplified by our active National Industrial Advisory Council which counts as members the chief executives of GM, IBM, GE, Sun Oil, RCA and several other of the nations' largest enterprises. More importantly, however, this partnership is considered a key to success at the local level. Each OIC's Industrial Advisory Council and other industry supporters help assure that such trainees can look forward to a job once they have gained skill proficiency. They help OICs keep their courses up-to-date. They meet with trainees to acquaint them with job conditions, and conduct tours of their workplaces.

It is, perhaps, OIC's close collaboration with employers that has been one key to its success over the years, and without which any program which purports to assist people enter the world of work cannot succeed.

OIC's commitment to helping people has led it to reach beyond the type of collaboration in manpower training already described, into other activities characteristic of cooperative education. OIC trainees, who are not paid stipends to attend OIC unless required by law, have sometimes needed income to offset living costs while in training. We have often been able to place them in part-time jobs related to their area of skill interest.

Since OIC's inception, over 300,000 people who were either unemployed, on welfare, or below acceptable poverty income levels have been trained and placed into jobs. However, we have not been content at only helping those who were not successful in bridging the gap or on only placing people in entry level jobs. We want to do more and I would like to take a moment to describe how we are doing more through career education and cooperative education.

Career education is a way of talking about regearing all levels of the educative process to the "real world" of jobs and responsibilities. In its broadest sense it and cooperative education are similar in goals, and they are, in fact, interdependent facets of a similar national thrust to regear education to preparing for the twenty-first century, rather than maintaining patterns established in the nineteenth century.

OIC became involved in career education in the early seventies, when it became apparent that the experiences of our program in preparing adults for work were readily applicable to preparing young people to avoid the pitfalls around them. We created a career education model that dealt with helping the youth most vulnerable to joblessness, the poor performing or drop-out inner city minority teenager. Through a combination of career orientation, career testing and work experience, all bolstered by an academic curriculum regeared to support career learning while meeting all requirements for graduation from the Philadelphia school system, we have been able to take 853 young people and turn them around. In three years of operation 300 have graduated, 71 went to college, 41 went to technical or community colleges and 59 were placed into jobs.

Another exciting program in Seattle shows directly how an OIC—cooperative education effort can really have a significant impact. The Seattle OIC, which is serving approximately 400 people, is presently conducting a cooperative education program wherein 20% of its client load is engaged in various forms of cooperative education, where study and interrelated work is simultaneously undertaken. Many of the program's graduates have gone on to college or other forms of more specialized career and technical training.

This model and that of OIC's career education experience are illustrative of the real success an OIC—industry—university collaborative effort can have in overcoming both the causes and effects of chronic employment. The OIC cooperative education approach works for trainees and for business. Trainees are able to earn and learn, while developing relations and a track record with potential employers. Employers are able to train and become familiar with potential employees while they are still in the learning process. This allows them to identify weaknesses and enlist OIC help in solving them before permanent employment. It provides a means of preselecting employees. It gives foremen and first line supervisors a real opportunity to play an important staff development role without the constraints of forced performance required when permanent recruits are involved. Trainees joining a company that have participated in their personal development feel greater loyalty and long term commitment. For these and several other reasons, this process is of real value in identifying new entrants in your workforce.

The involvement of the third part of the team—universities and other schools of higher education is also important, for in a three way collaborative effort, broader development and the ongoing long range enhancement of individual potential is of critical importance. A continuing relationship between employer and educator is the best means of assuring that the needs and goals of each are met, and most important, that the needs and goals of our most important natural resource—our people—are met.

That's why you, here today at an employers' conference on cooperative education, are such a special audience. Educational institutions across the nation are regearing their efforts to meet the needs of business and industry for better prepared, better qualified persons. But educational institutions can only go part of the way—employers, too, must do their part.

You may feel that you can do nothing about seemingly global problems, large scale unemployment, the growth of poverty subculture in this nation—and throughout the third world—of people who have never worked, who consider handouts a way of life, or who prey on their fellow man to survive. Yet, if our way of life is to survive, if our free economic and political systems are to survive, if *we* are to survive, we must, each

and all, find ways we can act to stem these growing problems.

We are living in a time of quiet crisis. As these problems affect us individually, we must act on them individually, in every arena we have available to us. So it is that you, in your position at the doorway to the world of work, can and should turn your attention to collaborating with organizations like OIC as well as others involved in cooperative education and similar efforts.

REMARKS BY DR. JOHN D. PHILLIPS

Let me begin by saying how grateful I am to appear before you to make whatever contribution I can to encourage employers to hire cooperative education students. I believe cooperative education has a vital role to play in assuring a successful rite of passage from youth to maturity for America's young people in today's world, and I'm very grateful for any opportunity to promote the concept of cooperative education among employers and academics alike.

Let me begin with a few words about the cooperative education support program administered by the U.S. Office of Education and about the accomplishments and advantages of the co-op ed approach to training young people.

Although the first co-op program was established nearly 70 years ago, as recently as 1962, 14 years later, in 1976, only about 60 institutions had programs, serving, only about 28,000 students. About 1,000 institutions are expected to provide cooperative education for approximately 165,000 students employed by 15,000 companies. We don't really know what a reasonable goal is for cooperative education, but, we can envision another 500 institutions trying co-op ed by 1980, with a possible 500,000 student participants.

Since 1970, the Office of Education has been administering a program of grants to support cooperative education activities in institutions of higher education. Slightly over $1.5 million was made available in each of the first three years, with less than 100 institutions funded each year. In 1973, the administration requested and the Congress appropriated the full authorization of $10,750,000, and the same full funding has been provided each year since then. The year we received some 560 requests for over $25 million and expect to approve about 270 of these. Within the $10,750,000 funding we make two types of grants: (1) $10 million for the planning, establishment, expansion, or carrying out of cooperative programs at eligible public and non-profit private institutions. Grants cannot be made for more than 3 years to any one institution, cannot exceed $75,000 in any one year, support only alternating periods of study and work by full-time students, and cannot be used as compensation for students. In the main, the funds cover the salaries and expenses of the program coordinator—the person who must convince the college faculty and employers that cooperative education merits their active support.

(2) The second Federal effort is an investment of $750,000 a year in training and research activities of importance to cooperative education. Part of the support for conferences such as this one comes from this fund. We are also supporting the training of coordinators to fill the rapidly expanding need and research on more effective methods of operating co-op ed programs.

It is interesting to note that in the FY 1975 Appropriation Act, Congress directed that a comprehensive study be made of cooperative education by the Office of Education. We believe that such a study is fully warranted in view of the rapid growth of cooperative education since the inception of the Federal cooperative education effort in 1970 and the rapid changes which are taking place in both the academic and business worlds. The study is underway with preliminary results expected in a few months and the final report this December. It will attempt to answer such questions as: What is the market for co-op students both as students and as college graduates? What are the specific benefits to you the employers? What are the benefits to the students? These and other questions about cooperative education need answers if co-op ed is to continue its strong growth.

The Federal blessing in itself does not, of course, make a particular cooperative education program a good venture for you indeed, the worst part about a Federal application is that you might get it! There is no fact book on co-op ed which lists guaranteed benefits for employers. However, there is mounting evidence that it can be a very good thing for you. Let me cite some specific examples:

(1) Lower hiring and training costs with co-op students vs non-co-op students.

(2) Lower turnover of co-op-trained employees.

(3) A basis for more effective relationships with colleges.

(4) On the average, co-op trained employees are more productive and can better accept increasing responsibility.

(5) A co-op ed student is more apt to settle earlier in a career for which he is qualified and which already has begun to provide him with measurable job satisfactions.

There is also some information available which indicates that a favorable cost-benefit ratio can be derived from employing co-op ed students. Xerox corporation has made an internal study which reveals—and I quote—"Xerox has made very substantial savings in its personnel recruitment costs through employing cooperative education students." A second study was made by South Central Bell after nine years of experience with co-op ed students and they found—and again I quote—"the study revealed that the cost of employing and retaining each co-op graduate was 40% less expensive than employing and retaining a regular college graduate."

This kind of evidence would seem to indicate that it is to an employer's advantage to participate in cooperative education. You should know, however, that participation also involves responsibilities.

To the maximum extent possible, jobs should be related to the academic careers of the students. We hope that you will not look upon students as temporary employees but as trainees for potential full-time employment. In addition, it is important that you support the program and have a continued and open communication with the college and the students.

Finally, I would suggest that you not accept a proposed program solely on the good reputation of cooperative education and the college but instead, that you carefully analyze the particular proposal. Questions you may wish to ask are:

(1) Is the college really committed? We feel that the college president must back the program if it is to be a success.

(2) Is there evidence that students will participate?

(3) What support has been given by the faculty? Some teachers just don't like cooperative education and it has a slim chance of succeeding without faculty support.

(4) Can the college afford cooperative education? While not expensive, it does cost the college money in terms of support staff and course offerings.

(5) If there is a federal grant, how will the program be funded at the end of the grant? Since it takes up to 5 years to amortize the start-up costs of a program, some real non-federal support must be programmed into the plans from the outset.

If you fully assess the program and really work with colleges and students, I am sure that you'll become as strong a believer in cooperative education as we are.

(2) Now that I have reviewed what we may call the "nuts and bolts" of cooperative education, I hope I may have your indulgence while I talk further about the underlying value and need for cooperative education.

Co-op ed has always been a useful and effective means of educating young people. I believe that today it is an essential means of educating them. The gulf between the world of work and the world of home and school has grown so wide, and misunderstanding between young people and their elders has grown so acute, that some means must be found to bridge that gap and erase that misunderstanding if our society is to remain healthy and viable. I believe that cooperative education is one very effective way of accomplishing these objectives. Many businessmen complain that American youth has a negative attitude toward business. However, if young people learn about business only through books and hearsay, then some degree of misunderstanding is inevitable. To know a person is not necessarily to like him, but it does help to understand him. Prejudice, extremism, and unfairness usually springs from ignorance and ignorance comes from lack of close contact with and understanding of the object of these feelings and attitudes. If we wish our young people to appreciate business accomplishments and understand business problems, they must be given the opportunity to really know them.

Cooperative education gives both students and employers that opportunity. Cooperative education can serve as the means of creating a social environment in which a young person can observe and participate in the work of his elders. Historically, a child spent part of the time in school. When he reached maturity, he was already familiar with the workaday world in which he was now expected to take a rightful place.

We must try to erase the sharp dichotomy between school and work, between youth and adults which has created so much misunderstanding between the generations and which has made the transition from youth to adulthood so very difficult. We should not be surprised if young people resent the sudden imposition of the demands and responsibilities or indeed to even alert them to their existence. We should also not be surprised if young people feel resentful when they discover that the long years of academic training so arduously pursued have not prepared them for gainful employment. If formal schooling is to have the fullest possible meaning for our young people; if they are to enter occupations for which they have been fully and properly prepared; if they are to bring to their work that enthusiasm and eagerness to excel which can only come when the work provides a sense of satisfaction and meaningful accomplishment as well as a paycheck; and finally, if our young people are to fully understand and accept the often difficult and painful responsibilities of adult life, then we must expose them to the reality of the world of work during their formative years and do it in a comprehensive, systematic and wholly practical way.

In accomplishing this objective, I believe that it is essential for our concept of work to be broad and all-encompassing, so we can offer career opportunities which will appeal to all young people and which will encourage the development of every kind of talent and ability. An artist is a worker, a novelist is a worker, a stage set designer is a worker, a musician is a worker, a sculptor is a worker, a film director is a worker. I believe that workers such as these, as well as businessmen and doctors and lawyers and other professionals, should be encouraged to enter our

schools and colleges and explain to young people what it means to do their kind of work, what the opportunities are, what the rewards and drawbacks are. While I concede that American business can and should continue to fulfill the major role in providing jobs for cooperative education, both because they generate most of the jobs in our economy and because most young people will eventually enter the business world, I also believe that doctors, lawyers, engineers and other professionals, and artists of all kinds, should do their part in providing co-op ed work opportunities. It sould be emphasized that cost need not be a barrier to this kind of employment. In the past, for example, it was not uncommon for a young person to perform work for an employer in return for being taught a trade or profession with no money whatever changing hands. I want to make clear I am not advocating a policy of unpaid student labor. If an employer can possibly afford to pay for work performed he ought to be encouraged to do so. However, if an artist, or individual craftsman, or perhaps a doctor or lawyer who devotes himself to serving the poor for little or no remuneration, is willing to take on a student worker but cannot possibly pay him a salary, and if the student consents to the arrangement, then it ought to be possible for a student to work for such employers without pay in order to learn about their occupations.

(3) In conclusion, I would like to strongly encourage all concerned with cooperative education to utilize their imagination and innovation talents to the utmost in order to provide the greatest possible benefits for both students and employers. Let us not be bound by old ways of doing things. Let us define work as any activity that benefits our society and that provides a livelihood and a feeling of worthwhile accomplishment for the worker, and let businessmen, physicians, engineers, lawyers, farmers, artists, government officials at all levels, and all other practitioners of legitimate occupations, no matter how obscure or specialized, join in a commitment to cooperate with our academic institutions to prepare our youth to take a constructive part in building our society, and to do so with their idealism, enthusiasm and imagination unimpaired.

REMARKS BY DR. THOMAS L. MARTIN, JR.

I am pleased to welcome you to the Employer Institute on Cooperative Education: The Emerging Manpower Resource. Individually, each of us here today represent one, or more, of the integral components that together make up Cooperative Education—the employers, without whom there would simply be no Cooperative Education; the coordinators of Cooperative Education in institutions of higher learning; and, finally, the high school counselors who serve as guides for the students themselves.

The concept of Cooperative Education dates back to 1906 when Hermann Schneider, a professor at the University of Cincinnati, conceived of a system of education that would involve students, schools, and industry. He sought a method that would enable students to understand how their schooling applied in the world of work. As he explained his program at a teachers' meeting in Illinois, it was "taking the boys to the job." Today we have updated Mr. Schneider's words and refer to the process as "making education relevant."

In 1936, in response to this philosophy of education, IIT, then Armour Institute of Technology, began its Coop Program in the School of Mechanical Engineering. By 1956, Coop Education was available on a voluntary basis to students in each of the engineering disciplines offered by the university. Students in management and finance, and later in mathematics, chemistry, and physics, soon requested, and were granted, the opportunity to participate. Today the program also includes students in such fields as psychology, sociology, and political science.

On the national scene, in the late fifties the Edison Foundation, through the urging of Boss Kettering, funded a study of Cooperative Education which resulted in the growth of Coop movement participants from 50 schools to the present day total of more than 1,000.

The criteria used by IIT from its first program in mechanical engineering up to today's broad involvement has as its foremost concern meeting the needs of students, employers, and the school—the three partners in the development of creative, satisfying, and successful life careers. The student has usually had one of two basic motivations. The first is financial, as the compensation for performing useful work can pay for much of a college education. The second is to field test his or her interest and more sharply define the specifics of the career which he or she has chosen to pursue. The employer has found that Cooperative Education is relatively inexpensive and advantageous to the recruitment, training and retention of personnel. And, finally, the school benefits through the use of industry as an extension of its laboratories.

Fifty years ago a man by the name of Danforth, who headed the Purina Ralston Company, wrote a book particularly directed to high school and college students. Titled "I Dare You," it challenged students to develop as "Four Square Persons" by balanced growth of their mental, physical, social, and ethical qualities through the conscious practice of each. Today's headlines indicate an increasing need for individuals of this stature as the world decreases in size in terms of time and space through vast technological progress.

Again, welcome to the Employer Institute on Cooperative Education. I urge you to use what you learn today to improve your ability to shape our young people, our most valuable resources, into well-educated and dedicated leaders for the future.

REMARKS BY U.S. SENATOR VANCE HARTKE

I think it is appropriate in this birthday year of the Nation to remind ourselves—and to celebrate—the American achievement in education.

I can think of no other society, in the history of mankind, that from its beginning valued education as a prime national resource.

It was always in the forefront of the thinking of the Founding Fathers that education would be a prerequisite to national growth and greatness. Washington himself bequeathed part of his estate for the establishment of a national university in the Capitol City. Jefferson knew that the great emerging society would rest upon trained intelligence, and he fostered the idea of higher education as the source of its nourishment.

Out of an early tradition going back even to colonial times which perceived education as a national necessity there emerged such formulations as free compulsory public school education and the widest range of innovations in higher education that are certainly unique to our country.

Always educational innovation appeared in response to society's needs. So we have seen down the years the mushrooming in every State and locality of an education garden with the widest variety of institutions; Women's colleges, black colleges, vocational and technical schools, junior colleges and community colleges, great universities and research centers, small private colleges of unusual academic quality, professional schools for doctors, lawyers, dentists, architects, engineers, and teachers.

Those who lament the intrusion of government in the affairs of our citizens, must not confuse the government's rude invasions of privacy, with certain positive American achievements that could not have been accomplished without government intervention and leadership.

Let me give you two examples in education that have withstood the test of time and remain today as living monuments to wise and innovative governemnt policy.

One is the Morrill Act of 1862, which provided enormous government resources to support, develop and expand the so-called land grant colleges of the Nation. The underlying purpose of the Land Grant College Act was to provide the apparatus through which young Americans could become proficient in those agricultural and mechanical arts that an expanding nation with our natural bounty would need. Make no mistake about it: That farsighted government policy laid the foundations for the greatest agricultural economy the world has ever seen, and planted the solid roots upon which dozens of our great state universities now thrive.

The second magnificent entry of government into education to meet a critical national need was the passage in 1944 of the GI bill of rights which enabled millions of young Americans returning from the war to enter higher education, and subsequently to contribute to the Nation's reconversion to peacetime prosperity. I am a beneficiary of the GI bill of rights whch made it possible for me to go to college and law school, and I shall ever be grateful for it. I happen to be the author of the 1967 Cooperative Education Amendment to the Higher Education Act of 1965, which in a creative way placed support of cooperative education in the context of Federal policy. I should add it was the first time the Congress financially endorsed a specific form of education since the passage of the Morrill Act, more than a hundred years earlier.

In cooperative education work and study are joined in a structured process.

As a result of the legislation that made it part of our national education policy, the Federal budget has, in recent years, contained a specific line item for cooperative education. The current annual appropriation of $10,750,000 represents only a miniscule portion of the total higher education appropriation of approximately two and a half billion dollars, but to most observers it is the best money the government has spent.

There are now about a thousand colleges with cooperative programs, or in the process of developing them. And I would add that many high schools are melding work and study by providing distributive education schedules.

As in the past, it seems that again society is looking to education, in effect to our brain centers, to discover and unleash the energies to manage our critical problems.

In our 200 years we have come a long way. There are now nine million students in college. From Federal, State and private sources billions have been poured into higher education. Many, many more billions have been invested by the American people in pre-college education.

And the results down the years have been measured by the abundance of a flourishing society in agriculture, technology, wealth, and in the greater distribution of what we think of as the good things of life. There can be no doubt that education has been a prime factor in American progress.

But there are two ways of measuring progress. One is how far we have gone from our starting point, and the other is how close we are to our goal. Optimistically, our cup is half full; on the darker side, it is also half empty.

As I have said, there are nine million young people in college; but there are 51 million adults who have had less than the usual twelve years of formal education.

We have always placed the highest value on literacy, and it is therefore astonishing that millions of adults cannot read their children's report cards, or the help wanted ads in newspapers, or the questions on their driver's license test.

These illustrations define a condition on one level of education. If we let the clinical eye roam over the arena of higher education, we will discern even more disturbing symptoms of what is really a crisis.

The crisis, among other things, is a money crisis. Colleges all over the Nation are in the throes of a tightening financial squeeze. In 1974, 34 colleges had to close down; and I have heard it estimated that 200 more may be on the way out before the end of the decade.

A concomitant of this is the radical escalation of tuition costs, which have risen in some instances to over $6,000 a year. Only the other day the U.S. Commissioner of Education, Terrel H. Bell, announced his resignation as of August first from a post that pays him a salary of $37,800. He will accept the job of chief executive of the board of regents in Utah which will pay him $11,000 more than he is now getting. His reason for changing is his need for more money to meet the college costs of his three sons.

In addition there is something dead wrong about the great gap between what so many young people are studying and what the needs of society are. The personnel manager of the Gillette Company laments: "We have the jobs and we have the people, but we just can't make a marriage." Northwestern University Economist Robert J. Gordon complains, "Our economy suffers from a serious mismatch between available jobs and available workers." Willard Wirtz, former Secretary of Labor and now President of the National Manpower Institute, has stated, "There is evidence of an increasing mismatch between the development of particular competencies and the need for them."

One dramatic effect of such misguidance, and it is applicable to many other disciplines, is that an estimated 4 million teachers will be trained during the 1970's to compete for only 2 million grade and high school openings. It is also now apparent from all manpower projections that the number of college graduates is increasing faster than the number of jobs. We also have an army of people preparing for non-existent careers, and we have unfolding career opportunities for which not enough are preparing.

When Dr. Frank Newman, then of Stanford University, published his report on higher education, he noted that "The ability to make career choices improves with off-campus experience. And that of course is the basic idea of cooperative education."

These are sobering reports and they do not include other factors of social dislocation which must be taken into account as we reassess education policy.

I do not want to disillusion you on the subject of our economic recovery which in many sectors is real. But as Winston Churchill once warned, the chain of democracy is only so strong as its weakest links. And we have too many weak links to feel safe and confident. The litany of our disorders includes an unemployment rate, too high in general, but highest among our youth, both male and female. Their problem is exacerbated by their lack of skills and education. Radical changes especially those caused by rapidly advancing technology, have obsoleted many job skills, while at the same time creating jobs which college students could expect to fill if only they are given the right direction, education and training .

The pipeline of job seekers is jammed with teenagers, and more women have entered the job market than had been expected. In both cases, unemployment is very high and the expectations of employment are doomed for lack of education.

Many of these problems have been identified, even in the early manifestations, and various Federal policies were adopted and munificiently financed. Large sums have been appropriated to fund manpower training and education programs on all levels of learning in a real effort to expand opportunities in education and in the preparation for useful employment. Now, of course, there is considerable doubt about the effectiveness of these programs, and there is evidence to justify such doubt. Functional illiteracy continues to plague us. Schools and colleges caught in the vise of rising costs are cutting back on teaching activities that should be expanded rather than reduced. Independent colleges are going out of business while rising tuition costs are forcing families to lower the sights of their children. And even those young people who enter and succeed in completing college, without dropping out or being pushed out, in too many instances enter the adult world only to be underemployed or unemployed.

In my view, we cannot isolate education and manpower policy from economic policy.

Obviously, the revitalization of American education so that it can once again respond to the urgent needs of society depends on new initiatives that will lead to continuing economic growth. The Council of Economic Advisers estimates that 12 million more jobs will be needed by 1980, and that is probably a conservative outlook. In any event, I am not sure the economists know what kind of jobs, or where, which way and by whom they will be generated.

I do know, however, that we are losing jobs abroad as the result of the export of American capital and technology, as more and more American companies have established plant operations overseas to take advantage of cheap labor and tax breaks. I think we need a realistic policy to reverse this trend and to prevent the further flight of jobs that has already occurred in so many industries that have gone elsewhere to produce, including electronic parts, apparel, machine tools, and automobiles, to name but a few.

More basically, we need to abandon the archaic notion that economic vitality is a cause of inflation. Instead of this nonactivist approach, we need to commit ourselves to a full employment-full growth policy, with both the public and private sectors collaborating in a national purpose.

It is dangerous not to recognize the strong undercurrents of disorder that whirl around our failure to underwrtie full employment and real economic growth, for ultimately these are the preconditions for the success of all social policies, including education. The Humphrey-Hawkins bill ought to be passed and signed, not for partisan reasons, but because the Nation needs it. The reconstruction of our railroad system and our center cities, the invention of new means of health care delivery, and the rapid improvement of urban and rural waste disposal systems should be among the priority targets of an economic revitalization program, with tax and subsidy inducements for private industry to invest in these fields.

The country simply cannot afford the social and financial costs of an anti-expansionary policy. It is an item of more than passing interest that in fiscal 1976, unemployment insurance will cost the Nation $18 billion, an expenditure which does not create jobs. There is already what has been described as a large, growing under-class in our society of people with no place to go and with frustrated expectations. How many more will be counted among them when an estimated 2 million unemployed are expected to exhaust their benefits?

In this context, I noted an observation of William A. Niskanen, Jr., chief economist for Ford Motor Company. He said, as reported in Business Week of March 22nd this year, "Unemployment insurance and welfare are two reasons why there isn't blood in the streets with today's unemployment rates."

Such a potential of aroused discontent is simply not acceptable. We have two instant goals. One is to bring about, no matter how we do it, rapid and real economic growth; and the other related to it is to lick the problem of unemployment. And both have a real and direct bearing on the fate and future of education. I believe that cooperative education can make an important contribution to economic growth.

The current Federal allocation of $10,750,000 to cooperative education is neither a subsidy nor direct student aid. The major portion of that appropriation, $10 million of it to be exact, is distributed to colleges and universities all over the country for the purpose of starting or re-inforcing co-op programs, and only for a maximum of three years. Of the 41 colleges in Illinois with programs, the majority are in this early stage of modest Federal support, and at the end of a brief support period the assumption is that the schools will expand their cooperative programs on their own. Moreover, part of the outlay comes back to the Treasury because student earnings are subject to the income tax.

But obviously, the sucess of cooperative education depends on the availability of jobs for increasing numbers of students, if the private sector fails to provide them, the programs will fail, adding an additional burden on the colleges, and another cause of student disillusionment.

The program must not be allowed to fail. If the vital bridge is to be built between the world of learning and the world of work, this is the area that offers the best hope of quick success.

The challenge is to both the colleges and the companies. They must collaborate with determination to relate curricula and career guidance of the schools with the skill needs, present and future, of employers. If a successful partnership can be built around the single idea of cooperative education, it can well serve as a demonstration that indeed education and business can work together to serve what is now clearly a national necessity.

Let me conclude by saying that if it is demonstrated that local initiative can supply the energy, imagination and direction to meet this challenge, it will have profound effects on the policies of the Federal Government. Make cooperative education successful through such initiative and you will succeed in proving to the people, the Congress and the White House, that great social accomplishments can be scored by the citizens of a community working together. Such an achievement can—and will—be decisive in the decisions as to the best ways to spend billions of dollars of taxpayer money.

REMARKS BY ROGER E. ANDERSON

Continental Bank is pleased and honored to participate as a co-sponsor of this important conference. Although we have a long history of working with public and private high schools in cooperative education programs, it is only recently that we have begun to employ college students in similar programs. Obviously, we have thereby, during the past few months, acquired a much better comprehension of and appreciation for the scope and significance of the cooperative education movement.

There are 41 four-year colleges and universities in Illinois, many of them in Chicago, that have either fully-operating or newly-emerging programs of learning in which students alternate between on-campus study and off-campus work.

The National Commission for Cooperative Education reports that there are about 1,000 colleges involved nationally in cooperative education, and that the number of students participating in the program is about 200,000.

It is expected that participation will climb to one million students in the near-term, and one of the reasons, obviously, is that the rising costs of college education are making it more necessary for this to become a joint parent-child financial venture.

What this development means is that soon one third of all the colleges in the country, and eventually well more than 10 percent of all college students will be looking to business for job support to make the dream of a higher education a reality.

Last summer—during a seminar on "Business in Urban Society," sponsored by Chicago United and the Illinois Humanities Council—it was observed that business executives rely too much on their own perception of social needs, which may blind us to many of the forces shaping our future. The subject of today's conference probably provides a significant case in point: Many business leaders may have neglected to recognize that there is occurring a virtual national revelation in higher education focused on incorporating career-oriented work content in almost all undergraduate and postgraduate disciplines.

There are, it seems, important implications in this trend. It suggests that the disaffections which dominated the attitudes of young people even until the early '70s are being displaced by a desire to function productively within the system, to plan business careers, to work for pay, and, indeed, to reestablish the validity of long-standing American dreams about upward social and economic mobility and broad-scale participation in solving our national problems.

It is heartening to observe this renewed confidence in a value system that commands respect both for the work ethic and for the individual's self-obligation to make the greatest possible use of his God-given talents.

And, of course, another implication to which I have just alluded is that cooperative education at the college level is an ingenious solution to the problem of how parents and students can cope with the rising cost of higher education. If business and industry can help, and at the same time serve their own personnel needs, then everyone wins from this effort.

That its time has arrived is illustrated by the broad-based support cooperative education enjoys. It has been accorded strong endorsements by successive Presidents of the United States, it has bi-partisan support in Congress, and it has been—and continues to be—funded by Federal grants to institutions.

With this kind of encouragement, supplemented by support among colleges and businessmen, it is no wonder that students and their parents and colleges and counselors are increasingly attracted to the concept. However, success will not come automatically, and we in business must understand that this effort depends very heavily on the keystone of our support. We see immediately over the horizon a situation in which hundreds of thousands of young men and women knocking at our doors seeking the off-campus employment without which this program will falter and the expectations of many highly-motivated young people will be thwarted. We had better ask ourselves very quickly how we are going to avoid such a tragedy.

That is why it is important that an underlying motive of today's Institute is to arouse greater awareness of this problem among businessmen and to demonstrate to them that participation serves both their corporate self-interest, and that of the community as well.

I am positive that hundreds, perhaps thousands, of companies, large and small, in and around Chicago, do not employ co-op students, or for that matter are even aware of the cooperative education concept. Obviously, we have a lot of educational and missionary work to accomplish with these companies—and it must be done quickly, not only among those businessmen here today, but with the thousands of others we have not yet reached.

Corporate executives will first want to know if hiring co-op students "is good for business." I believe that speakers on today's agenda will produce convincing evidence that it is.

Our experience since the first of the year, when the bank expanded its program to include college co-op students has been very successful. We are particularly impressed with the enthusiasm of these young people, their quickness in reaching for responsibility, and their zest for learning about our business.

Our experience confirms that of other major companies that hire co-op students. When I learned that Xerox, even in the period of economic stringency, did not retrench on its cooperative education program, when I was told that Burroughs maintains a separate department to recruit co-op students, when I heard about the years of profitable experience in the field by such companies as General Motors, General Electric, and IBM, I had to conclude that the answer is clear: Cooperative education is good for business, and the experiences of these other companies provides the proof we need that this concept can work with equal effectiveness here in Chicago.

Cooperative education also has an important impact on the community. Chicago, like many other major cities, faces many problems that threaten to erode its ability to cope with a massive agenda of social and economic problems. However, there is some degree of certainty, in an era of urbanization that the city is irreplaceable as the vital economic and cultural apparatus of metropolitan man. The problems of the city must be solved if market-economy systems are to survive. The sum total of all capital investment and capital formations in urban America is so vast as to practically defy measurement.

The corporate interest and the public interest intersect, and unless the viability of the city is preserved and its vitality is reinforced, the consequences will be evident in the red ink on many corporate profit and loss statements. We cannot accept the premise that we have reached the limit of growth, that our social problems will intensify more rapidly than we can solve them, or that we—as business executives—have done enough.

As we assess our resources of future growth, high on the list of importance is brainpower, and the mechanism through which it is develped, our institutions of higher education. The intelligent, trained, and motivated young people who have entered and will be graduating from cooperative education programs constitute a reservoir of intellect and skills that, if siphoned off to other parts of the country, would be an irreparable loss to Chicago. Our brainpower must stay here, and we must learn how to provide job opportunities to hold it here.

I believe this conference will stimulate Chicago's business community to find ways to collaborate more vigorously with our colleges. We must let the colleges know what our skill requirements are so that curricula may be developed to accommodate these needs. Above all, we must participate on whatever level we can to reassure our young people, including the economically disadvantaged and the culturally deprived, that there is a place for them in Chicago business and industry so long as they take advantage of the educational opportunities available to them. For many of these young people, cooperative education is the only course available.

The National Commission, using this conference as a beginning, is coordinating an effort among industry and education in Chicago to encourage the wider adoption of cooperative education by both colleges and employers. We should do all that we can to see that this objective is realized, for the benefit of society, for our potential employees, for our city, and for our companies.

RADIO LIBERTY IN SPAIN

Mr. PERCY. Mr. President, I wish to join those of my colleagues on both sides of the aisle who have noted the importance of a long-term renewal of the Radio Liberty lease on transmitter facilities in Spain. I raised this question during the ratification hearings before our Committee on Foreign Relations, and the committee's unanimous report emphasizes that the continued availability of these Radio Liberty facilities is a significant aspect of the broadening relationship between the United States and Spain.

I understand that the negotiations on a renewal of the Radio Liberty lease will be resumed in Madrid at the end of this month, and I am glad to learn that the administration fully supports the Board for International Broadcasting—BIB—in its efforts to obtain a long-term renewal. I believe that the outcome of these negotiations cannot help but influence the broader pattern of our relations with the Spanish Government. I sincerely hope that the negotiation will be speedily and successfully concluded with a long-term agreement.

NADER VERSUS FREEDOM OF THE PRESS

Mr. FANNIN. Mr. President, on December 31, 1975, Ralph Nader—"consumer advocate" and "people's lawyer"—filed a $1,005,000 libel suit against Ralph de Toledano, nationally syndicated columnist and author of 17 books. This is no ordinary action, for until the litigation runs its course it effectively muzzles Toledano, a consistent critic of Nader.

The result to date of the Nader suit has been to deprive Ralph de Toledano of his right to present facts and express opinions about Mr. Nader, his methods and activities. That he should have been sued for commenting on a Senate document, protected by privilege, makes the case even more significant.

The Nader charge of libel rests on one sentence in a Toledano column, published almost a year before the suit was filed. The sentence stated that "Senator ABRAHAM RIBICOFF—not too long ago devoted some 250 columns of the CONGRESSIONAL RECORD to demonstrate conclusively that Nader falsified and distorted evidence to make his case against the automobile."

It should be noted that well before the appearance of the Toledano column, Barron's, the highly reputable financial weekly, in an article on Nader, found proof in those same CONGRESSIONAL RECORD pages that the "consumer advocate" employed the "'big lie' technique." Though Nader protested a minor statement in the article, he made no answer to that characterization—and Barron's

repeated it on the same page as it printed his letter.

Nader filed no suit against Barron's, perhaps on the theory that it was more important to silence Ralph de Toledano, as a warning to other independent newspapermen. This is what gives importance to the first amendment aspects of this suit.

The facts are both pertinent and revealing.

On September 4, 1970, Ralph Nader wrote to the then Secretary of Transportation, John Volpe, rehashing charges against General Motors, its officers, and the Corvair that had been disproven in courts of law and discredited in the court of public opinion. He sent a copy of his letter to Senator RIBICOFF demanding a full investigation by the Executive Reorganization Subcommittee.

Prior to Nader's letters, there had been a landmark negligence suit against the Corvair for $1.7 million. In ruling against the plaintiff, Judge Bernard Jefferson of the California Superior Court, after studying the exhaustive trial record, concluded:

It is this Court's conclusion that the Corvair automobile of 1960 to 1963 variety is not defectively designed nor a defective product; that no negligence was involved in the manufacturer's adoption of Corvair design; that the Corvair matches a standard of safety which does not create any unreasonable risk of harm to the average driver.

It should further be noted that Nader's close associate, Gary Sellers—in an effort to counter this and other court decisions favorable to the Corvair—filed a complaint with the Michigan Bar Association charging GM's lawyers with suppression of evidence during discovery proceedings. After investigation, the Michigan Bar Association dismissed these charges as not founded on fact.

Ralph Nader was aware of these findings at the time he wrote to Secretary Volpe and Senator RIBICOFF. He was aware that automotive experts, test drivers, even Consumer's Union on whose board he sat, had given the Corvair high marks. Nevertheless, he charged as follows:

1. A "mass of evidence" exists concerning the Corvair's "hazards."

2. There is "decisive evidence which reveals a labyrinthic and systematic intracompany collusion, involving high General Motors officials, to sequester and suppress company produced data and films proving the Corvair (1960–63 models) dangerously unstable."

3. There has been "a daily carnage of innocent people killed or injured in these vehicles."

4. GM proving ground tests and films back in 1962–63 conclusively proved the Corvair to be "uniquely unstable with unprecedented rollover capability unlike any other American car."

5. "(S)uch characteristics were known by GM engineers" but their concern was "overridden by management."

6. "In a consistent posture of suppression and prevarication, the company declared the Corvair as safe as any other car and asserted that any claims to its lack of safety were false."

7. The statements and testimony of Frank Winchell, chief engineer for the Chevrolet division of GM "were replete with statements contradicted by GM's own secret test data" and that a reading of Winchell's sworn testimony would prove that he had committed perjury.

8. In a number of litigations, GM attorneys had suppressed evidence by failing to produce records and memoranda ordered turned over to the plaintiffs by the courts.

9. The suppressed data proved conclusively (a) that GM knew the Corvair was an unsafe car; (b) that GM officials "consciously" refused to issue warnings or recall the car; (c) that GM officials "falsely" stated that the Corvair was safe and "misled members of three branches of government at both State and Federal levels."

In two subsequent letters to Senator RIBICOFF, Nader added these charges:

1. Carl Thelin, a former GM engineer, discovered "a macabre scheme, originating inside GM before 1966, to hide from the courts and even from some of their own defense witnesses the existence of reports critical of the Corvair's safety."

2. GM was guilty of "a deliberate, premeditated attempt first to mislead injured plaintiffs and the Courts, and then the Michigan and U.S. Senate Committees, and finally the public as to the safety of the Corvair."

3. Nader had personally checked the records of several litigations and thus learned that GM's statement that it had produced all evidence ordered by the courts was false.

4 GM misrepresented the facts in asserting that the likelihood of a Corvair wheel rim hitting the road during cornering was no greater than in other cars.

5. Maurice Olley, the dean of automotive engineers, had warned GM of the dangerous defects in the Corvair and suggested means to eliminate them, but both warnings and suggestions had been disregarded.

As a result of these allegations, the Ribicoff subcommittee mounted a 2½-year investigation, following all the leads supplied by Nader and developing its own. At the subcommittee's request, the Department of Transportation—at the taxpayer's expense—mounted extensive tests of the Corvair. After weighing all the evidence, the committee staff demonstrated that all of these charges made by Nader were either false or distorted.

The staff report, placed in the CONGRESSIONAL RECORD of March 27 and 28, 1973 by Senator RIBICOFF demonstrated that fact conclusively:

1. For more than two and a half years, we have conducted an extensive investigation into Mr. Ralph Nader's charges that statements of certain General Motors witnesses at the hearings of March 22, 1966, misled the Subcommittee on Executive Reorganization concerning the safety of the Corvair automobile. After consideration of all the relevant evidence, we have concluded that the subcommittee was not misled and hence there is no basis for reopening the hearings for further testimony on the stability and handling of the Corvair.

2. In response to Nader's request, and in accordance with his suggestions, the Department of Transportation (DOT) conducted extensive performance tests of the 1962 Corvair and five other contemporary vehicles . . . To assist the Department in evaluating the results, it employed three independent, outside technical experts . . .

All vehicles were instrumented and every test was filmed. The five test maneuvers selected by DOT were designed to disclose any instability or susceptibility to rollover.

After examining the data and the films, the DOT concluded in July 1972 that "the handling and stability performance of the 1960–63 Corvair does not result in abnormal potential for loss of control or rollover and its handling and stability performance is at least as good as (the other vehicles tested)."

After independently reviewing the test results, the panel reached the same conclusion and added, "the 1960–63 Corvair does not have a safety defect and is not more unstable or more likely to rollover than contemporary automobiles."

The conclusion of the DOT and its independent panel are consistent with the results of tests performed by Consumer's Union, Ford Motor Co., GM, and with statements of expert witnesses questioned during our investigation.

3. Nadar asserts that the DOT "dismissed" data compiled by Professor B. J. Campbell of the University of North Carolina. Nader claims that Campbell's data is "more directly indicative of the handling and stability problem which the Corvair and other rear-engine swing axle cars have . . ."

We called Professor Campbell to discuss his data and its significance . . . Campbell observed that his present data does not permit a conclusion that the Corvair accidents are due to its rear suspension . . . Campbell's statistics show that the 1960–63 Corvair is consistently involved in significantly less than average truck and multiple vehicle accidents.

We asked Professor Campbell what conclusions he has reached on the basis of his study of the Corvair. He replied that up to the limit of control (.6g) he believes the car is perfectly satisfactory. He told us he had owned a '61 Corvair, driven it 70,000 miles, and was satisfied with its performance.

4. Nader's letter alleges that GM attempted "to hide from the courts and even from their own defense witnesses the existence and contents of reports (such as PG 15699 and 17103) critical of the Corvair's safety.". . .

In March 1966, *Anderson* and *Collins* were the only cases which had been litigated to a conclusion. In *Anderson*, the court required production of only those documents in existence prior to April 19, 1963 . . . Since PG 15699 was issued June 14, 1963 and 17103 on November 4, 1963, there was no requirement for GM to furnish them to the plaintiff. Similarly in *Collins*, the discovery order was confined to tests of the 1960 and earlier models. Accordingly, there was no reason to supply those particular reports to the plaintiff . . .

We questioned many witnesses closely . . . but could find no evidence that these reports were concealed from the lawyers and engineers involved in the *Anderson* and *Collins* cases . . . we could find no evidence that any document . . . was unlawfully withheld for a plaintiff in a lawsuit . . .

Nader and (his associate Gary) Sellers have unsuccessfully attempted in other contexts to prove supression of documents . . . Sellers charged two GM attorneys with misconduct before the grievance board of the Michigan State Bar Association. He alleged that they filed false answers to interrogatories in two cases by failing to disclose the existence of certain microfilm records. After review, the board dismissed the complaint.

5. With respect to the *Anderson* case, Nader's letter charged that the testimony of Frank Winchell, then head of Chevrolet research and development, was "grossly misleading" . . . Nader asserted in effect that by this testimony Winchell denied the existence of PG 15699 and 17103 . . .

A proper evaluaiton of Winchell's testimony in *Anderson* must be based on the entire record in the case . . . It should be noted that Winchell's testimony did not deny the existence of PG 15699 and 17103 . . .

Concerning the *Collins* case, Nader's letter made three principal allegations: False testimony by Mr. Winchell in four instances, deceit by GM in denying the existence of certain test reports and willful failure to produce PG 17103.

As in *Anderson*, Winchell's testimony must be judged by the entire record, not just the sections quoted in Nader's letter . . . The

record and our investigation support Mr. Winchell's answer(s) . . .

Nader charged, 'There were essential proving ground tests such as PG 11245 . . . which were never admitted by GM to exist.' The record shows, however, that the test report and film for 11245 were submitted to the plaintiff in that case.

6. The gravamen of Nader's argument here is that the instability of the 1960-63 Corvair rear suspension causes the tires to tuck under in hard cornering maneuvers thereby allowing the wheel rim to hit the road and tip the car over . . . This idea was disproved by DOT . . . (T)he Department found that the "wheel rim contact with the pavement is not the precipitating cause of Corvair rollovers, but occurs in the course of rollover." . . . DOT also found that 'tuck-under' is not observed until the vehicle is well into a rollover mode."

7. Maurice Olley was a highly respected GM suspension engineer (and) a prolific writer, publishing many articles on vehicle suspension. Nadar cites some of them to show that Olley warned GM of the dangers inherent in the design of the Corvair suspension . . .

To obtain a complete picture of Olley's views on the Corvair and its suspension, we requested GM to provide us every relevant document written by Olley . . . Two of them are especially relevant to the inquiry.

The first is titled "Cadet Studies," dated April 16, 1967. From the text of the paper, it is obvious that the design of the Corvair was then under consideration by GM management. Olley discussed the proposed swing axle rear suspension, concluded that a swing axle should be used and stated that the type adopted for the Corvair was superior to the single . . . axis.

The second is titled simply "Corvair" and dated June 29, 1959, just 3 months before the public introduction of the car. In it Olley reviews the characteristics of the car, explains how certain design goals were achieved, and concludes, "There's no question that the car is an outstanding success."

8. Nader claims GM suppressed information concerning changes in the shock absorbers and rebound camber angles, while trying to improve the stability of Corvair through these detail modifications . . .

The results of our investigation do not support this charge. We found no effort to hide such information. In fact, Winchell's Michigan Senate testimony mentioned the control arm angle in connection with 1964 suspension changes . . .

9. In the course of our investigation we . . . obtained two road test reports on the Corvair from Consumers Union, the independent product testing organization . . . (I)n July (1960), CU road tested six compact cars. It described the Corvair's handling qualities as 'agile, accurate, feels cross winds badly; oversteers when cornering hard,' but concluded 'unless it is recklessly driven no unusual amont of handling skill is required; on the contrary, the Corvair in normal use controls with ease and precision and inspires confidence.'

10. Nader charged that the printed record of March 22, 1966 hearings differed from typescripts and that the original record "was charged or falsified by deletions as well as additions." He imputed these changes to a conspiracy involving GM and the committee staff: A Justice Department investigation found no such conspiracy.

In its report on this matter, the staff noted: "In considering Nader's allegation of transcript changes, it is appropriate to note that Nader made 96 changes in his own testimony." One was substantive, the rest minor.

STAFF FINDINGS ON GM AND THE CORVAIR

The ultimate question in the Corvair controversy . . . is corporate responsibility—did GM meet its obligation to produce a car which is reasonably safe for driving on American roads and then, before ordering the Corvair defended in court, did the top management of GM fulfill their responsibility to inform themselves about its handling and stability . . . By every objective measure we have been able to find, the Corvair compares favorably in stability and handling with contemporary compact cars of that era . . .

We found no corroborated evidence that any engineer, lawyer, or executive within GM thought the Corvair was unsafe at the time it was developed and produced . . .

SUBSEQUENT NADER CHARGES FOUND TO BE FALSE

From the Ribicoff committee staff memorandum, I quote:

1. Nader claims that GM was given "highly preferential" treatment, while he and other critics of GM have been excluded from the investigation. As Nader well knows, we have spent many hours discussing the progress of our investigation with him and his staff. In fact, Nader's former associate, Mr. Gary Sellers, told us in 1971 that he had notes on more than 50 hours of conversations with us . . .

2. Nader next contends that while GM was permitted to read the draft report, the persons interviewed were not allowed to do so. We asked GM, DOT, and Nader to review the report to assure that technical and factual statements were accurate . . . GM and DOT agreed to review the report. Nader refused.

3. Nader alleges that the statements of non-GM witnesses "were routinely given to GM for rebuttal, but there was no opportunity afforded for such witnesses to comment on GM's rebuttal . . ." This is simply not true. At no time was GM given access to the testimony of any person interviewed . . . The only way GM ever learned the source of any document we had was through Nader's press releases . . .

4. Nader asserts that only GM has had access to the work product of the investigation. This also is untrue . . .

5. Finally, Nader contends that Bob Wager (of the staff) showed no interest in receiving his comments on the DOT reply to Nader's critique of the DOT report. Exactly the opposite is true . . . They (Nader and his staff) consistently refused to do so.

Prior to publication of the subcommittee report on the Corvair, which demonstrated conclusively what Ralph de Toledano later wrote in his column—that Nader's charges were false or distorted—Nader wrote to Senator RIBICOFF, repeating all the discredited charges as if there had been no investigation. Of this, the staff commented in a memorandum:

In summary, Nader's memorandum simply repeats most of the arguments he had previously made in his letters and discussions with us. It contains no significant new facts or documents. Accordingly, we adhere to the conclusions and recommendations stated in our report.

Given these circumstances—and the record of Nader untruths and falsifications assembled by the Ribicoff committee staff—the only conceivable explanation for the libel action is that Ralph Nader is attempting to silence a journalist of impeccable and international reputation. "When Nader doesn't get his own way," Senator RIBICOFF once remarked, "he strikes out at you." (Business Week, March 25, 1972, page 12) This is hardly the way to preserve a free press.

UNITED KINGDOM TAX TREATY

Mr. HARTKE. Mr. President, I rise to call the attention of my colleagues and the American public to an inequity and a high-handed executive action by the Ford administration. On December 31 of last year the United States and the United Kingdom signed a new income tax treaty to replace the existing treaty.

In addition to establishing the procedures for reciprocal treatment of tax liabilities, which is the usual purpose of such agreements, the treaty also contains provisions which would prohibit many States, including Indiana, from using their present method of determining the taxable income of multinational companies. Indiana uses a procedure for determining taxable income consistent with the policy of many other States and the Multistate Tax Commission. The procedure involves considering the entire combined income of the economic unit and allocating a portion of it, based on the percentage of the companies' property, employment, and sales in Indiana, to the State for tax purposes. This procedure has been tested successfully in the courts and has been the subject of Federal legislation.

The provisions of the proposed United States-United Kingdom tax treaty are very broad in scope. They could potentially limit the taxing power of our States in regard to any company with significant operations in the United Kingdom, and these limits could apply to their worldwide operations, not just their United Kingdom income. Further, there is some indication the administration intends to include similar provisions in tax treaties negotiated with other countries, thus substantially eroding the flexibility of the States in determining taxable income fairly allocatable to their taxing authority.

Mr. President, I would emphasize that the provisions of this treaty to which I refer represent a flagrant and deliberate attempt to circumvent the legislative and judicial processes. It is an attempt to accomplish by executive action, through negotiation of a treaty, what has been decided otherwise by Congress and by the courts. Furthermore, the negotiation of the treaty proceeded without any consultation with the States whose taxing powers are affected. Had such consultation occurred the States would have vigorously opposed the action. As an example of this opposition I ask unanimous consent that a letter I recently received from the Honorable Otis R. Bowen, Governor of Indiana, stating his concern about this treaty be printed in the RECORD.

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

I have only recently been informed by my Commissioner of Revenue, Donald H. Clark, that on December 31, 1975, the State Department of the United States and the United Kingdom signed a new income tax treaty which was sent to the Senate for ratification. While bilateral tax treaties between the United States and many foreign nations have been in effect for many years, this new US–UK treaty contains provisions which severely limit the taxing power of the states by exempting from consideration all income, deductions, receipts or outgoings of a multinational corporation operating in the United Kingdom. The provisions are contained in Article 2, paragraph 2(c) and Article 9, paragraph (4) of the treaty.

This treaty operates against the State of Indiana and other States by not allowing a consideration of an "economic unit" in determining what portion of income is properly allocable to our state. Without such determination, a distorted financial picture is presented to the detriment of Indiana.

While I do not dispute the validity of a federal treaty which may affect states' rights, I strongly object to the imposition of such a treaty without full hearings by Congress and other consultation with the States directly involved in its provisions. I am sure you share my concern.

The proposed treaty is subject to ratification by the Senate, and I would respectfully urge you to fully explore and debate the serious monetary result the treaty would have on many of these United States. The State of California has estimated that the treaty, as presently signed, would benefit major oil companies through lost California taxes to the extent of $65 million per year.

I have enclosed a copy of the proposed treaty for your convenience and would ask that you keep me informed of any Senate action.

Thank you for your consideration of this important matter.

Mr. HARTKE. I have also received a letter from Donald Clark, Commissioner of Revenue for the State of Indiana in which he states the following:

It is impossible to make an accurate estimate as to the full impact on the State of Indiana of this tax treaty movement. The maximum potential would be the states' total corporate tax. We both know that this would not happen but the possible loss would be in the tens of millions of dollars which would be a major fiscal catastrophe.

The potential loss of tens of millions of dollars in tax revenue as a result of this treaty is only for one State. California has estimated a revenue loss of $65 million from oil company tax revenues alone. What is even more maddening is that the companies which stand to gain the most from these tax provisions are the same companies from which it is already difficult to achieve full and timely compliance with State tax laws. Most of the time of the business tax auditors of the Indiana Department of Revenue is occupied auditing these companies. These audits now produce $35 to $40 million annually in underpaid tax liabilities.

Mr. President, this treaty has not yet been submitted to the Senate for its advise and consent. I know when it is submitted my colleagues on the Foreign Relations Committee will examine these provisions and the problem I have described very carefully, and I hope they will be able to devise a solution which does not restrict the tax sovereignty of our States.

THE ARCHITECTURAL TRADITION OF ILLINOIS

Mr. PERCY. Mr. President, the State of Illinois and the city of Chicago are justly proud of their heritage as cradles of modern American architecture. It was in Chicago that the first skyscraper was erected in 1884. In 1927 Buckminister Fuller created his pioneering Dymaxion House. Chicago is home today to the tallest building in the world, the Sears Tower.

On July 1 two exhibitions, highlighting rival currents in this rich architectural tradition, will go on display at an international trade fair. "100 Years of Architecture in Chicago" focuses on the skyscrapers of Louis Sullivan, Mies van der Rohe, and their followers. "Chicago Architects" presents the work of lesser-known but important architects such as George Keck and Bertrand Goldberg, who brought a personal touch to their buildings with extensive use of wood and brick as well as steel.

Mr. President, I ask unanimous consent that the article appearing in the June 21, 1976 edition of Newsweek, contrasting these two exhibitions, be printed in the RECORD.

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

BATTLE OF THE BUILDINGS

Not a state in the Union can match the architecture of Illinois in accomplishment and worldwide influence. It is here that methods of building were invented and perfected that literally changed the landscape of America. First came the "balloon frame" in 1833, a system that allowed several men equipped with nails, hammers and two-by-fours to raise a house within hours. The "balloon frame" spread like prairie fire—it quickly became the means by which Chicago, San Francisco and other cities grew so rapidly. The "skyscraper" came next, rising in Chicago for the first time in 1884. But Illinois has been the incubator for more than method; it is also here that the dominant theory of modern architecture has been hammered together, where contrasting ideas have been hotly debated, where Mies van der Rohe made visible his "less is more" doctrine and where his opponents thundered back, in effect, "Less is less."

This is the great tradition that Illinois is currently celebrating, thanks to public and private sponsors including its state Arts Council and Bicentennial commission, which have appropriated $700,000 to field a variety of exhibitions, walking tours and even an "Archivan," which is traveling to every hamlet in the state. On July 1, the two gems of the program—rival exhibitions at Chicago's Museum of Contemporary Art and the Time-Life Building—will go on display at an international trade fair that is expected to draw 750,000 visitors. What they will be viewing is, in effect, a controversy that may tear the safe, neat world of modern architecture completely apart.

The controversy began when the Museum of Contemporary Art announced that it would stage a Bicentennial exhibition entitled "100 Years of Architecture in Chicago," which had been organized not in the U.S. but in Munich, Germany, where it opened in 1973. Immediately, a small but articulate band of Chicago architects demanded redress. They were incensed by the show's overpowering emphasis on Mies, the German architect who emigrated to Chicago in 1938 and established himself as the leading spokesman for the form-follows-function "international style." The dissidents organized an "alternative" exhibition, called simply "Chicago Architects." "Ours is a confrontational show, a *Salon des Refusés* of Chicago architecture," says Stanley Tigerman, the most outspoken of the revisionists. "We are proving that Chicago and Illinois stand for a great more than Mies and his school."

Ignored: Tigerman's colleagues include Stuart E. Cohen, another young architect, who has written a meticulously researched essay for the exhibition's catalog. Both the catalog and show have become a *succès de scandale* among architects and their public. Why? Because they feature names and buildings that have been ignored or slighted in the established histories of modern architecture, most of which have been written by pro-Mies scholars. These names include George Fred Keck, now 80, who designed futuristic, form-follows-function buildings before Mies set foot in Chicago; Andrew Rebori, a cranky, romantic genius who worked extensively in masonry during the 1930s; Bertrand Goldberg, the designer of the twin-towered Marina City, whose early work prefigured many current trends, and a host of other talents, living and dead, who don't fit the modernist canon, among them Harry and Benjamin Weese, Howard Fisher, Paul Schweikher, Gilmer V. Black and Emery Stanford Hall.

A walk through "Chicago Architects" is a revelation. Dominating the photographic display are personal structures, houses and apartment dwellings with an individuality bordering on eccentricity that is anathema to the Miesians. Some of the buildings are streamlined—the amazing all-glass Crystal House designed by Keck in 1934, the pioneering Dymaxion House created in 1927 by Buckminster Fuller (who is not, surprisingly, represented at all in "100 Years"), and the bare-boned ARCO gas station by Laurence Booth, which squats like a giant prehistoric bird in Mount Prospect, Ill. But the majority are more complex and eclectic in shape. There are turrets in early Frank Lloyd Wright houses and curvaceous towers in Howard Van Doren Shaw's Market Square in Lake Forest. There are cantilevered balconies and round decorative-detail windows in Rebori's Masonry House (1933). There is an accordion-style wall in Benjamin Weese's John Knox Home, recently built in Norfolk, Va.

Leaves: It is not that "100 Years of Architecture in Chicago" ignores contrasting currents. (The American show has been expanded by Peter C. Pran and Franz Schulze to include them.) The influence of Frank Lloyd Wright's Prairie School work is noted, and Goldberg's Marina City—built on an organic principle, with its rounded floors hanging like leaves from a central "tree"—is depicted. But the bulk of the exhibition is given over to Louis Sullivan, to Mies, and to the architects who have slavishly followed them.

"100 Years" unveils one huge, monolithic skyscraper after another, from Mies' own Federal Center to the giant IBM Building, finished in 1972 by his office after his death. And of course there are models of Chicago's mammoth Sears Tower (now the tallest building in the world) and the spectacular John Hancock Center, both erected by Skidmore, Owings & Merrill. The core of the exhibition's premise is clearly stated in the German catalog: "Sullivan and Mies are the central figures of this continuous architectural tradition, unprecedented in its logic and consistency."

The truth is that the younger generation of architects is fed up with "logic" and "consistency." Mies himself said that "architecture is the will of an epoch translated into space." But the will that prevailed between World War I and the 1950s boom in Europe and the United States has ebbed. In its place—buttressed by economies that can no longer support high-rise office buildings—is an appetite for fancy, humor and the personal touch, for wood and brick as well as steel. By bringing this controversy to a boil, the two Chicago shows have confirmed a trend that ranks with the most important events in contemporary American culture.

NATIONAL FULL EMPLOYMENT AND ANTI-INFLATION ACT

Mr. DOLE. Mr. President, on June 10 Senator SCOTT of Pennsylvania and the Senator from Kansas introduced S. 3543, the National Full Employment and Anti-Inflation Act. We stated at that time

that our bill offers a reasoned and balanced approach to a serious challenge that lies ahead of us—that of guiding our national economy to the highest sustainable levels of employment possible.

In the brief period since its introduction, we have found that others agree with the commitment and the philosophy contained in that bill.

Mr. President, today I ask unanimous consent that the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), and the Senator from North Dakota (Mr. YOUNG) be added as cosponsors of S. 3543.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. DOLE. Mr. President, I also ask unanimous consent that an editorial from the Detroit News entitled "Scott-Dole Job Bill Limits Federal Economic Action" be printed at this point in the RECORD.

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

A GOP ALTERNATIVE: SCOTT-DOLE JOB BILL LIMITS FEDERAL ECONOMIC ACTION

Instead of merely attacking the Democrats' so-called full-employment plan, which will be one of the major issues of the forthcoming presidential campaign, congressional Republicans have wisely decided to offer an alternative.

As a counter to the Humphrey-Hawkins bill, a bill endorsed though not specifically named in the proposed Democratic platform for 1976, Republican Sens. Hugh Scott and Robert Dole are introducing the National Full Employment and Anti-Inflation Act.

The two proposals offer a clear choice between markedly-opposed political philosophies.

The Humphrey-Hawkins bill arbitrarily establishes a specific goal of 3 percent unemployment, lays the groundwork for a massive and permanent public employment program, virtually shrugs aside the inflation factor and opens the door to extensive planning and management of the economy by Washington politicians.

We agree with Scott and Dole that the Humphrey-Hawkins bill puts the cart before the horse. The government has never established just what level of employment can be attained and sustained without producing unacceptable deficits and inflation. Scott and Dole propose that Congress try to resolve that question before undertaking an unrealistic program that raises false hopes and could result in worse rather than better economic conditions.

Though the Humphrey-Hawkins bill makes the obligatory gesture toward the private sector, the backbone of that bill is public employment. This fact permits the authors to establish that arbitrary 3 percent goal in the first place. If their goal turns out to be unrealistic, they can depend on the federal government to take up the slack.

And at what cost? The Democrats seem to forget that fiscal responsibility and price stability are important factors, too, factors which cannot be separated from the issue of unemployment legislation. When deficits and inflation get out of control, workers and industry suffer and "full employment" becomes all the more difficult to achieve.

Finally, by setting an arbitrary goal, the Humphrey-Hawkins bill moves the country closer to total economic planning by the federal government.

Naturally, everybody would like to see less joblessness and more people at work in this country. The Humphrey-Hawkins bill's blithe promise of "full employment" strikes a chord in the heart of every humanitarian. It's no wonder that almost every Democratic candidate for president this year, including Jimmy Carter, embraced the bill or that the Democrats will approve its essential provisions at their national convention.

However, there's obviously another side. Sens. Scott and Dole have undertaken the unpopular but necessary task of presenting it. Their proposal provides the vehicle for a persuasive Republican rebuttal in the presidential campaign.

Their bill avoids setting a specific figure for unemployment but creates a congressional panel to determine sustainable employment and other long-run economic goals.

It would coordinate the myriad overlapping federal, state and local employment programs. It would seek to create a reservoir of worker skills more closely related to employer demands.

It requires economic planner to weigh inflationary factors. It encourages them to consider the effect of economic goals and policies on monetary policy. It aims at keeping federal control and regulation at a minimum.

It would, in short, require government to start at the beginning of the unemployment problem and work logically toward some realistic conclusions.

The Republican Party could do worse than make the Scott-Dole proposal a part of its own platform, thus meeting the Democrats' proposal head on and giving the American voters a choice in November between contrasting policies on a major issue of social policy.

Mr. DOLE. Since introducing this alternative to the utopian Humphrey-Hawkins bill, the favorable and enthusiastic comments received by the Senator from Kansas have doubled my conviction that the balanced and essential commitment to sustainable high levels of employment, control of inflation, and budgetary responsibility and the procedure for attaining these goals contained in this bill are vitally important.

Mr. President, the Senator from Kansas would like to offer to his colleagues a package of specific program proposals that would provide a comprehensive and long-range solution to the unemployment problem of this Nation. The Senator from Kansas would like to tell his colleagues what unemployment rate we should seek to attain. But the knowledge needed to offer such proposals, to incorporate them in a full-employment bill at this time has not been pulled together.

The Congress first attempted to deal with unemployment in a comprehensive fashion in 1973 when it passed the Comprehensive Employment and Training Act. We have in the last year received reports from the Commission on Manpower Policy and the Employment and Training Report of the President. Both clearly indicate that improved coordination and substantial revision of the elements of the manpower program are needed. These reports provide many constructive recommendations that warrant prompt congressional consideration.

The Dole-Scott full employment bill would establish an expeditious procedure for distilling the wisdom the Congress and the executive branch, as well as professional economists, businessmen, and workers have acquired over the last three decades since the Employment Act of 1946. In addition to focusing on employment and training programs, it would bring to bear our understanding of the effects of inflation and budgetary matters on employment.

We can and should take the time—the 6 to 9 months provided—to formulate our goals and policies. Congress is not under the gun to come up with short-run employment creating programs. The economic recovery is proceeding with good speed and promises to do so for at least the next year.

The focus of our bill is the longer-run rather than the immediate future. Indeed, it aims to define goals and policies that are sound and sustainable rather than short-run and self-defeating.

Mr. President, our bill seeks to establish policies which can guide the economy as we reach the "full-employment range" and which prevent the recurrence of disastrous inflation and recessions.

In introducing S. 3543, the Senator from Kansas and the Senator from Pennsylvania welcome the specific policy recommendations of our colleagues. We seek the benefit of your wisdom as we fill out the structure of a full-employment, anti-inflation strategy.

Mr. President, we are hearing less and less of the alternative to the Dole-Scott bill. The hastily conceived and inconsistent nature of the Humphrey-Hawkins bill has forced it into drydock for a major overhaul.

The Senator from Kansas urges his colleagues not to allow this to deter a renewed commitment to maximum levels of employment.

The National Full Employment and Anti-Inflation Act provides the vehicle for realizing the fruits of this commitment.

CHICAGO GROWS AS A FINANCIAL CENTER

Mr. PERCY. Mr. President, those of us from the Middle West have long been aware of the importance of the Chicago Board of Trade, oldest and largest commodity exchange in the world, to the economic health and stability not only of our region but to the Nation at large.

Thus I was pleased and want to share with my colleagues a recent report in the Christian Science Monitor that describes the growth and increasing prominence of Chicago as a major financial center.

The article credits this growth not only to the board of trade but to the rise in importance of the Midwest Stock Exchange, based in Chicago, and to the Chicago Board of Options Exchange, now only 3 years old but already the second largest securities exchange in the Nation.

I believe that one key to the success of these institutions, as well as the Chicago Mercantile Exchange, has been their willingness to innovate, to try new directions in how they operate internally and in the investment options that they offer to the investing public.

We are proud of the record compiled by our financial institutions and anticipate even greater success in the years ahead. Mr. President, I ask unanimous consent that the article by Monitor Staff

Correspondent Judith Frutig be printed in the RECORD.

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

[From the Christian Science Monitor, June 14, 1976]

CHICAGO GROWING FAST AS FINANCIAL CENTER

(By Judith Frutig)

CHICAGO.—While New York City scrambles to stay solvent, Chicago's image is quietly emerging from "hog butcher to the world" to new prominence as a major financial center.

In six years of dazzling growth, the nation's futures markets, spearheaded by the Chicago Board of Trade—the largest and oldest commodity exchange in the world—have edged commodity trading from an insignificant corner of the investment market to center securities stage. This has transformed the investing habits of some half-million speculators from stocks to commodities, and introduced fresh ideas to an age-old institution.

"We haven't surpassed New York yet," said one respected member of the Chicago Board of Trade. "But there's no question about it: Chicago is gaining on New York as the nation's financial center."

Although the New York Stock Exchange (NYSE) remains the overwhelming leader in volume—still recording trades of approximately 20 million shares each day—the number of investors in recent years has fallen by approximately seven million.

Last year, about 22.3 million futures contracts were traded on Chicago exchanges, nearly double the 11.8 million contracts in 1971. A seat on the Chicago Board of Trade (approximately $120,000) is now more expensive than a seat on the prestigious New York Stock Exchange. Last Tuesday (June 8), the board of trade registered its highest trading day volume in its 128-year history. And on June 15 the board of directors is scheduled to discuss its newest innovation: lower-priced, limited-access membership seats.

The idea of limited memberships is not new; the Chicago Mercantile Exchange already offers a similar program. But if the directors approve, it would mean cut-rate entry fees to the market place. That would allow young people with limited financial means to bargain within restricted areas of the trading floor.

In the process of all this, the focus of the investment world has shifted slightly from Wall Street to the Chicago intersection of LaSalle and Jackson, home of the austere Board of Trade Building.

An important factor in Chicago's emergence has been the success of the three-year old Chicago Board Options Exchange (CBOE), now the second largest securities exchange in the nation.

Another factor is the Midwest Stock Exchange, (MSE), second to the NYSE in terms of dollar volume. The MSE eclipsed the American Stock Exchange several years ago.

Until the CBOE began, options trading was an obscure edge of the securities industry. But last January alone, trading volume on the CBOE was approximately a third of the total NYSE volume. Now the board of trade handles half of this nation's option trading, despite the fact that CBOE offers options in only 84 issues while the NYSE lists some 1,800 stocks.

The options exchange was created by the board of trade. In the noisy trading pits, price swings yield profits to traders who anticipate that day's fluctuations in market prices—and wrenching losses to those who don't.

When it comes to the number of investors, the stock market still holds the edge: 500,000 have ever traded a futures contract. 25 million Americans own stock while only And even with the growing interest of corporations in futures trading (only a few large food companies did it as recently as a few years ago) fewer than 5 percent of those eligible actually used the commodity markets.

One stimulating factor has been the variety of markets now available for trading. Broiler chickens packed in ice, for example, U.S. Treasury notes, and government-backed home mortgages (called Ginny Maes) so speculators can chase profits in the movement of interest rates. More than 100,000 futures contracts—ranging from corn, wheat and soybeans to plywood and silver—are sometimes bought and sold here in the course of a single day.

For the future, Chicago Board of Trade directors are exploring futures markets in nuclear fuel, rice, refined sugar, coal, and petroleum—any area, says Howard Stotler, vice chairman of the board of trade, in which price fluctuations would draw active trading.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, over a quarter century has passed since the General Assembly of the United Nations adopted the text of the Genocide Convention. On December 9, 1948, the United States voted for the adoption of this significant landmark in the development of international law.

The United States helped draft the convention and was among the first nations to sign it. Today, over 70 nations have ratified this treaty, but we have not.

Millions of Americans will feel that a historic achievement has been registered if this convention at long last becomes an accepted part of the law of nations. This year, as we celebrate the 200th anniversary of the Declaration of Independence, that great monument in the history of human liberty, it is imperative that we continue, and reaffirm, our support for the protection of human rights by endorsing the Genocide Convention.

The United States should take every opportunity to champion the rule of law in the conduct of nations. Let us give fresh vitality to our leadership in the struggle for human rights and ratify the Genocide Convention without delay.

HOMEGROWN MARXISTS

Mr. THURMOND. Mr. President, as we approach the July 4 holiday it is unfortunate that many citizens are planning to remain home for fear of disturbances at public gatherings in celebration of our Nation's 200th anniversary.

The so-called People's Bicentennial Commission, controlled by Marxist thinkers, should be watched closely and prevented from disturbing those who wish to take part in these celebrations.

An excellent editorial on this subject entitled "Homegrown Marxists" appeared in the June 14, 1976, issue of the Augusta Chronicle, Augusta, Ga.

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

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

HOMEGROWN MARXISTS

The so-called People's Bicentennial Commission (PBC) is again stirring up trouble.

Before going any further, we hasten to explain that the PBC should in no wise be confused with the Nation's official Bicentennial commission, the congressionally-created American Revolutionary Bicentennial Administration. The PBC is a motley crew of leftists whose views are closer to Marx, Lenin, Mao and Castro than to John Adams or Thomas Jefferson.

Take, for example, a recent statement by PBC founder Jeremy Rifkin: "It makes no sense," he said, "for the U.S. to allow the defenders of the system the advantage of presenting themselves as the true heirs and defenders of the American revolutionary tradition." Instead, Rifkin maintains "our revolutionary heritage must be used as a tactical weapon to isolate the existing institutions and those in power."

He has also said that "a genuine understanding of the revolutionary ideals is what links Thomas Paine, Sam Adams and Benjamin Rush and the American people with Lenin, Mao, Che (Guevara) and the struggles of all oppressed people in the world."

Such communistic propaganda will no doubt be dismissed by the vast majority of patriotic Americans. And if all the PBC engaged in was Marxist propaganda, there would be little problem.

The catch is, however, that the PBC has gone beyond issuing tracts or making speeches. This group is actively gearing up for massive demonstrations in Washington, Philadelphia and possibly other cities on the Fourth of July.

Many liberals snickered when Philadelphia Mayor Frank Rizzo recently asked for national guardsmen to help patrol his city during the July 4th Bicentennial celebrations, but his reaction to the PBC and threats by other radicals was no manifestation of paranoia.

The PBC can, and will, indulge in near-violent actions. In April, 1975, for example, hippies, and "street people" organized by PBC agitators disrupted a patriotic ceremony at Concord, Mass. The organization currently is spearheading a drive against "capitalist" corporations, and it has even gone to the trouble of sending thousands of letters to secretaries of businessmen offering a $25,000 reward to any secretary who could provide information that would lead to the successful prosecution of her boss.

PBC propaganda being circulated across the country urges that Americans support the group financially. We would hope that those who believe in America's free enterprise system—a setup which has provided its people with the highest standard of living in the world—will not be duped into supporting the PBC.

The Marxist-oriented groups offers not patriotism, but a threat to our constitutional Republic.

SONG OF THE LIBERTY BELL

Mr. HUGH SCOTT. Mr. President, Mrs. Virginia Louise Doris, of Pawtucket, R.I., in special observance of our Nation's Bicentennial, has written a poem titled, "Song of the Liberty Bell." With pride for the patriotic spirit this song represents, I ask unanimous consent that Mrs. Doris' poem be printed in the RECORD for the benefit and inspiration of my colleagues.

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

SONG OF THE LIBERTY BELL

(O, sacred City of our Faith—Philadelphia, July 8, 1776)

Be loud, our Bell, be loud; the Liberty you chime is flower,
Spirit and high sacrifice are fixt of turmoil and bold tower.
Heed closely, bright on soul, as now we consecrate the morn,
With garlands of lily and rose, O City, trumpeting spangled dawn.

Patriots pledged allegiance fair, and hailed this swelling bud,
They sought the gracious host of peace, with holy gift of blood;
Songs of heroes fence it round, the palm and pine bestir a free,
A full-blown tender seed our Fathers sowed in plan of Liberty.

Peal, as these loyal defenders cradle their starry calm of reason,
Behold the opening leaves and treasure our glory in laurel season.
Be wild, our Bell, be wild; the Liberty you kindle shall unite,
To wreathe a Nation's crown with mingling fires of braided light.

(Composed for the Bicentennial "ceremonies" in the hallowed City of Brotherly Love, Philadelphia—on the occasion of the "first ringing of the Liberty Bell"—Independence Hall. "Proclaim Liberty Throughout All The Land Unto The Inhabitants Thereof. Lev. XXV. 10".)

COLLEGE MODEL FOR THE GRASS-ROOTS

Mr. LEAHY. Mr. President, Federal programs of aid to education have not been immune from the general public skepticism and criticism of practically all Federal programs. Perhaps our first priority in educational affairs is to restore public confidence in the integrity and efficacy of our educational processes and to establish a credible Federal role in those processes.

Today, there appears to be no clear idea as to what the Federal role in education should be. The picture seems equally blurred to educators, Members of Congress, and those in the executive branch administering education programs. There is no clear sense of national purpose as to how to best spend Federal dollars for education.

In the area of postsecondary education, too often this money has been spent to bolster entrenched concepts, such as more and more physical facilities, while too little attention has been given to innovation and diversity. Federal officials have too frequently failed to appreciate creative programs and institutions developed in the States which could serve as models for other States and localities.

The Community College of Vermont is one of the most innovative and successful of these experiments. CCV was created in 1970 and merged with the Vermont State college system in 1972. The next year, a 2-year grant of $750,000 from HEW's fund for the improvement of postsecondary education led to the actual beginning of Vermont's sole community college. The CCV, a grassroots model designed for rural, tight-budget areas, draws not only from traditional concepts to fulfill a 2-year degree requirement but also from skills or competencies gained outside the classroom. It now serves more than 2,200 Vermonters of all ages on 4 site locations. CCV is an outstanding model of a school relying almost solely on community resources and cooperation to provide its students with inexpensive quality education.

Mr. President, the June 1976 issue on American Education contains an excellent article entitled "College Model for the Grass Roots," detailing the CCV experience as a model for other States to follow. I ask unanimous consent that the article be printed in the RECORD.

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

(See exhibit 1.)

Mr. STAFFORD. Mr. President, it is particularly satisfying these days to see people who are doing a good job given recognition.

As a member of the Senate Education Subcommitte, it is also a pleasure to read about an educational institution that is seeking to help people help themselves, especially since that institution happens to be located in the State of Vermont which has a proud history of educational independence.

I believe my colleagues will be interested in the article which appears in the June 1976, issue of "American Education," an official publication of the U.S. Department of Health, Education, and Welfare, Office of Education. The article is entitled "College Model for the Grass Roots," and tells the story of the Community College of Vermont. I ask unanimous consent that the article be printed in the RECORD.

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

(See exhibit 1.)

EXHIBIT 1

COLLEGE MODEL FOR THE GRASS ROOTS

(By Rita Cipalla Bobowski)

Inside the weather-beaten office building is a narrow, poorly lit stairway leading up to a maze of rooms on the second floor. Furnishings are spare and make-shift. Planks of wood balanced on cinder blocks make do for book shelves; threadbare rugs are hardly more eye-pleasing than the scuffed floor boards they cover. Posters proclaiming International Women's Year and Winnie the Pooh help hide the peeling paint on the walls. If the scene is depressing, no one seems to notice. This second floor—filled with the tap-tap of typewriters, the smell of instant coffee, and people—is the heart of Vermont's latest addition to its State College System.

The setting catches the general flavor of the Community College of Vermont (CCV), which has no regular campus or buildings. Classes are held anywhere space can be had—church basements, libraries, gymnasiums, even auto body shops. Nor does the college have a regular, full-time faculty. Rather, individuals are hired from the community to teach their own career specialties. Its students receive neither grades nor credits. At CCV, two-year degrees are awarded on a basis of demonstrated skills and individual contracts instead of number of courses taken or amount of time spent in study.

Peter P. Smith, CCV president, thinks of the college as a working model of change because it reflects those innovations that are in the middle of today's educational scene—open admissions, adult education, a flexible, part-time faculty—and it is in addition performance-oriented and community-based.

But CCV is also a grass-roots model designed for rural, tight-budget areas. Back in 1970 when participants at Vermont's annual State New Careers Conference urged the establishment of a regional community college system, it seemed an idea whose time had come. Simultaneously, the conference participants agreed that the college should be designed along practical lines since the expected students would also be juggling full-time jobs, families, hazardous winter conditions, and tuition bills. What they needed was not a prestigious, cloistered campus but an inexpensive, accessible, flexible system that could provide training and education in specified subject areas.

Acting on these recommendations, Deane C. Davis, then governor, issued an executive order initiating CCV's forerunner, the Vermont Regional Community College Commission. In line with the focus on practicality, the Commission wanted to use talent and facilities already in the community. The target group would be broad: Vermonters of all ages and backgrounds who ordinarily might not have access to postsecondary education for one reason or another—family, job, money, or location.

After two years spent in laying the groundwork for a community-based education system, the Commission was merged in 1972 with the Vermont State college system, under a new name: Community College of Vermont. The next year, a two-year grant for $750,000 from HEW's Fund for the Improvement of Postsecondary Education led to the actual beginning of Vermont's sole community college.

At CCV, words like entrance exams, credit hours, and grades are out. Instead, CCV students contract for a degree, drawing not only from traditional course work to fulfill degree requirements but also from skills or competencies gained outside the classroom.

Larry Daloz, director of Learning Services, explains the pivotal idea on which CCV operates: "What is learned is more important than how or where it is learned. Credits, for example, are just arbitrary measurements which have little to do with the real mission of an educational institution. At CCV 'learning how to learn' is built into the process of getting a degree. Our students measure, identify, and evaluate their prior learning experiences. By pinpointing what they already know, students can then decide for themselves what still needs to be learned."

Knowledge gained outside the formal classroom counts heavily at CCV. The staff feels that experience as an auto mechanic, a nurse, or a policeman can provide sound learning skills. "We are interested," says one staff member, "in knowledge acquired from an experience, not in the experience per se. For example, having a child does not in itself constitute a valid learning experience, but if a woman has acquired certain skills or knowledge growing out of the experience of childbearing—say, knowledge of nutrition or child psychology—then the experience receives more weight in assessing what a CCV student already knows."

In contracting for a degree, students spell out skills and knowledge they have and state how they were acquired. Evidence—letters, certificates, recommendations, or other documentation—helps establish how well each was mastered. The contracts are seldom skimpy and some are quite detailed. One student submitted a contract with 46 items of supporting data—reports of activities, letters about past work, copies of articles she'd written, and a book of photographs.

The process of developing and validating the contract is as important as the document itself. A student develops a study plan, according to Dr. Daloz, through meetings with his or her local review committee, which is made up of another student, an instructor, a professional from the community, and a CCV staff member. One of the first pieces of business for the committee is a discussion of the student's performance objectives from

the standpoint of personal needs, community expectations, and college requirements.

Says Dr. Daloz, "Giving the students more control over their education through the contracting method really boosts the self-esteem of many of the older students who have been out of school for 20 or 30 years, and who frankly are unaware of how much they really know. They are more likely to think in terms of what they don't know, feeling somewhat inferior or defensive because they feel uncomfortable about learning alongside younger people. But these feelings soon fade as they go over what they have learned on the job, at home, or just from everyday living. In seeing how much they have learned, their confidence starts to build."

Since enrollment is open to any Vermont resident who has incentive to pursue a post high school program, CCV students are a diverse lot, covering the age spectrum from 16 to 70 years and occasionally beyond, although the majority falls between 24 and 44 years. More than 43 percent of students enrolled have low incomes; a third of them are high school or college dropouts; over two-thirds also hold regular jobs.

Such a range of students argues for a flexible curriculum. And the CCV curriculum is stretchable, having elements of the academic as well as the vocational, although emphasis is clearly on the latter because, as recent surveys show, over half of the student body comes mainly to sharpen occupational skills. A college like CCV that exists primarily to serve a community must adjust the curriculum to the student. In any case, CCV students can elect to pursue an Associate degree, informally brush up on career skills, or do both.

The Associate degree is awarded in three general program areas: Administrative Services, Human Services, and General Studies. Students selecting the Administrative Services program—emphasizing office occupations, marketing, and business management—are training to be secretaries, bookkeepers, computer programers, personnel specialists, or small business managers.

Those in the Human Services program, designed originally to aid employees at the Vermont State Hospital, train as paraprofessionals in counseling, child development, mental health technology, and education. They may work as teacher aides, mental health technicians, employment counselors, or day care center attendants.

The third program area, General Studies, offers a flexible framework for students to mold their own programs while working on a degree in a subject area not covered under the first two programs. One student, for example, may be looking for further study in communications while another might wish to start a new career in graphic arts.

Whichever program area a student elects to work in, the performance objectives originally set in the review meetings must be satisfied. Implied in that satisfaction are standards or criteria apart from the individual's needs. When the student feels the objectives have been reached, there is one final meeting with the local review committee before a degree is awarded.

When asked about standards and criteria, Dr. Daloz admits to "problems we'll probably never solve." In a college pledged to individual needs, how much standardized criteria is enough before the line is crossed from tool to obstacle? "Each local review committee," says Dr. Daloz, "is different and each student is dealt with individually. The community college staff has drawn guidelines and established ground rules; beyond that, how much further can it go and still serve a whole catalog of student needs?"

President Smith acknowledges that CCV walks a tightrope between standards and student needs. He believes that the individual emphasis on the contract must remain a strong part of the college program "as a valid discipline in itself," though he wonders if he could have written a contract when he was in school since the process is so demanding. Nonetheless, he says, "Producing a contract is vital to the degree program by putting the student in charge of the decision-making. Just as we offer concepts and skills, we must also help students become self-reliant."

While students differ in their reactions to the hard work of developing a contract, most favor the chore laregly because of its benefits for them. Bruce Richards, a high school cafeteria supervisor and candidate for a degree in Adminitrative Services, finds contracting difficult but is grateful that his past and present jobs count for something. For housewife Carol Sweeney, contracting turned into self-examination. "I found it difficult, even painful to deal objectively with myself," she says. "But the final product—the written contract—says much about me as a person."

For younger CCV students who are just a few years out of high school, contracting compels them to focus on goals. "My only problem with the contract," remarks one student, "is that I don't have much experience to list and must rely more on the courses and independent study I'm taking to meet my program goals." CCV is for her a steppingstone from high school to the four-year college she plans to attend next year. The year at CCV, then, has been a time to mature and to decide what she wants to do with her life. "My courses," she says, "and practicum experience as a student counselor have steered me in the direction of counseling disturbed teenagers."

The contracting process is not the only feature setting CCV apart from other two-year colleges. A second is the faculty. The college hires no full-time teachers and, until last spring, it did not even pay its part-time teachers. Though some CCV instructors are professional teachers who are moonlighting, the majority are members of the community who teach the very skills they use every day in their jobs. They are selected to teach at CCV after a thorough evaluation of both academic and employment credentials.

A thumbing through the 1975–76 CCV catalog bears out the work-world expertise. A certified public accountant is teaching Accounting II; a surveyor, Tree and Shrub Identification; a veterinarian, Animal Science; and a parole officer, Psychology. "As the college grew, so did its reservoir of qualified instructors," says Dick Eisele, member of the CCV teacher support staff. The search still continues. "The students are polled three times a year with respect to what courses they need or want," continues Mr. Eisele. "If the file shows no appropriate instructor for a requested course, then the staff goes out into the community and hunts."

Mr. Eisele taught part time at CCV for four years and then quit his elementary school counseling job to join the teacher support staff full time. He was attracted to the dynamics of teaching students who differed widely in age, background, and ability. "I was forced to address the needs of the learners," he recalls, "not merely to cover x amount of pages in 15 weeks. I found I had to learn to individualize my courses. I tried peer teaching; I gave assignments scaled to each student's ability. Sure, these things were time-consuming but the end result was the reward. Because of their different backgrounds students got into some unusual classroom discussions, and I learned quite a few things myself."

The teacher support staff has become expert in easing the transition from job to classroom, both for inexperienced teachers and for those not accustomed to a community college environment. Staff members help teachers secure books and classroom space, plan workshops, develop course objectives, and operate machines like tape recorders and overhead projectors. They double as counselors when classroom problems pop up to bedevil teachers.

"Having someone who teaches and works in the same field has proved an asset," insists Alice Hooper, CCV's media and materials officer. "Such a person knows the problems a student will have to face on a daily basis and is less inclined to get snagged in a lot of theory. The practice sometimes yields unexpected benefits. Last year, a woman from a local bank who was teaching bookkeeping at CCV turned out to be a job referral source. As vacancies occurred at her bank, she would inform her students. With their training and a favorable word from the teacher, several students landed jobs."

The Community College of Vermont staff—made up of 35 individuals mostly in their twenties—operates out of the college headquarters in Montpelier, the State capital. To ease for students the problem of physical access to classrooms, CCV also runs three site locations across the State in central Vermont, the Northeast Kingdom, and southeast Vermont. Each site office—with director, counselors, and teacher support staff—builds its own course offerings around community needs and student interest. The headquarters office, in turn, helps coordinate site activities and holds regular meetings with site directors.

Tom Yahn, CCV's southeast Vermont site director, finds the community college's decentralized structure both good and bad. "Sometimes a small problem seems to grow for no other reason than the inability to walk into someone's office for a quick talk that would clear the fog. Unfortunately, site directors meet with one another and with Peter Smith only about once a week. And problems refuse to be tied to a schedule.

"Despite the drawbacks, however, I like being able to tap the resources of an entire geographic area rather than to be stuck with the other extreme of having the entire college located in one small town. At least I have at hand the resources and talents of one-third of the State."

Money, while sparse, is not the problem it might have been. Operating with a budget of $627,000—of which $430,000 goes for staff and counseling salaries—CCV has little money left for purchasing books and equipment. For a school based on community support, though, the problem is solvable and the solution is clearcut: CCV borrows everything. Public libraries in the three-site area, for instance, have been persuaded to purchase books that are needed in CCV classrooms. Local high schools provide use of laboratory equipment and classroom space; banks and insurance agencies lend office equipment.

And the strategy works. "We get out equipment from scrounging around," explains Ms. Hooper. "For example, take office machines—from typewriters to computers. Mostly we try to borrow them but if that doesn't work, then we rent them. One of our students ran a business machine company and was always willing to lend us equipment. It's this kind of cooperation between CCV and its students and community that has made lots of things possible on a shoestring budget. CCV does not have libraries, laboratories, or plush equipment; what it does have is genuine student and community involvement and a sense of making do."

During the 1974–75 academic year, the college experimented with a voluntary tuition plan. At registration, students were advised that each course cost $30; it was, however, left up to the student to determine how much he or she could afford to pay. Each student received a bank-by-mail envelope in

which to send in the payment anonymously. Though the experiment worked relatively well—about $63,000 was collected out of a target figure of $80,000—it was dropped this year in favor of a mandatory system.

"A few factors led to dropping the experiment," says President Smith. "For one thing, we needed to know who was enrolled and who wasn't so we could keep track of dropouts and other special cases. The more we grow, the more it becomes necessary to collect this kind of data. Secondly, our 1975–76 operating budget was upped to $180,000, making voluntary payments unfeasible. In addition, there was a feeling among students and staff that some students who could afford to pay were taking unfair advantage of the system." The uneasy feelings have gone now that the tuition payment plan has been changed. Courses remain $30 each but students are now required to pay tuition at the time they enroll in one of the degree programs.

Meanwhile, enrollment climbs, from 635 students in 1972–73 to 2,200 in 1975–76. At latest count, CCV graduates number 166 with 30 more to be added this summer. President Smith feels that the quality of job he and his staff are doing can be measured by what CCV students do after they graduate. He says, "Many of our graduates are now earning more in their jobs or were promoted once their degree was in hand. Others have gone on to a four-year college or university. Twelve are now attending Johnson State College here in Vermont, and their overall grade point average of 3.67 out of a possible 4.0, I think, shows that our students can do well in the more traditional higher education institutions."

The Community College of Vermont is a strong model of a school relying almost solely on community resources and cooperation to provide its citizens with an education. By combining local classroom facilities, the talents of community professional workers, and support from its staff, the college is giving Vermonters an inexpensive education within their own community. Nor does it suffer any illusions. The peaceful coexistence between standards and individual needs so far is a tribute to the prevailing sense of cooperation. If the careful balance between the two changes, the college too will change.

For now, CCV is thriving. "Our school has no campus, no full-time faculty, not even a football team," says one staff member. "And we don't need them. We already have our own brand of school spirit—the lift that comes from seeing people help themselves."

And that is why weather-beaten office buildings with second floors adorned with worn carpeting and make-shift furniture can also be campuses.

OSHA STUDY ON ITS RELATIONSHIP WITH SMALL BUSINESS

Mr. WILLIAMS. Mr. President, last fall when the Committee on Labor and Public Welfare held hearings on the nomination of Dr. Morton Corn to be Assistant Secretary of Labor for Occupational Safety and Health, Dr. Corn was requested to provide to the committee a report on the agency's relationship with the small business community and on what actions are recommended to improve that relationship.

I ask unanimous consent that the executive summary of that report, which was made available to me this week, be printed in the RECORD. While the full report is not yet available, I believe that the summary will convey the comprehensive analysis that has been made and the thoughtfulness that has gone into determining what further actions can be taken by OSHA to facilitate the small employer's compliance with the act.

I hope that my colleagues will take into account the sincere efforts that OSHA is making to improve its relationships with the small businessman in assessing any amendments on OSHA which may be offered in the course of the Labor-HEW Appropriations bill action next week.

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

I. EXECUTIVE SUMMARY AND RECOMMENDATIONS

This policy paper is directed toward improving OSHA's understanding of the problems small businesses have in dealing with OSHA standards and compliance procedures. It also recommends ways of working with small businesses to develop programs which will better serve their needs and the needs of their employees, given their responsibilities for occupational safety and health.

OSHA believes that mandatory safety and health responsibilities should apply to all sectors of the economy as specified by the Occupational Safety and Health Act of 1970. Exemption of any economic sector would provide unfair competitive advantages to that sector and would expose workers to increased safety and health hazards. OSHA also believes, however, that efforts must be made to provide more effective assistance to those sectors, such as small businesses, which remain unsure or unaware of their responsibilities.

Chapter II, the Introduction, discusses the major objections of small businesses to regulation, in general, and to OSHA. Chapter II also discusses provisions of the Act related to small businesses, ways in which the term "small business" is defined, and differences between large and small businesses. The Introduction points out that very few provisions of law deal specifically with small businesses and that the term "small business" is interpreted by each federal agency in its own regulatory context.

There are a number of differences, economic and otherwise, between small and large businesses. The discussion in the Introduction describes the business structure of small businesses, one which requires much greater personal attention from the owner/manager than is the case for larger bsinesses. It also shows that the economic impact of regulations on small businesses is substantially greater, and suggests that small businesses have much greater difficulty passing on increased costs.

Chapter III, Small Business Programs at OSHA, summarizes the programs which OSHA has undertaken during the past five years to assist small businesses. Very few programs have been specifically directed at small business, per se; rather, they have been broadly aimed at all businesses with the expectation that small businesses would find them of particular benefit. This is particularly true in the standards and compliance areas. In the information and education area, some small-business-oriented training programs have been developed and implemented.

Chapter IV, Small Business Programs in Other Agencies, presents an analysis of small business programs elsewhere in the federal government, OSHA researched the operations of several regulatory agencies and found that, like OSHA, few programs specifically directed at small businesses existed. The major assistance programs were small business loan assistance and some specifically directed information and education programs.

Chapter V, Small Business Programs in Other Countries, summarizes the findings of a special short-term study done for OSHA. (The entire study is attached as Appendix E). Small businesses in other countries do receive some slightly different treatment generally as a part of broad social programs rather than specific occupational safety and health programs. The study points out some programs that might have potential in the United States, such as mandatory area meetings of small businesses in the same industry with government representatives to discuss particular problems that have been uncovered as a result of the inspection process.

Chapter VI, Proposed New Small Business Programs, discusses in detail a series of proposed new programs which provide the basis for recommending new OSHA small business initiatives. It also describes several programs which have recently been initiated. The proposals are discussed under the broad areas of standards, compliance, information and education, and financial assistance. Some of the specific issues include provision of consultative services, revision of financial sanctions, adjustment of abatement periods, revision of compliance officer onsite inspection procedures, and orientation of information and education programs to stress the importance as well as the meaning of standards.

The remainder of this summary chapter outlines the recommended new OSHA programs. Also listed are some important considerations in dealing with small businesses and a summary of ongoing programs regarding small businesses.

Important considerations in dealing with small business

1. All employers should have a legal responsibility to provide their employees with workplaces free from safety and health hazards and to meet OSHA standards.

2. Lack of engineering and technical expertise combined with limited financial resources provide built-in obstacles to owner-managed small businesses in complying with their specific safety and health responsibilities. The cost and complexities of eliminating health hazards, in many cases, pose difficulties for small businesses.

3. The economic impact of compliance on owner-managed small businesses is much greater than on large businesses; most meet more resistance than do larger businesses in passing on added costs to customers in the form of price increases.

4. The small business employer's *perception* is that he already is providing a hazard-free work environment.

ONGOING OSHA SMALL BUSINESS PROGRAMS

The following programs related to improving OSHA's dealings with small businesses are already underway:

Consultative Services

Extension of contract consultative services to non-approved states and jurisdictions both for the National Emphasis Programs and for general industry and construction.

Work to advertise more effectively existence of consultative services.

Plain-Language Explanations of Standards

Publication and distribution of "plain-language" explanations of 50 most frequently violated standards, 17 most frequently violated electric code standards, and 10 commonly violated agricultural standards.

Publication and distribution of guidelines on hazardous agents for which health standards are being developed.

Revised Safety Standards

Revision of two major safety consensus standard subparts and the anhydrous ammonia standard to eliminate standards of minor importance and to update language and content.

Revision of an additional two major safety consensus standard subparts with assistance from a temporary Presidential Task Force to eliminate standards of minor importance and to update language and content.

Town meetings in several cities to provide opportunity for direct personal expression of

comments on existing consensus standards and the comments that have been received on these standards.

Other sections will be updated in sequence.

Compliance Officer Human Relations Course

Development and implementation of a human relations course for all compliance officers to assist them in dealing with the public.

RECOMMENDED NEW OSHA SMALL BUSINESS PROGRAMS

It is recommended that OSHA begin these activities in the next few months to assist small businesses:

Publish a number of self-help inspection guides specifically designed for use by small businesses; distribute guides through business associations and area offices.

Revise agreement with Small Business Administration to clarify the procedure for OSHA certification that a particular investment for which a loan is being obtained will in fact bring the firm into compliance.

Develop expedited treatment for SBA loans and improve coordination with SBA loan officers; work with SBA to determine how loan processing time can be reduced. Work with states having safety and health plans to insure they adequately stress the availability of SBA loans.

Designate a current OSHA employee in each area office as the "small business liaison officer"; design and implement a "public awareness" program to make him familiar to small business employers in his area.

Develop and distribute "plain-language" explanation of "imminent danger" and "serious violation" with examples, as part of making small business employers aware of their responsibilities under the Act.

Revise compliance officer's opening conference discussion with company officials to include discussion of how penalties are calculated, if they are proposed.

Revise compliance officer's closing conference discussion with company officials to include presentation of "plain-language" information sheet on ways in which they can work with OSHA informally to arrive at feasible abatement periods, can contest a citation without necessity for an attorney, and can fully exercise their rights.

Extend the existing toll free telephone consultation information service—where anyone can dial an "800" number to ask a question of OSHA's offsite consultation officers—to all regional offices.

Develop and distribute information on why safety and health is important and why standards exist, in addition to information about what the standards are.

Revise procedures for application of financial sanctions to suspend penalties of $50 or less to consider gravity in setting initial amounts for serious violations, and to increase penalties for repeat violations. (This has also been recommended by the National Advisory Committee on Safety and Health.)

Develop a concept paper on a tax credit for capital improvements businesses must make in order to comply with OSHA standards.

SENATOR MATHIAS ADDRESSES MARYLAND RURAL LETTER CARRIERS ASSOCIATION

Mr. MATHIAS. Mr. President, earlier this week I had the honor of addressing the annual convention of the Maryland Rural Letter Carriers' Association meeting in Waldorf, Md. I hope it is not immodest to call these remarks to the attention of my colleagues particularly because they include an account of the late Joe Holdcraft, who personified the very special service Maryland's rural letter carriers give.

In these days when the Postal Service is so often under attack, it is important to remember the many, many postal workers who go above and beyond the line of duty and the Maryland Rural Letter Carriers certainly fall into this category.

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

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

KEYNOTE ADDRESS, ANNUAL CONVENTION OF THE MARYLAND RURAL LETTER CARRIERS ASSOCIATION, WALDORF, MARYLAND, MONDAY, JUNE 21, 1976, BY SENATOR CHARLES MCC. MATHIAS, JR.

I have looked forward to being here this morning ever since I got your invitation two months ago. It gives me special pleasure to bs with you because, in my book, you people are what America is all about.

I don't know whether people with an extra degree of humanity are attracted to rural letter carrying, or whether rural letter carrying imparts an extra degree of humanity to the people who do it. But I do know that rural letter carriers are unusual human beings. And I know, from personal experience, that you carry out your ordinary duties in truly extraordinary ways.

Not long ago I read in your national magazine about a rural carrier in Texas who put a fire out on his route and then continued on to finish his deliveries as if nothing unusual had happened.

But for me all the wonders of the way you work were wrapped up in the remarkable person of Joe Holdcraft. We had the rare good luck to be on Joe's route in Frederick when our children were young. Joe died some years ago, but as long as anyone in my family is around he will never be forgotten.

In those days we had a big, gruff—but loveable to those who knew her—Chesapeake Bay retriever named Impy. She took mischievous delight in charging down the field from our house to the road barking ferociously at anyone who came our way. Well, when Impy faked an attack on Joe Holdcraft, she met her match. I don't know what magic Joe used on Imp, but in no time at all Impy was delivering our mail to us at the house. Joe had trained her, or maybe hypnotized her, to bring the mail to us in her mouth. The kids, of course, loved Impy in her role as letter carrier almost as much as they loved Joe.

Mail time came to be a very special time of day for all of us thanks to Joe. But we must have made quite a spectacle. It began as soon as Joe came into sight. First, Impy would take off howling and barking across the field; on her heels would be our sons, Charlie and Rob, slavering to get their hands on the Tootsie Pops Joe always had for them, and finally, bringing up a noisy rear, was our Chinese goose who warned us with her honking whenever the kids got near the road.

This scene was reenacted every single morning as long as we lived in Frederick. The children never tired of it. Impy never tired of it. The goose never tired of it. And if Joe tired of it, he never let on.

There was another side to Joe too and I think it was a side most of you have in a particularly highly developed way. Joe was deeply patriotic, full of local pride. When he came back to Frederick after World War II, Joe looked around and saw that our Civil War monuments had gotten a little shabby, a little run down while he'd been away.

But Joe didn't complain about it or try to find someone to blame. He just set out all by himself to clean and restore Frederick's historic monuments. Pretty soon he had the historical society and just about everyone else in town working to get Frederick spruced up for the future.

I know that you here today are Joe's kind of people, and I know there is no better kind.

We're going to be celebrating our bicentennial a little less than two weeks from today and it seems to me fitting to remember now that what has made this nation great and what has kept it great is the self-reliance of generations of Americans like yourselves and Joe who have been ready to go that extra mile, to do that little bit more that makes the difference between just being, and being great.

It also seems fitting that this meeting is being held in Waldorf which, for a rural letter carrier at least, is only a stone's throw away from two places of special bicentennial importance to Marylanders.

Just a few miles from here, near Port Tobacco, Thomas Stone, one of our signers of the Declaration of Independence, lies buried in the family plot near his home Havre de Venture. A little further away, near the banks of the Potomac practically opposite Mount Vernon, Major General William Smallwood, a hero of the revolution, is buried. His grave, unmarked for the first 106 years following his death, is a few hundred yards from Smallwood's Retreat, where his friend and companion-in-arms George Washington is said to have been a frequent visitor. General Smallwood commanded Maryland forces—the Maryland Line—throuhgout the eight year struggle for independence. He was wounded at White Plains October 14, 1778, and two years later received by act of Congress, a vote of thanks for bravery at the battle of Camden in South Carolina.

I hope that sometime during your convention you'll be able to take a break and see these historic places that are so close at hand. It seems to me it would be most appropriate for you to make a pilgrimage in the name of Benjamin Franklin, who was not only their contemporary but who was appointed by the Second Continental Congress to head the first American postal service and so, in effect, was your first postmaster general.

If Ben Franklin were to look down today on what has emerged from the fledgling Postal Service he began, he'd be astonished. But he would recognize one common link, I think, and you are it. The rural letter carriers' role in Franklin's day was to bind together the struggling, straggling rural American of the thirteen original colonies. That tradition lives today in you who bind people together by bringing the mail to them no matter how remote they are from the center of our vast mechanized communications system.

Let us now consider for a moment the Postal Service as it is today. Since the enactment of the Postal Reorganization Act of 1970 I think there has been improvement in several areas—improvement which Congress had hoped the bill would stimulate.

I hear that delivery of first class mail in overnight delivery areas has improved to the point that 95 percent of all first class mail is being delivered overnight now. If that is so, I'm going to have to stop telling my favorite joke about how they still only charge ten cents for first class mail, but they've added three cents for storage.

It was the intention of Congress that wage and working conditions would be improved and I hope that through the use of the 1975 collective bargaining agreements that this has been the case. I'm told it has.

Political appointments within the Postal Service seem far fewer than before. We've come quite a way, it seems to me. But you, who travel those rural miles to see that rural America receives its mail, know best of all how far we've come. The rural letter carriers—all 31,000 of you nationwide—drove

700 million miles last year to see that the mail got through.

You are the backbone of our mail delivery system and its heart as well. Working often in difficult weather, on sometimes hazardous roads, you provide that service-with-a-smile which is what a postal service is all about.

When we start talking about what the Postal Service is all about, it is worth reminding ourselves of the policy set forth by Congress in the Postal Reorganization Act of 1970. Let me read it to you—it's not too long—:

"The U.S. Postal Service shall be operated as a basic and fundamental service provided to the people by the government of the United States, authorized by the Constitution, created by Act of Congress and supported by the people. The Postal Service shall have as its basic function to bind the nation together through the personal, educational, literary and business correspondence of the people. It shall provide prompt, reliable and efficient services to patrons in all areas and shall render postal services to all communities . . .

The Postal Service shall provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities."

When we in Congress stated that policy we were concerned to insure that service would be the primary goal of the Postal Service and not just a word in its name. And we wanted to insure that geographically remote or isolated areas of our country would not be neglected in order to achieve economy or some operating efficiencies. Some services, and yours is one of them, bestow blessings, tangible and intangible, that cannot be measured on a cost accounting basis.

America's rural letter carriers do bind our nation together. You provide a human dimension that is fast disappearing on our national scene as organizations grow bigger, more impersonal, more bureaucratic and more mechanized.

We must never allow that valuable-beyond measure human element of courteous, creative service, which Joe Holdcraft epitomized, to be sacrificed to big, impersonal mechanical so-called solutions, as exemplified in those 21 bulk mail centers.

What people want and what people need now, as never before, is to feel that someone cares about them and about the mail they entrust to the postal system each day. They want to feel that their letters and packages will be treated as gently by the unseen hands to which they have consigned them as they themselves have treated them.

I think we should be able to assure people that their postal system does care.

Of course, everyone also yearns for the return of the penny postcard but, I guess, that is one illusion we'll just have to give up.

Obviously, all is not well with the postal service. volume is down, rates are up and complaints are up even more. And the threat of competition by private carriers lurks always somewhere in the background.

Just last week the Senate Post Office and Civil Service Committee after grappling with these issues, completed work on the postal reorganization act amendments bill. The bill meets the immediate financial needs of the Postal Service for an operating subsidy of $1 billion for the period October 1, 1976 through October 1, 1977.

It also establishes a ten-member commission of the Postal Service which will be charged with identifying the major service, cost and funding problems of the Postal Service and with proposing remedies by February 15, 1977. That's a big order, I think. They'll need your help.

The bill limits reductions in service in order to insure that service remains the primary goal. It also sets forth criteria to be used when considering closing rural post offices in order to avoid indiscriminate closings and to guarantee existing door-to-door or curbline delivery. In this too, the concept of service was the overriding consideration.

And, finally, the bill puts a temporary stop to rate increases until the study commission reports back to Congress on the rate making and cost attribution procedures of the Postal Rate Commission.

The Study Commission will be faced with very difficult and delicate questions. It must give guidance to the Postal Rate Commission on costs, and how to apportion them between various classes of mail, and on how to set reasonable time for final rate determination.

As we all know the question of rate increases is not popular with the citizenry. I don't like it much myself.

So I think all of us, but most particularly you who are intimately connected with the Postal Service, should give our best thought to ways of economizing within the service so that if rate changes become necessary they will be as easily justifiable and understood as possible.

Obviously, we cannot let our Postal Service go down the drain. But, at the same time, we have got to find some way to make it work that won't cost the user a small fortune.

The Benjamin Franklin who wrote *Poor Richard's Almanack*, would surely urge us to solve this problem by "domestic economy"—by this he would mean economy within the Postal Service itself.

You rural letter carriers certainly understand economy. You live and work close to the frugal heart of America. But at the same time you know what service means. So I think you're in a pretty good spot to locate waste in the Postal Service and to suggest economies that would not impair postal service. I'd trust your judgment on that.

It's a tall order but a start has to be made somewhere. It seems to me that if Joe Holdcraft could take on the beautification of Frederick single-handed, the lot of you can take on the Postal Service and, as the old song goes, help it to "accentuate the positive and eliminate the negative". It all goes back to that same old question of self-reliance and going the extra mile.

And that's something you know plenty about.

ELIMINATING TOBACCO SUBSIDIES

Mr. MOSS. Mr. President, I was frustrated yesterday when the Presiding Officer ruled out of order my amendment to eliminate tobacco subsidies, which I sought to attach to the agriculture appropriations bill. I have offered similar amendments in each of the past six Congresses. I did not offer the amendment on the 1975 agriculture appropriations bill, because I had earlier in the year offered a similar amendment to the emergency farm bill and a rollcall vote took place on that.

The particular irony in the upholding of the point of order is that the amendment is in a form recommended by proponents of tobacco subsidies. When I first offered the amendment in 1970, the elimination was complete and immediate. Several tobacco State Senators expressed concern that it would be unfair to eliminate subsidies for tobacco already planted and in process prior to the date of enactment. Having no wish to hurt the tobacco farmer, I complied with the request of opponents of the amendment and placed the condition that the elimination of subsidies would not apply to tobacco in process. This was in 1971. Now, 5 years after accommodating the wishes of the tobacco State Senators that their constituents not be injured, I find that the opponents of my amendment raise a point of order against the very accommodation which I made to them.

My chagrin at the decision of the Chair yesterday is further occasioned by his determination that the phrase in clause (4) of my amendment "financing directly or indirectly" requires an administrative determination. I suppose with the complexity of matters before the Senate, it is difficult for the Presiding Officer to be intimately acquainted with all the laws which have been passed to date. But in the Agricultural Trade Development and Assistance Act of 1954, as amended, to which clause (4) is directed, tobacco is financed "directly" by the provision of grants, and "indirectly" by the provision of loans. There is no "determination" which needs to be made. My amendment, in the interest of precision, has been determined out of order without the Presiding Officer being aware of the context in which the terms are used. The amendment merely restricted the use of funds for both the grant and loan programs, and surely the Secretary need not make any determination. As a matter of fact, if the amendment only applied to "direct" financing, a determination would have to be made.

Mr. President, I suppose that the opponents of my amendment are now resorting to this procedural tactic, because they see the handwriting on the wall. While several years ago the Department of Agriculture would rush to the tobacco proponents with ammunition to shoot down my amendments, the Department comes to me today to help in combating the boondoggles designed to up the Government's cost of subsidies for tobacco.

Perhaps too, the tobacco proponents are aware of the growing number of Members who support my position. In reviewing the rollcall votes for the past 6 years, I find that there are now 35 Members of the Senate sitting here today, who have supported my amendments for an immediate termination of the subsidies. And if the others who have supported my phaseout amendment are added to this group, we now number more than 40.

We cannot go on subsidizing the growth of tobacco. Soon those who are determined to end the tobacco subsidy program will be in the majority. Our number is growing. The handwriting is on the wall.

Mr. President, I ask unanimous consent that the text of my amendment, UP Amendment No. 77, be printed in the RECORD. I also ask unanimous consent that the honor roll of Senators who are sitting and have voted to eliminate the subsidies at any time during the past 6 years be printed in the RECORD.

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

MOSS UNPRINTED AMENDMENT NO. 77

At the end of the bill, in the appropriate place, insert the following new section as follows:

SEC. . None of the funds appropriated by this Act may be expended for the purpose of (1) carrying out a price-support program for tobacco, (2) paying an export subsidy to any person for the export of tobacco, (3) advertising or otherwise promoting the sale of tobacco, (4) financing directly or indirectly the sale of tobacco in any foreign country under the Agricultural Trade Development and Assistance Act of 1954, as amended, or (5) inspecting or grading tobacco.

This section shall not apply to tobacco planted and in process prior to the date of this Act.

MOSS HONOR ROLL OF SENATORS CURRENTLY SITTING WHO HAVE VOTED TO ELIMINATE TOBACCO SUBSIDIES IMMEDIATELY ON ONE OR MORE ROLLCALL VOTES SINCE JULY 1970

Abourezk	Kennedy
Bartlett	Long
Bellmon	Magnuson
Biden	McClure
Brooke	Metcalf
Buckley	Moss
Cannon	Packwood
Case	Pastore
Clark	Pell
Cranston	Percy
Culver	Randolph
Garn	Ribicoff
Goldwater	Roth
Griffin	Schweiker
Hart, Philip A.	Scott, Hugh
Hatfield	Stafford
Jackson	Williams
Javits	

THE HUMPHREY-HAWKINS BILL

Mr. HELMS. Mr. President, several weeks ago I asked a number of distinguished economists their views on the Humphrey-Hawkins bill, the Full Employment and Balanced Growth Act of 1976. I have asked that all responses I receive be included in the Banking Committee record.

The comments I have received so far are interesting and worth reading. One of the briefest commentaries I have received is from Prof. Wilson Schmidt of the Virginia Polytechnic Institute at Blacksburg, Va.

Professor Schmidt offers a humorous and witty assessment of this bill and its implications. Perhaps his is the best approach to a measure such as the so-called Full Employment Act.

Mr. President, I ask unanimous consent that Professor Schmidt's letter be printed in the RECORD.

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

JUNE 2, 1976.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: Thank you for requesting my view on S. 50, the Humphrey-Hawkins bill, titled the "Full Employment and Balanced Growth Act of 1976." In responding to your request, let me make it clear that what follows are my personal views and not those of any organization with which I am affiliated. I limit myself to some technical points.

You asked for my views on the thrust of the bill. The thrust is unclear. The bill calls for an unemployment rate not in excess of 3% ". . . to be attained as promptly as possible, but within not more than four years . . ." If the bill said ". . . but within not *less* than four years . . ." I would understand the thrust to be to lower unemployment. As written, the bill seems to say that 3% should not be attained before four years, and there is no requirement to achieve it after that.

If in fact the intent of the bill is to aim for low unemployment within four years, it produces an undesirable side effect by defining the level of employment in terms of the *civilian* labor force. The Executive Branch can readily comply with the proposed law by going to war, which as you know, reduces the civilian unemployment.

You asked for my views on the impact of the bill. In my view, the main impact is to raise the demand for economists. That is, in my view, a very good thing. In fact, as an economist, I can say it is a very, very, good thing. Having said that, let me caution you. If there were a massive shift of economists from academia to federal and state governments to meet the requirements of the bill, it might jeopardize the ability of those remaining in academia to supply enough economists to meet future demands under the bill. It may be necessary to impose a quota on the number of economists in government each year to ensure a balanced growth in the economist sector of the economy. Perhaps that quota should be written into the bill.

You asked for alternatives. As the bill calls upon the President to estimate the unmet economic and social needs of the nation, one might economize on resources by simply asking in the next census how much money each individual American would like to have for himself or to give away. My answer, of course, if asked, would be "Infinite." If there are others like me, then the Congress could decide whether or not to ask Dr. Burns to seek such a monetary growth target.

This brings me to the problem of achieving "full purchasing power." I understand what empty purchasing power is—money is worth zero. But I don't really understand what full purchasing power is. Is it that money is infinitely valuable? If so, that implies that all goods and service are free, which can't be. There is in fact a strange asymetry (imbalance) in the "Balanced Growth Act" in that it does not designate a price level target as well as an unemployment target.

If these ambiguities in the bill are clarified, then there remains in my view one overwhelming defect in the proposal. There are no penalties for non-compliance or rewards for compliance. It would seem to me that if the Federal Government is serious about its goals, it should penalize itself if it fails to achieve them and reward itself if it succeeds. If 3% is the law of the land, that is the law of the land. Congress and the Executive Branch should assume responsibility for fulfillment of the laws they approve. One obvious penalty is that any participant in Congress and/or the Executive Branch who has responsibility for the fulfillment of these goals should resign if they are not achieved. There may be some merit in having a Special Economic Prosecutor lodged in both the Congress and in the Executive Branch to determine who is in non-compliance. Analogously, there could be an Office of the Special Economic Rewarder.

Having said that, it is important to recognize that it will be hard to achieve fairness in the penalties and rewards. Until the economists hired in conjunction with this act can figure out exactly what the lags are on monetary, fiscal, manpower policies, etc. in terms of the objective of the bill, it is possible that some Members of Congress and the Executive Branch would be unjustly charger or rewarded. This is of sufficient importance in my mind that, in the event you impose penalties and rewards, there be established a Division or Bureau of Lags. Since lags seems to change, this too will require a lot of economists.

The proposal for export licensing I fear misunderstands the present floating exchange rate system. The objective of that section appears to be to avoid price increases in critical items. But when the federal government restricts such exports then, under certain conditions, our foreign exchange receipts fall, the value of the dollar in terms of other currencies declines, and the dollar prices of imports rise. So what we as consumers gain with respect to export items we may well lose in respect to imported items, such as petroleum. I think this section of the bill probably requires the establishment of a Bureau or Division of Elasticities of International Demand.

Finally, let me suggest that the precise date for passage of the bill must be established with care. With a four year tarket from the date of passage for the 3% goal, the bill must be passed four years in advance of the day of the month that the unemployment figures are to be released. In addition, a decision should be made as to whether it is the preliminary or the revised unemployment figure which is the target. I know that is a mere detail, but I believe in very careful planning. if you plan at all.

I hope these technical comments are of some value to you.

Yours truly,

WILSON SCHMID,
Professor and Head.

SUPREME COURT DECISION: NATIONAL LEAGUE OF CITIES AGAINST USERY

Mr. WILLIAMS. Mr. President, the Supreme Court's five-to-four decision, striking down the application of the Federal wage and hour law to employees of State and local governments, is an extremely disheartening event. By this action, in which the Court went so far as to overrule its own earlier decision of just 8 years ago upholding such legislation, the Court limits the power of Congress under the commerce clause to require that employees of State and local government be afforded the same minimal protections which employers in the private sector are obliged to provide. I am dismayed by the Court's retrenchment. This is, in my judgment, totally contrary to the meaning of the commerce clause of the Constitution and to the fundamental relationship of the Federal Government to the States embodied in our constitutional concepts of federalism.

In reaching its decision, the Court unfortunately chose to ignore completely the fact that an ever-expanding portion of the Nation's work force is employed by State and local government, and that the objectives of Federal protective legislation will, therefore, be increasingly undermined if such workers are not covered. It also disregarded the congressional conclusion that coverage of State and local government employees is vitally important if Federal wage and hour legislation is to accomplish its further objectives of stimulating the economy through increasing the purchasing power of low-paid workers.

While today's decision rests on the Court's surprisingly narrow and, I thought, long since abandoned view of Congress power under the commerce clause, I believe that the purposes of the

minimum wage legislation can be accomplished through other means. For example, as Justice Brennan suggests in his dissent, Congress might condition grants of Federal funds upon compliance with Federal minimum wage and overtime standards. While this may represent a more cumbersome procedure than that which the Court has now ruled unconstitutional, I intend to begin an immediate exploration of this and other alternatives to extending minimum labor standards to all American workers.

I ask unanimous consent to print in the RECORD a copy of the Supreme Court's decision in the case.

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

(See exhibit 1.)

Mr. GARN. Mr. President, States, cities, and counties of this Nation are today celebrating a great victory—the landmark decision by the Supreme Court which declared that the section of the Fair Labor Standards Act of 1974 which extend to State and local governments Federal regulation of overtime, minimum wage and other conditions of employment are unconstitutional. This brings to a happy conclusion the 2-year battle between the National League of Cities and the Department of Labor. As I was one of the principal instigators of the law suit during my tenure as mayor of Salt Lake City and officer in the National League of Cities, I am obviously very pleased with this decision.

The ruling is going to have a profound effect on pending and future legislation. It will mean that the ability of Congress to impose its will on and take authority from mayors, commissioners, and Governors will be severely curtailed. It reaffirms the States' traditional rights to structure employer-employee relationships in such areas as fire prevention, police protection, sanitation, public health, and parks and recreation. And, of course, it will save the taxpayers millions of dollars.

Mr. President, I ask unanimous consent that the Supreme Court's decision in National League of Cities against Usery, Secretary of Labor be printed in the RECORD.

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

[See exhibit 1.]

(EXHIBIT 1)

NATIONAL LEAGUE OF CITIES ET AL. USERY, SECRETARY OF LABOR

The Fair Labor Standards Act was amended in 1974 so as to extend the Act's minimum wage and maximum hour provisions to almost all employees of States and their political subdivisions. Appellants (including a number of cities and States) in these cases brought an action against appellee Secretary of Labor challenging the validity of these 1974 amendments and seeking declaratory and injunctive relief. A three-judge District Court dismissed the complaint for failure to state a claim upon which relief might be granted. *Held:*

1. Insofar as the 1974 amendments operate directly to displace the States' abilities to structure employer-employee relationships in areas of traditional governmental functions, such as fire prevention, police protection, sanitation, public health, and parks and recreaction, they are not within the authority granted Congress by the Commerce Clause. In attempting to exercise its Commerce Clause power to prescribe minimum wages and maximum hours to be paid by the States in their sovereign capacities, Congress has sought to wield its power in a fashion that would impair the States' "ability to function effectively within a federal system," *Fry* v. *United States*, 421 U.S. 542, 547, and this exercise of congressional authority does not comport with the federal system of government embodied in the Constitution. Pp 6–18.

2. Congress may not exercise its power to regulate commerce so as to force directly upon the States its choices as to how essential decisions regarding the conduct of integral governmental functions are to be made. *Fry* v. *United States, supra,* distinguished; *Maryland* v. *Wirtz*, 392 U.S. 183; overruled. Pp. 18–21. 406 F. Supp. 826, reversed and remanded.

REHNQUIST, J., delivered the opinion of the Court, in which BURGER, C. J., and STEWART, BLACKMUN, and POWELL, JJ., joined. BLACKMUN, J., filed a concurring opinion. BRENNAN, J., filed a dissenting opinion, in which WHITE and MARSHALL, JJ., joined. STEVENS, J., filed a dissenting opinion.

[Supreme Court of the United States, Nos. 74–878 and 74–879]

NATIONAL LEAGUE OF CITIES V. USERY

The National League of Cities et al., Appellants, v. W. J. Usery, Jr., Secretary of Labor.

State of California, Appellant, v. W. J. Usery, Jr., Secretary of Labor.

On Appeals from the United States District Court for the District of Columbia (June 24, 1976).

Mr. Justice Rehnquist delivered the opinion for the Court.

Nearly 40 years ago Congress enacted the Fair Labor Standards Act,[1] and required employers covered by the Act to pay their employees a minimum hourly wage [2] and to pay them at one and one-half times their regular rate of pay for hours worked in excess of 40 during a work week.[3] By this act covered employers were required to keep certain records to aid in the enforcement of the Act,[4] and to comply with specified child labor standards.[5] This Court unanimously upheld the Act as a valid exercise of congressional authority under the commerce power in *United States* v. *Darby*, 312 U.S. 100 (1941), observing:

"Whatever their motive and purpose, regulations of commerce which do not infringe some constitutional prohibition are within the plenary power conferred on Congress by the Commerce Clause." *Id.*, at 115.

The original Fair Labor Standards Act passed in 1938 specifically excluded the States and their political subdivisions from its coverage.[6] In 1974, however, Congress enacted the most recent of a series of broadening amendments to the Act. By these amendments Congress has extended the minimum wage and maximum hour provisions to almost all public employees employed by the States and by their various political subdivisions. Appellants in these cases include individual cities and States, the National League of Cities, and the National Governors' Conference;[7] they brought an action in the District Court for the District of Columbia which challenged the validity of the 1974 amendments. They asserted in effect that when Congress sought to apply the Fair Labor Standards Act provisions virtually across the board to employees of state and municipal governments it "infringed a constitutional prohibition" running in favor of the States *as States*. The gist of their complaint was not that the conditions of employment of such public employees were beyond the scope of the commerce power had those employees been employed in the private sector, but that the established constitutional doctrine of intergovernmental immunity consistently recognized in a long series of our cases affirmatively prevented the exercise of this authority in the manner which Congress chose in the 1974 Amendments.

I

In a series of amendments beginning in 1961 Congress began to extend the provisions of the Fair Labor Standards Act to some types of public employees. The 1961 amendment to the Act [8] extended its coverage to persons who were employed in "enterprises" engaged in commerce or in the production of goods for commerce.[9] And in 1966, with the amendment of the definition of employers under the Act,[10] the exemption heretofore extended to the States and their political subdivisions was removed with respect to employees of state hospitals, institutions, and schools. We nevertheless sustained the validity of the combined effect of these two amendments in *Maryland* v. *Wirtz*, 392 U.S. 183 (1968).

In 1974, Congress again broadened the coverage of the Act. The definition of "employer" in the Act now specifically "includes a public agency," 29 U.S.C. § 203(d). In addition, the critical definition of "enterprises engaged in commerce or in the production of goods for commerce" was expanded to encompass "an activity of a public agency," and goes on to specify that

"The employees of an enterprise which is a public agency shall for purposes of this subsection be deemed to be employees engaged in commerce, or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce." 29 U.S.C. § 203(s)(5).

Under the Amendments "public agency" is in turn defined as including "the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Rate Commission), a State, or a political subdivision, of a State; or any interstate governmental agency." 29 U.S.C. § 203 (x).

By its 1974 amendments, then, Congress has now entirely removed the exemption previously afforded States and their political subdivisions, substituting only the Act's general exemption for executive, administrative, or professional personnel, 29 U.S.C. § 213(a)(1), which is supplemented by provisions excluding from the Act's coverage those individuals holding public elective office or serving such an officeholder in one of several specific capacities. 29 U.S.C. § 203(e)(2)(C). The Act thus imposes upon almost all public employment the minimum wage and maximum hour requirements previously restricted to employees engaged in interstate commerce. These requirements are essentially identical to those imposed upon private employers, although the Act does attempt to make some provision for public employment relationships which are without counterpart in the private sector, such as those presented by fire protection and law enforcement personnel. See 29 U.S.C. § 207 (k).

Challenging these 1974 amendments in the District Court, appellants sought both declaratory and injunctive relief against the amendments' application to them, and a three-judge court was accordingly convened pursuant to 28 U.S.C. § 2282. That court, after hearing argument on the law from the parties, granted appellee Secretary of Labor's motion to dismiss the complaint for failure to state a claim upon which relief might be granted. The District Court stated it was "troubled" by appellants' contentions that the amendments would intrude upon the States' performance of essential governmental functions. The court went on to say

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Footnotes at end of article.

that it considered their contentions: "substantial and that it may well be that the Supreme Court will feel it appropriate to draw back from the far-reaching implications of [*Maryland* v. *Wirtz*, supra]; but that is a decision that only the Supreme Court can make, and as a Federal district court we feel obliged to apply the Wirtz opinion as it stands."

We noted probable jurisdiction in order to consider the important questions recognized by the District court. 420 U.S. 906 (1975).[11] We agree with the District Court that the appellants' contentions are substantial. Indeed upon full consideration of the question we have decided that the "far-reaching implications" of *Wirtz*, should be overruled, and that the judgment of the District Court must be reversed.

II

It is established beyond peradventure that the Commerce Clause of Art. I of the Constitution is a grant of plenary authority to Congress. That authority is, in the words of Chief Justice Marshall in *Gibbons* v. *Ogden*, 9 Wheat. (21 U.S.) 1 (1824), ". . . the power to regulate; that is to prescribe the rule by which commerce is to be governed." *Id.*, at 196.

When considering the validity of asserted applications of this power to wholly private activity, the Court has made it clear that "[e]ven activity that is purely intrastate in character may be regulated by Congress, where the activity, combined with like conduct by others similarly situated, affects commerce among the States or with foreign nations." *Fry* v. *United States*, 421 U.S. 542, 547 (1975).

Congressional power over areas of private endeavor, even when its exercise may preempt express state law determinations contrary to the result which has commended itself to collective wisdom of Congress, has been held to be limited only by the requirement that "the means chosen by [Congress] must be reasonably adapted to the end permitted by the Constitution." *Heart of Atlanta Motel, Inc.* v *United States*, 379 U.S. 241, 262 (1964).

Appellants in no way challenge these decisions establishing the breadth of authority granted Congress under the commerce power. Their contention, on the contrary, is that when Congress seeks to regulate directly the activities of States as public employers, it transgresses an affirmative limitation on the exercise of its power akin to other commerce power affirmative limitations contained in the Constitution. Congressional enactments which may be fully within the grant of legislative authority contained in the Commerce Clause may nonetheless be invalid because found to offend against the right to trial by jury contained in the Sixth Amendment, *United States* v. *Jackson*, 390 U.S. 570 (1968), or the Due Process Clause of the Fifth Amendment, *Leary* v. *United States*, 395 U.S. 6 (1969). Appellants' essential contention is that the 1974 amendments to the Act, while undoubtedly within the scope of the Commerce Clause, encounter a similar constitutional barrier because they are to be applied directly to the States and subdivisions of States as employers.[12]

This Court has never doubted that there are limits upon the power of Congress to override state sovereignty, even when exercising its otherwise plenary powers to tax or to regulate commerce which are conferred by Art. I of the Constitution. In *Wirtz*, for example, the Court took care to assure the appellants that it had "ample power to prevent . . . 'the utter destruction of the State as a sovereign political entity,'" which they feared 392 U.S., at 196. Appellee Secretary in this case, both in his brief and upon oral argument, has agreed that our federal system of government imposes definite limits upon the authority of Congress to regulate the activities of the States as States by means of the commerce power, See *e.g.*, Appellee's Brief, at 30–41 Tr. of Oral Arg. 39–43. In *Fry, supra*, the Court recognized that an express declaration of this limitation is found in the Tenth Amendment:

"While the Tenth Amendment has been characterized as a 'truism,' stating merely that 'all is retained which has not been surrendered,' *United States* v. *Darby*, 312 U.S. 100, 124 (1941), it is not without significance. The Amendment expressly declares the constitutional policy that Congress may not exercise power in a fashion that impairs the States' integrity or their ability to function effectively in a federal system. . . ." 421 U.S., at 547.

In *New York* v. *United States*, 326 U.S. 572 (1946), Chief Justice Stone, speaking for four Members of an eight-Member Court[13] in rejecting the proposition that Congress could impose taxes on the States so long as it did so in a nondiscriminatory manner, observed:

"A State may, like a private individual, own real property and receive income. But in view of our former decisions we could hardly say that a general nondiscriminatory real estate tax (apportioned), or an income tax laid upon citizens and States alike could be constitutionally applied to the State's capitol, its State-house, its public school houses, public parks, or its revenues from taxes or school lands, even though all real property and all income of the citizen is taxed." 326 U.S., at 587–582.[14]

The expressions in these more recent cases trace back to earlier decisions of this Court recognizing the essential role of the States in our federal system of government. Chief Justice Chase, perhaps because of the particular time at which he occupied that office, had occasion more than once to speak for the Court on this point. In *Texas* v. *White*, 7 Wall. 700, 725 (1869), he declared that "[t]he Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States." In *Lane County* v. *Oregon*, 7 Wall. 71 (1869), his opinion for the Court said:

"Both the States and the United States existed before the Constitution. The people, through that instrument, established a more perfect union by substituting a national government, acting, with ample power, directly upon the citizens, instead of the Confederate government which acted with powers, greatly restricted, only upon the States. But in many Articles of the Constitution the necessary existence of the States, and, within their proper spheres, the independent authority of the States, is distinctly recognized." *Id.*, at 76.

In *Metcalf & Eddy* v. *Mitchell*, 269 U.S. 514 (1926), the Court likewise observed that "neither government may destroy the other nor curtail in any substantial manner the exercise of its powers." *Id.*, at 523.

Appellee Secretary argues that the cases in which this Court has upheld sweeping exercises of authority by Congress, even though those exercises pre-empted state regulation of the private sector, have already curtailed the sovereignty of the States quite as much as the 1974 amendments to the Fair Labor Standards Act. We do not agree. It is one thing to recognize the authority of Congress to enact laws regulating individual businesses necessarily subject to the dual sovereignty of the government of the Nation and of the State in which they reside. It is quite another to uphold a similar exercise of congressional authority directed not to private citizens, but to the States as States. We have repeatedly recognized that there are attributes of sovereignty attaching to every state government which may not be impaired by Congress, not because Congress may lack an affirmative grant of legislative authority to reach the matter, but because the Constitution prohibits it from exercising the authority in that manner. In *Coyle* v. *Smith*, 221 U.S. 559 (1911), the Court gave this example of such an attributable:

"The power to locate its own seat of government and to determine when and how it shall be changed from one place to another, and to appropriate its own public funds for that purpose, are essentially and peculiarly state powers. That one of the original thirteen States could now be shorn of such powers by an Act of Congress would not be for a moment entertained." 221 U.S., at 565.

One undoubted attribute of state sovereignty is the States' power to determine the wages which shall be paid to those whom they employ in order to carry out their governmental functions, what hours those persons will work, and what compensation will be provided where these employees may be called upon to work overtime. The question we must resolve in this case, then, is whether these determinations are "functions essential to separate and independent existence," *Coyle* v. *Smith, supra*, at 580, quoting from *Lane County* v. *Oregon, supra*, at 76, so that Congress may not abrogate the States' otherwise plenary authority to make them.

In their complaint appellants advanced estimates of substantial costs which will be imposed upon them by the 1974 amendments. Since the District Court dismissed their complaint, we take its well-pleaded allegations as true, although it appears from appellee's submissions in the District Court and in this Court that resolution of the factual disputes as to the effect of the amendments is not critical to our disposition of the case.

Judged solely in terms of increased costs in dollars, these allegations show a significant impact on the functioning of the governmental bodies involved. The Metropolitan Government of Nashville and Davidson County, Tenn., for example, asserted that the Act will increase its costs of providing essential police and fire protection, without any increase in service or in current salary levels, by $938,000 per year. Cape Girardeau, Mo., estimated that its annual budget for fire protection may have to be increased by anywhere from $250,000 to $400,000 over the current figure of $350,000. The State of Arizona alleged that the annual additional expenditures which will be required if it is to continue to provide essential state services may total $2½ million dollars. The State of California, which must devote significant portions of its budget to fire suppression endeavors, estimated that application of the Act to its employment practices will necessitate an increase in its budget of between $8 million and $16 million.

Increased costs are not, of course, the only adverse effects which compliance with the Act will visit upon state and local governments, and in turn upon the citizens who depend upon those governments. In its complaint in intervention, for example, California asserted that it could not comply with the overtime costs (approximately $750,000 per year) which the Act required to be paid to California Highway Patrol cadets during their academy training program. California reported that it had thus been forced to reduce its academy training program from 2,080 hours to only 960 hours, a compromise undoubtedly of substantial importance to those whose safety and welfare may depend upon the preparedness of the California Highway Patrol.

This type of forced relinquishment of important governmental activities is further reflected in the complaint's allegation that the City of Inglewood, California, has been forced to curtail its affirmative action program for providing employment opportunities for men and women interested in a career in law enforcement. The Inglewood police department has abolished a program for police trainees who split their week between on the job

Footnotes at end of article.

training and the classroom. The city could not abrogate its contractual obligations to these trainees, and it concluded that compliance with the Act in these circumstances was too financially burdensome to permit continuance of the classroom program. The city of Clovis, Cal., has been put to a similar choice regarding an internship program it was running in cooperation with a California State University. According to the complaint, because the interns' compensation brings them within the purview of the Act the city must decide whether to eliminate the program entirely or to substantially reduce its beneficial aspects by doing away with any pay for the interns.

Quite apart from the substantial costs imposed upon the States and their political subdivisions, the Act displaces state policies regarding the manner in which they will structure delivery of those governmental services which their citizens require. The Act, speaking directly to the States *qua* States, requires that they shall pay all but an extremely limited minority of their employees the minimum wage rates currently chosen by Congress. It may well be that as a matter of economic policy it would be desirable that States, just as private employers, comply with these minimum wage requirements. But it cannot be gainsaid that the federal requirement directly supplants the considered policy choices of the States' elected officials and administrators as to how they wish to structure pay scales in state employment. The State might wish to employ persons with little or no training, or those who wish to work on a casual basis, or those who for some other reason do not possess minimum employment requirements, and pay them less than the federally prescribed minimum wage. It may wish to offer part time or summer employment to teenagers at a figure less than the minimum wage, and if unable to do so may decline to offer such employment at all. But the Act would forbid such choices by the States. The only "discretion" left to them under the Act is either to attempt to increase their revenue to meet the additional financial burden imposed upon them by paying congressionally prescribed wages to their existing complement of employees, or to reduce that complement to a number which can be paid the federal minimum wage without increasing revenue.[15]

This dilemma presented by the minimum wage restrictions may seem not immediately different from that faced by private employers, who have long been covered by the Act and who must find ways to increase their gross income if they are to pay higher wages while maintaining current earnings. The difference, however, is that a State is not merely a factor in the "shifting economic arrangements" of the private sector of the economy, *Kovacs* v. *Cooper*, 336 U.S. 77, 95 (1949) (Frankfurter J., concurring), but is itself a coordinate element in the system established by the framers for governing our federal union.

The degree to which the FLSA amendments would interfere with traditional aspects of state sovereignty can be seen even more clearly upon examining the overtime requirements of the Act. The general effect of these provisions is to require the States to pay their employees at premium rates whenever their work exceeds a specified number of hours in a given period. The asserted reason for these provisions is to provide a financial disincentive upon using employees beyond the work period deemed appropriate by Congress. According to appellee, "[t]his premium rate can be avoided if the [State] uses other employees to do the overtime work. This, in effect, tends to discourage overtime work and to spread employment, which is the result Congress intended." Appellee's Brief, at 43.

Footnotes at end of article.

We do not doubt that this may be a salutary result, and that it has a sufficiently rational relationship to commerce to validate the application of the overtime provisions to private employers. But, like the minimum wage provisions, the vice of the Act as sought to be applied here is that it directly penalizes the States for choosing to hire governmental employees on terms different from those which Congress has sought to impose.

This congressionally imposed displacement of state decisions may substantially restructure traditional ways in which the local governments have arranged their affairs. Although at this point many of the actual effects under the proposed Amendments remain a matter of some dispute among the parties, enough can be satisfactorily anticipated for an outline discussion of their general import. The requirement imposing premium rates upon any employment in excess of what Congress has decided is appropriate for a governmental employee's workweek, for example, appears likely to have the effect of coercing the States to structure work periods in some employment areas, such as police and fire protection, in a manner substantially different from practices which have long been commonly accepted among local governments of this Nation. In addition, appellee represents that the Act will require that the premium compensation for overtime worked must be paid in cash, rather than with compensatory time off, unless such compensatory time is taken in the same pay period. Appellee's Supp. Brief, at 9–10; see *Dunlop* v. *New Jersey*, 522 F. 2d 504 (CA3 1975), cert. pending, No. 75–532. This too appears likely to be highly disruptive of accepted employment practices in many governmental areas where the demand for a number of employees to perform important jobs for extended periods on short notice can be both unpredictable and critical. Another example of congressional choices displacing those of the States in the area of what are without doubt essential governmental decisions may be found in the practice of using volunteer firemen, a source of manpower crucial to many of our smaller towns' existence. Under the regulations proposed by appellee, whether individuals are indeed "volunteers" rather than "employees" subject to the minimum wage provisions of the Act are questions to be decided in the courts. See Appellee's Brief, at 49 and n. 41. It goes without saying that provisions such as these contemplate a significant reduction of traditional volunteer assistance which has been in the past drawn on to complement the operation of many local governmental functions.

Our examination of the effect of the 1974 amendments, as sought to be extended to the States and their political subdivisions, satisfies us that both the minimum wage and the maximum hour provisions will impermissibly interfere with the integral governmental functions of these bodies. We earlier noted some disagreement between the parties regarding the precise effect the amendments will have in application. We do not believe particularized assessments of actual impact are crucial to resolution of the issue presented, however. For even if we accept appellee's assessments concerning the impact of the amendments, their application will nonetheless significantly alter or displace the States' abilities to structure employer-employee relationships in such areas as fire prevention, police protection, sanitation, public health, and parks and recreation. These activities are typical of those performed by state and local governments in discharging their dual functions of administering the public law and furnishing public services.[16] Indeed, it is functions such as these which governments are created to provide, services such as these which the States have traditionally afforded their citizens. If Congress may withdraw from the States the authority to make those fundamental employment decisions upon which their systems for performance of these functions must rest, we think there would be little left of the States' "separate and independent existence." *Coyle, supra*. Thus, even if appellants may have overestimated the effect which the Act will have upon their current levels and patterns of governmental activity, the dispositive factor is that Congress has attempted to exercise its Commerce Clause authority to prescribe minimum wages and maximum hours to be paid by the States in their capacities as sovereign governments. In so doing, Congress has sought to wield its power in a fashion that would impair the States' "ability to function effectively within a federal system," *Fry, supra*, at 547. This exercise of congressional authority does not comport with the federal system of government embodied in the Constitution. We hold that insofar as the challenged amendments operate to directly displace the States' freedom to structure integral operations in areas of traditional governmental functions, they are not within the authority granted Congress by Art. I, § 8, cl. 3.[17]

III

One final matter requires our attention. Appellee has vigorously urged that we cannot, consistently with the Court's decision in *Wirtz, supra*, and *Fry, supra*, rule against him here. It is important to examine this contention so that it will be clear what we hold today, and what we do not.

With regard to *Fry*, we disagree with appellee. There the Court held that the Economic Stabilization Act of 1970 was constitutional as applied to temporarily freeze the wages of state and local government employees. The Court expressly noted that the degree of intrusion upon the protected area of state sovereignty was in that case even less than that worked by the amendments to the FLSA which were before the Court in *Wirtz*. The Court recognized that the Economic Stabilization Act was "an emergency measure to counter severe inflation that threatened the national economy." 421 U.S.. at 548.

We think our holding today quite consistent with *Fry*. The enactment at issue there was occasioned by an extremely serious problem which endangered the well-being of all the component parts of our federal system and which only collective action by the National Government might forestall. The means selected were carefully drafted so as not to interfere with the States' freedom beyond a very limited, specific period of time. The effect of the across-the-board freeze authorized by that Act, moreover, displaced no State choices as to how governmental operations should be structured nor did it force the States to remake such choices themselves. Instead, it merely required that the wage scales and employment relationships which the States themselves had chosen be maintained during the period of the emergency. Finally, the Economic Stabilization Act operated to reduce the pressures upon State budgets rather than increase them. These factors distinguish the statute in *Fry* from the provisions at issue here. The limits imposed upon the commerce power when Congress seeks to apply it to the States are not so inflexible as to preclude temporary enactments tailored to combat a national emergency. "[A]lthough an emergency may not call into life a power which has never lived, nevertheless emergency may afford a reason for the exertion of a living power already enjoyed." *Wilson* v. *New*, 243 U.S. 332, 348 (1917).

With respect to the Court's decision in *Wirtz*, we reach a different conclusion. Both appellee and the District Court thought that decision required rejection of appellants' claims. Appellants, in turn, advance several arguments by which they seek to distinguish the facts before the Court in *Wirtz* from

those presented by the 1974 amendments to the Act. There are undoubtedly factual distinctions between the two situations, but in view of the conclusions expressed earlier in this opinion we do not believe the reasoning in *Wirtz* may any longer be regarded as authoritative.

Wirtz relied heavily on the Court's decision in *United States* v. *California*, 297 U.S. 175 (1936). The opinion quotes the following language from that case:

"'[We] look to the activities to which the states have traditionally engaged as marking the boundary of the restriction upon the federal taxing power. But there is no such limitation upon the plenary power to regulate commerce. The State can no more deny the power if its exercise has been authorized by Congress than can an individual.' 297 U. S., at 185." 392 U. S., at 198.

But we have reaffirmed today that the States as States stand on a quite different footing than an individual or a corporation when challenging the exercise of Congress' power to regulate commerce. We think the dicta[18] from *United States* v. *California*, simply wrong.[19] Congress may not exercise that power so as to force directly upon the States its choices as to how essential decisions regarding the conduct of integral governmental functions are to be made. We agree that such assertions of power, if unchecked, would indeed, as Mr. Justice Douglas cautioned in his dissent in *Wirtz*, allow "the National Government [to] devour the essentials of state sovereignty." 392 U. S., at 205, and would therefore transgress the bounds of the authority granted Congress under the Commerce Clause. While there are obvious differences between the schools and hospitals involved in *Wirtz*, and the fire and police departments affected here, each provides an integral portion of those governmental services which the States and their political subdivisions have traditionally afforded their citizens.[20] We are therefore persuaded that *Wirtz* must be overruled.

The judgment of the District Court is accordingly reversed and the case is remanded for further proceedings consistent with this opinion.

So ordered.

FOOTNOTES

[1] The Fair Labor Standards Act of 1938, 52 Stat. 1060, 29 U.S.C. § 201 *et seq.* (1940 ed.).

[2] 29 U.S.C. § 206(a) (1940 ed.).

[3] 29 U.S.C. § 207(a)(3) (1940 ed.).

[4] 29 U.S.C. § 211(c) (1940 ed.).

[5] 29 U.S.C. § 212 (1940 ed.).

[6] 29 U.S.C. § 203(d) (1940 ed.):

"'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee but shall not include the United States or any State or political subdivision of a State. . . ."

[7] Appellants in No. 74–878 are the National League of Cities, the National Governors' Conference, the States of Arizona, Indiana, Iowa, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, the Metropolitan Government of Nashville and Davidson County, Tenn., and the cities of Cape Girardeau, Mo., Lompoc, Cal., and Salt Lake City, Utah. The Appellant in No. 74–879 is the State of California.

In view of the fact that the appellants include sovereign States and their political subdivisions to whom application of the 1974 amendments is claimed to be unconstitutional, we need not consider whether the organizational appellants had standing to challenge the Act. See *California Bankers Assn.* v. *Shultz*, 416 U.S. 21, 44–45 (1974).

[8] Pub. L. 87–30, 75 Stat. 65.

[9] 29 U.S.C. §§ 203(r), 203(s), 206(b), 207 (a)(2) (1964 ed.).

[10] 80 Stat. 831, 29, U.S.C. § 203(d) (1964 ed., Supp. II).

[11] When the cases were not decided in October Term, 1974, they were set down for reargument, 421 U.S. 936(1975).

[12] The dissent intimates, *post*, at 2–3, that guarantees of individual liberties are the only sort of constitutional restrictions which this Court will enforce as against congressional action. It reasons that "Congress is constituted of representatives in both the Senate and House *elected from the states*. . . . Decisions upon the extent of federal intervention under the Commerce Clause into the affairs of the states are in that sense decisions of the states themselves." *Post*, at 21 (citation omitted). Precisely what is meant by the phrase "are in that sense decisions of the states themselves" is not entirely clear from this language; it is indisputable that a common constituency of voters elects both a State's governor and its two United States Senators. It is equally indisputable that since the enactment of the Seventeenth Amendment those Senators are not dependent upon state legislators for their election. But in any event the intimation which this reasoning is used to support is incorrect.

In *Myers* v. *United States*, 272 U.S. 52 (1926), the Court held that Congress could not by law limit the authority of the President to remove at will an officer of the Executive Branch appointed by him. In *Buckley* v. *Valeo*, 424 U.S. 1 (1975), the Court held that Congress could not constitutionally require that members of the Federal Elections Commission be appointed by officers of the House and of the Senate, and that all such appointments must be made by the President. In each of these cases, an even stronger argument than that made in the dissent could be made to the effect that since each of these bills had been signed by the President, the very officer who challenged them had consented to their becoming law, and it was therefore no concern of this Court that the law violated the Constitution. Just as the dissent contends that "the States are fully able to protect their own interest . . . ," *post*, at 21, it could have been contended that the President, armed with the mandate of a national constituency and with the veto power, was able to protect *his* own interests. Nonetheless, in both cases the laws were held unconstitutional, because they trenched on the authority of the Executive Branch.

[13] In quoting from the separate opinion of Mr. Justice Frankfurter in *New York* v. *United States*, 326 U.S. 572, Mr. JUSTICE BRENNAN fails to add that this opinion attracted only one other adherent. The separate opinion of Chief Justice Stone, on the other hand, was joined by three other Members of the Court. And the two dissenters advocated a position even more protective of state sovereignty than that advanced by Stone. See 326 U.S., at 590–598 (Douglas, J., dissenting).

[14] MR. JUSTICE BRENNAN suggests that "the Chief Justice was addressing not the question of a state sovereignty restraint upon the exercise of the commerce power, but rather the principle of implied immunity of the States and federal government from taxation by the order . . . ." *Post*, at 8. The asserted distinction, however, escapes us. Surely the federal power to tax is no less a delegated power than is the commerce power: both find their genesis in Art. I, § 8. Nor can characterizing the limitation recognized upon the federal taxing power as an "implied immunity" obscure the fact that this "immunity" is derived from the sovereignty of the States and the concomitant barriers which such sovereignty presents to otherwise plenary federal authority.

[15] The complaint recited that a number of appellants were prohibited by their state constitutions from incurring debts in excess of taxes for the current year. Those constitutions also impose ceilings upon the percentage rates at which property might be taxed by those governmental units. App. 36–37.

[16] These examples are obviously not an exhaustive catalogue of the numerous line and support activities which are well within the area of traditional operations of state and local governments.

[17] We express no view as to whether different results might obtain if Congress seeks to affect integral operations of state governments by exercising authority granted it under other sections of the Constitution such as the Spending Power, Art. 1, § 8, cl. 1, or § 5 of the Fourteenth Amendment.

[18] The holding of *United States* v. *California*, 297 U.S. 175 (1936), as opposed to the language quoted in the text, is quite consistent with our holding today. There California's activity to which the congressional command was directed was not in an area that the States have regarded as integral parts of their governmental activities. It was, on the contrary, the operation of a railroad engaged in "common carriage by rail in interstate commerce. . . ." 297 U.C., at 182.

For the same reasons, despite Mr. JUSTICE BRENNAN's claims to the contrary, the holdings in *Parden* v. *Terminal R. Co.*, 377 U.S. 184 (1964), and *California* v. *Taylor*, 353 U.S. 553 (1957), are likewise unimpaired by our decision today. It also seems appropriate to note that *Case* v. *Bowles*, 327 U.S. 92 (1946), has not been overruled as the dissent asserts. Indeed that decision, upon which our Brother heavily relies, has no direct application to the questions we consider today at all. For there the Court sustained an application of the Emergency Price Control Act to a sale of timber by the State of Washington, expressly noting that the "only question is whether the State's power to make the sales must be in subordination to the power of Congress to fix maximum prices in order to carry on war." 327 U.S., at 102. The Court rejected the State's claim of immunity on the ground that sustaining it would impermissibly "impair a prime purpose of the Federal Government's establishment." *Ibid.* Nothing we say in this opinion addresses the scope of Congress' authority under its war power. Cf. n. 17, *supra*.

[19] The dissent leaves no doubt from its discussion, *post*, at 20–22, that in its view Congress many under its commerce power deal with the States as States just as they might deal with private individuals. We venture to say that it is this conclusion, rather than the one we reach, which is in the words of the dissent a "startling restructuring of our federal system . . . ," *post*, at 20. Even the Government defending the 1974 Amendments in this Court, does not take so extreme a position.

[20] As the denomination "political subdivision" implies, the local governmental units which Congress sought to bring within the Act derive their authority and power from their respective States. Interference with integral governmental services provided by such subordinate arms of a state government is therefore beyond the reach of congressional power under the Commerce Clause just as if such services were provided by the State itself.

[Supreme Court of the United States, Nos. 74–878 and 74–879]

NATIONAL LEAGUE OF CITIES v. USERY

The National League of Cities et al., Appellants, *v.* W. J. Usery, Jr., Secretary of Labor.

State of California, Appellant, *v.* W. J. Usery, Jr., Secretary of Labor.

On Appeals from the United States District Court for the District of Columbia. (June 24, 1976)

Mr. JUSTICE BLACKMUN, concurring.

The Court's opinion and the dissents indicate the importance and significance of this case as it bears upon the relationship between the Federal Government and our States. Although I am not untroubled by

certain possible implications of the Court's opinion—some of them suggested by the dissents—I do not read the opinion so despairingly as does my Brother BRENNAN. In my view, the result with respect to the statute under challenge here is necessarily correct. I may misinterpret the Court's opinion, but it seems to me that it adopts a balancing approach, and does not outlaw federal power in areas such as environmental protection, where the federal interest is demonstrably greater and where state facility compliance with imposed federal standards would be essential. See *ante*, 18–19. With this understanding on my part of the Court's opinion, I join it.

[Supreme Court of the United States—Nos. 74–878 and 74–879]

NATIONAL LEAGUE OF CITIES v. USERY

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On Appeals from the United States District Court for the District of Columbia. [June 24, 1976.]

Mr. JUSTICE STEVENS, dissenting.

The Court holds that the Federal Government may not interfere with a sovereign state's right to pay a substandard wage to the janitor at the state capitol. The principle on which the holding rests is difficult to perceive.

The Federal Government may, I believe, require the State to act impartially when it hires or fires the janitor, to withhold taxes from his pay check, to observe safety regulations when he is performing his job, to forbid him from burning too much soft coal in the capitol furnace, from dumping untreated refuse in an adjacent waterway, from overloading a state-owned garbage truck or from driving either the truck or the governor's limousine over 55 miles an hour. Even though these and many other activities of the capitol janitor are activities of the state *qua* state, I have no doubt that they are subject to federal regulation.

I agree that it is unwise for the Federal Government to exercise its power in the ways described in the Court's opinion. For the proposition that regulation of the minimum price of a commodity—even labor—will increase the quantity consumed is not one that I can readily understand. That concern, however, applies with even greater force to the private sector of the economy where the exclusion of the marginally employable does the greatest harm and, in all events, merely reflects my views on a policy issue which has been firmly resolved by the branches of government having power to decide such questions. As far as the complexities of adjusting police and fire departments to this sort of federal control are concerned, I presume that appropriate tailor-made regulations would soon solve their most pressing problems. After all, the interests adversely affected by this legislation are not without political power.

My disagreement with the wisdom of this legislation may not, of course, affect my judgment with respect to its validity. On this issue there is no dissent from the proposition that the Federal Government's power over the labor market is adequate to embrace these employees. Since I am unable to identify a limitation on that federal power that would not also invalidate federal regulation of state activities that I consider unquestionably permissible, I am persuaded that this statue is valid. Accordingly, with respect and a great deal of sympathy for the views expressed by the Court, I dissent from its constitutional holding.

[Supreme Court of the United States—Nos. 74–878 and 74–789]

NATIONAL LEAGUE OF CITIES v. USERY

The National League of Cities et al., Appellants, *v.* W. J. Usery, Jr., Secretary of Labor.

State of California, Appellant, *v.* W. J. Usery, Jr., Secretary of Labor.

On Appeals from the United States District Court for the District of Columbia. [June 24, 1976.]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE WHITE and MR. JUSTICE MARSHALL join, dissenting.

The Court concedes, as of course it must, that Congress enacted the 1974 amendments pursuant to its exclusive power under Art. I, § 8, cl. 3, of the Constitution "To regulate Commerce . . . among the several States." It must therefore be surprising that my Brethren should choose this Bicentennial year of our independence to repudiate principles governing judicial interpretation of our Constitution settled since the time of Chief Justice John Marshall, discarding his postulate that the Constitution contemplates that restraints upon exercise by Congress of its plenary commerce power lie in the political process and not in the judicial process. For 152 years ago Chief Justice Marshall enunciated that principle to which, until today, his successors on this Court have been faithful.

"[T]he power over commerce . . . is vested in Congress as absolutely as it would be in a single government, having in its constitution the same restrictions on the exercise of the power as are found in the constitution of the United States. *The wisdom and the discretion of Congress, their identity with the people, and the influence which their constituents possess at elections, are . . . the sole restraints on which they have relied, to secure them from its abuse. They are the restraints on which the people must often rely solely, in all representative governments.*" *Gibbons* v. *Ogden*, 9 Wheat, 1, 197 (1824) (emphasis added) [1]

Only 34 years ago, *Wickard* v. *Filburn*, 317 U.S. 111, 120 (1942), reaffirmed that "[a]t the beginning Chief Justice Marshall . . . made emphatic the embracing and penetrating nature of [Congress' commerce] power by warning that effective restraints on its exercise must proceed from political than from judicial processes."

My Brethren do not successfully obscure today's patent usurpation of the role reserved for the political process by their purported discovery in the Constitution of a restraint derived from sovereignty of the States on Congress' exercise of the commerce power. Chief Justice Marshall recognized that limitations "prescribed in the constitution," *Gibbons* v. *Ogden*, *supra*, at 196, restrain Congress' exercise of the power. See *Parden* v. *Terminal R. Co.*, 377 U.S. 184, 191 (1964); *Katzenbach* v. *McClung*, 379 U.S. 294, 305 (1964); *United States* v. *Darby*, 312 U.S. 100, 114 (1941). Thus laws within the commerce power may not infringe individual liberties protected by the First Amendment. *Maybee* v. *White Plains Publishing Co.*, 327 178 (1946); the Fifth Amendment, *Leary* v. *United States*, 395 U.S. 6 (1969); or the Sixth Amendment, *United States* v. *Jackson*, 390 U.S. 570 (1968). But there is no restraint based on state sovereignty requiring or permitting judicial enforcement anywhere expressed in the Constitution; our decisions over the last century and a half have explicitly rejected the existence of any such restraint on the commerce power.[2]

We said in *United States* v. *California*, 297 U.S. 175, 184 (1936), for example, that "[t]he sovereign power of the states is necessarily diminished to the extent of the grants of power to the federal government in the Constitution. . . . [T]he power of the state is subordinate to the constitutional exercise of the granted federal power." This but echoed another principle emphasized by Chief Justice Marshall:

"If any proposition could command the universal assent of mankind, we might expect it would be this—that the government of the Union, though limited in its powers, is supreme within its sphere of action. This would seem to result necessarily from its nature. It is the government of all; its powers are delegated by all; it represents all, and acts for all. . . .

"The government of the United States, then, though limited in its powers, is supreme; and its laws, when made in pursuance of the Constitution, form the supreme law of the land, 'any thing in the constitution or laws of any State to the contrary notwithstanding.'" *McCulloch* v. *Maryland*, 4 Wheat. 316, 405–406 (1819).

"[It] is not a controversy between equals" when the federal government "is asserting its sovereign power to regulate. . . . [T]he interests of the nation are more important than those of any State." *Sanitary Dist.* v. *United States*, 266 U.S. 405, 425–426 (1925). The commerce power "is an affirmative power commensurate with the national needs." *North American Co.* v. *SEC*, 327 U.S. 686, 705 (1946). The Constitution reserves to the States "only . . . that authority which is consistent with and not opposed to the grant to Congress. There is no room in our scheme of government for the assertion of State power in hostility to the authorized exercise of Federal power." *The Minnesota Rate Cases*, 230 U.S. 352, 399 (1913). "The framers of the Constitution never intended that the legislative power of the nation should be incapable of disposing of a subject matter specifically committed to its charge." *In re Rahrer*, 140 U.S. 545, 562 (1891).

My Brethren thus have today manufactured an abstraction without substance, founded neither in the words of the Constitution nor on precedent. An abstraction having such profoundly pernicious consequences is not made less so by characterizing the 1974 amendments as legislation directed against the "States *qua* States." *Ante*, at 13. See *id.*, at 11, 20. Of course, regulations that this Court can say are not regulations of "commerce" cannot stand, *Santa Cruz Fruit Packing Co.* v. *NLRB*, 303 U.S. 453, 466 (1938), and in this sense "[t]he Court has ample power to prevent . . . 'the utter destruction of the State as a sovereign political entity.'" *Maryland* v. *Wirtz*, 392 U.S. 183, 196 (1968).[3] But my Brethren make no claim that the 1974 amendments are not regulations of "commerce"; rather they overrule *Wirtz* in disagreement with historic principles that *United States* v. *California*, *supra*, reaffirmed: "[W]hile the commerce power has limits, valid general regulations of commerce do not cease to be regulations of commerce because a State is involved. If a state is engaging in economic activities that are validly regulated by the federal government when engaged in by private persons, the State too may be forced to conform its activties to federal regulation." 392 U.S., at 196–197. Clearly, therefore, my Brethren are also repudiating the long line of our precedents holding that a judicial finding that Congress has not unreasonably regulated a subject matter of "commerce" brings to an end the judicial role. "Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional." *McCulloch* v. *Maryland*, *supra*, at 421.

The reliance of my Brethren upon the

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Tenth Amendment as "an express declaration of [a state sovereignty] limitation," *ante*, at 8, [4] not only suggests that they overrule governing decisions of this Court that address this question but must astound scholars of the Constitution. For not only early decisions, *Gibbons* v. *Ogden, supra*, at 196; *McCulloch* v. *Maryland, supra*, 404–407; and *Martin* v. *Hunter's Lessee*, 1 Wheat. 304, 324–325 (1816), hold that nothing in the Tenth Amendment constitutes a limitation on congressional exercise of powers delegated by the Constitution to Congress. See F. Frankfurter, The Commerce Power Under Marshall Taney, and Waite 39–40 (1937). Rather, as the Tenth Amendment's significance was more recently summarized:

"The amendment states but a truism that all is retained which has not been surrendered. *There is nothing in the history of its adoption to suggest that it was more than declaratory of the relationship between the national and state governments as it had been established by the Constitution before the amendment* or that its purpose was other than to allay fears that the new national government might seek to exercise powers not granted, and that the states might not be able to exercise fully their reserved powers . . .

"From the beginning and for many years the amendment has been construed as not depriving the national government of authority to resort to all means for the exercise of a granted power which are appropriate and plainly adapted to the permitted end." *United States* v. *Darby, supra*, at 124 (emphasis added).[5]

My Brethren purport to find support for their novel state sovereignty doctrine in the concurring opinion of Chief Justice Stone in *New York* v. *United States*, 326 U. S. 572, 586 (1946). That reliance is plainly misplaced. That case presented the question whether the Constitution either required immunity of New York State's mineral water business from federal taxation or denied to the Federal Government power to lay the tax. The Court sustained the federal tax. Chief Justice Stone observed in his concurring opinion that "a federal tax which is not discriminatory as to the subject matter may nevertheless so affect the State merely because it is a State that is being taxed, as to interefere unduly with the State's performance of its sovereign functions of government." *Id.*, at 587. But the Chief Justice was addressing not the question of a state sovereignty restraint upon the exercise of the commerce power, but rather the principle of implied immunity of the States and Federal Government from taxation by the other: "The counterpart of such undue interference has been recognized since Marshall's day as the implied immunity of each of the dual sovereignties of our constitutional system from taxation by the other." *Ibid.*

In contrast, the apposite decision that Term to the question whether the Constitution implies a state sovereignty restraint upon congressional exercise of the commerce power is *Case* v. *Bowles*, 327 U. S. 92 (1946). The question there was whether the Emergency Price Control Act could apply to the sale by the State of Washington to timber growing on lands granted by Congress to the State for the purport of common schools. The State contended that "there is a doctrine implied in the Federal Constitution that 'the two governments, national and state, are each to exercise its powers so as not to interfere with the free and full exercise of the powers of the other' . . . [and] that the Act cannot be applied to this sale because it was 'for the purpose of gaining revenue to carry out an essential governmental function—the education of its citizens.'" *Id.*, at 101. The Court emphatically rejected that argument, in an opinion joined by Chief Justice Stone, reasoning:

"Since the Emergency Price Control Act has been sustained as a congressional exercise of the war power, the [State's] argument is that the extent of that power as applied to state functions depends on whether these are 'essential' to the state government. The use of the same criterion in measuring the constitutional power of Congress to tax has proved to be unworkable, and we reject it as a guide in the field here involved. Cf. *United States* v. *California, supra*, 297 U.S. at 183–185." 327 U.S., at 101.[6]

The footnote to this statement rejected the suggested dichotomy between essential and nonessential state governmental functions as having "proved to be unworkable" by referring to "the several opinions in *New York* v. *United States*, 326 U.S. 572." 327 U.S. at 101 n. 7. Even more significant for our purposes is the Court's citation of *United States* v. *California*, a case concerned with Congress' power to regulate commerce, as supporting the rejection of the State's contention that state sovereignty is a limitation on Congress' war power. *California* directly presented the question whether any sate sovereignty restraint precluded application of the Federal Safety Appliance Act to a state-owned and-operated railroad. The State argued "that as the state is operating the railroad without profit, for the purpose of facilitating the commerce of the port, and is using the net proceeds of operation for harbor improvement . . . it is engaged in performing a public function in its sovereign capacity and for that reason cannot constitutionally be subjected to the provisions of the federal Act." 297 U.S., at 183. Mr. Justice Stone rejected the contention in an opinion for a unanimous Court. His rationale is a complete refutation of today's holding:

"That in operating its railroad [the State] is acting within a power reserved to the states cannot be doubted. . . . The only question we need consider is whether the exercise of that power, in whatever capacity, must be in subordination to the power to regulate interstate commerce, which has been granted specifically to the national government. The sovereign power of the states is necessarily diminished to the extent of the grants of power to the federal government in the Constitution. . . .

"The analogy of the constitutional immunity of state instrumentalities from federal taxation, on which [California] relies, is not illuminating. That immunity is implied from the nature of our federal system and the relationship within it of state and national governments, and is equally a restriction on taxation by either of the instrumentalities of the other. Its nature requires that it be so construed as to allow to each government reasonable scope for its taxing power . . . which would be unduly curtailed if either by extending its activities could withdraw from the taxing power of the other subjects of taxation traditionally within it. . . . Hence we look to the activities in which the states have traditionally engaged as marking the boundary of the restriction upon the federal taxing power. *But there is no such limitation upon the plenary power to regulate commerce. The state can no more deny the power if its exercise has been authorized by Congress than can an individual.*" *Id.*, at 184–185 (emphasis added).[7]

Today's repudiation of this unbroken line of precedents that firmly reject my Brethren's ill-conceived abstraction can only be regarded as a transparent cover for invalidating a congressional judgment with which they disagree.[8] The only analysis even remotely resembling that adopted today is found in a line of opinions dealing with the Commerce Clause and the Tenth Amendment that ultimately provoked a constitutional crisis for the Court in the 1930's. *E.g., Carter* v. *Carter Coal Co.*, 298 U.S. 238 (1936); *United States* v. *Butler*, 297 U.S. 1 (1936); *Hammer* v. *Dagenhart*, 247 U.S. 251 (1918). See Stern, The Commerce Clause and the National Economy, 1933–1946, 59 Harv. L. Rev. 645 (1946). We tend to forget that the Court invalidated legislation during the Great Depression, not solely under the Due Process Clause but also and primarily under the Commerce Clause and the Tenth Amendment. It may have been the eventual abandonment of that overly restrictive construction of the commerce power that spelled defeat for the Court-packing plan, and preserved the integrity of this institution, *id.*, at 682, see, *e.g., United States* v. *Darby, supra; Mulford* v. *Smith*, 307 U.S. 38 (1939); *NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937), but my Brethren today are transparently trying to cut back on that recognition of the scope of the commerce power. My Brethren's approach to this case is not far different from the dissenting opinions in the cases that averted the crisis. See, *e.g.*, *Mulford* v. *Smith*, 307 U.S., at 51 (Butler, J., dissenting); *NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S., at 76 (McReynolds, J., dissenting).[9]

That no precedent justifies today's result is particularly clear from the awkward extension of the doctrine of state immunity from federal taxation—an immunity conclusively distinguished by Mr. Justice Stone in *California*, and an immunity that is "narrowly limited" because "the people of all the states have created the national government and are represented in Congress," *Helvering* v. *Gerhardt*, 304 U.S. 405, 416 (1938) (Stone, J.)[10]—to fashion a judiciary enforceable restraint on Congress' exercise of the commerce power that the Court has time and again rejected as having no place on our constitutional jurisprudence.[11] [W]here [Congress] keeps within its sphere and violates no express constitutional limitation it has been the rule of this Court, going back almost to the founding days of the Republic, not to interfere." *Katzenbach* v. *McClung, supra*, at 305.

To argue, as do my Brethren, that the 1974 amendments are directed at the States *qua* States, *ante*, at 13, and "displace[ ] state policies regarding the manner in which they will structure delivery of those governmental services which their citizens require," *ibid.*, and therefore "directly penalize[ ] the States for choosing to hire governmental employees on terms different from those which Congress has sought to impose," *id.*, at 15, is only to advance precisely the unsuccessful arguments made by the State of Washington in *Case* v. *Bowles* and the State of California in *United States* v. *California*. The 1974 amendments are, however, an entirely legitimate exercise of the commerce power, not in the slightest restrained by any doctrine of state sovereignty cognizable in this Court, as *Case* v. *Bowles, United States* v. *California, Maryland* v. *Wirtz*, and our other pertinent precedents squarely and definitively establish. Moreover, since *Maryland* v. *Wirtz* is overruled, the Fair Labor Standards Act is invalidated in its application to all state employees "in [any areas] that the States have regarded as integral parts of their governmental activities." *Ante*, at 20 n. 18. This standard is a meaningless limitation on the Court's state sovereignty doctrine, and thus today's holding goes beyond even what the States of Washington and California urged in *Case* v. *Bowles* and *United States* v. *California*, and by its logic would overrule those cases and with them *Parden* v. *Terminal R. Co., supra*, and certain reasoning in *Employees* v. *Missouri Public Health Dept.*, 411 U.S. 279, 284–285 (1973). I cannot recall another instance in the Court's history when the reasoning of so many decisions covering so long a span of time has been discarded

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roughshod. That this is done without any justification not already often advanced and consistently rejected, clearly renders today's decision an *ipse dixit* reflecting nothing but displeasure with a congressional judgment.

My Brethren's treatment of *Fry* v. *United States*, 421 U.S. 542 (1975), further illustrates the paucity of legal reasoning or principle justifying today's result. Although the Economic Stabilization Act "interfere[d] with the States' freedom," *ante*, at 18—the reason given for invalidating the 1974 amendments—the result in *Fry* is not disturbed since the interference was temporary and only a national program enforced by the Federal Government could have alleviated the country's economic crisis. Thus, although my Brethren by fiat strike down the 1974 amendments without analysis of countervailing national considerations, *Fry* by contrary logic remains undisturbed because, on balance, countervailing national considerations override the interference with the State's freedom. Moreover, it is sophistry to say the Economic Stabilization Act "displaced no state choices," *id.*, at 19, but that the 1974 amendments do, *id.*, at 13. Obviously the Stabilization Act—no less than every exercise of a national power delegated to Congress by the Constitution—displaced the State's freedom. It is absurd to suggest that there is a constitutionally significant distinction between curbs against increasing wages and curbs against paying wages lower than the federal minimum.

Today's holding patently is in derogation of the sovereign power of the Nation to regulate interstate commerce. Can the States engage in businesses competing with the private sector and then come to the courts arguing that withdrawing the employees of those businesses from the private sector evades the power of the Federal Government to regulate commerce? See *New York* v. *United States*, *supra*, at 582 (opinion of Frankfurter, J.). No principle given meaningful content by my Brethern today precludes the States from doing just that. Our historic decisions rejecting all suggestions that the States stand in a different position from affected private parties when challenging congressional exercise of the commerce power reflect that very concern. *Maryland* v. *Wirtz*, *supra*; *United States* v. *California*, *supra*. *Fry* only last Term emphasized "that States are not imune from all federal regulation under the Commerce Clause *merely because of their sovereign status*." 421 U.S., at 548 (emphasis added). For "[b]y empowering Congress to regulate commerce . . . the States necessarily surrendered any portion of their sovereignty that would stand in the way of such regulation." *Parden* v. *Terminal R. Co.*, *supra*, at 192; see *Employees* v. *Missouri Public Health Dept.*, *supra*, at 286. Employment relations of States that subject themselves to congressional regulation by participating in regulable commerce are subject to congressional regulation. *California* v. *Taylor*, 353 U.S. 553, 568 (1957). Plainly it has gotten no earlier since we declared it "too late in the day to question the power of Congress under the Commerce Clause to regulate . . . activities and instrumentalities [in interstate commerce] . . . whether they be the activities and instrumentalities of private persons or of public agencies." *California* v. *United States*, 320 U.S. 577, 586 (1944).

Also devoid of meaningful content is my Brethren's argument that the 1974 amendment "displaces [ ] State policies." *Ante*, at 13. The amendments neither impose policy objectives on the State nor deny the States complete freedom to fix their own objectives. My Brethren boldly assert that the decision as to wages and hours is an "undoubted attribute of state sovereignty" *id.*, at 11, and then never say why. Indeed, they disclaim any reliance on the costs of compliance with the amendments in reaching today's result. *Id.*, at 11–12, 17. This would enable my Brethren to conclude that, however insignificant that cost, any federal regulation under the commerce power "will nonetheless significantly alter or displace the States' abilities to structure employer-employee relationships." *Id.*, at 17.[12] This then would mean that, whether or not state wages are paid for the performance of an "essential" state function (whatever that may mean), the newly discovered state sovereignty constraint could operate as a flat and absolute prohibition against congressional regulation of the wages and hours of state employees under the Commerce Clause. The portent of such a sweeping holding is so ominous for our constitutional jurisprudence as to leave one incredulous.

Certainly the paradigm of sovereign action—action *qua* State—is in the enactment and enforcement of state laws. It is possible that my Brethren are signaling abandonment of the heretofore unchallenged principle that Congress "can, if it chooses, entirely displace the States to the full extent of the far-reaching Commerce Clause"? *Bethlehem Steel Co.* v. *New York State Board*, 330 U.S. 767, 780 (1947) (opinion of Frankfurter, J.). Indeed, that principle sometimes invalidates state laws regulating subject matter of national importance even when Congress has been silent. *Gibbons* v. *Ogden*, *supra*; see *Sanitary Dist.* v. *United States*, *supra*, at 426. In either case the ouster of state laws obviously curtails or prohibits the States' prerogatives to make policy choices respecting subjects clearly of greater significance to the "State *qua* State" than the minimum wage paid to state employees. The Supremacy Clause dictates this result under "the federal system of government embodied in the Constitution." *Ante*, at 17–18.

My Brethren do more than turn aside, longstanding constitutional jurisprudence that emphatically rejects today's conclusion. More alarming is the startling restructuring of our federal system, and the role they create therein for the federal judiciary. This Court is simply not at liberty to erect a mirror of its own conception of a desirable governmental structure. If the 1974 amendments have any "vice," *ante*, at 15, my Brother STEVENS is surely right that it represents "merely . . . a policy issue which has been firmly resolved by the branches of government having power to decide such questions." *Post*, at 2. It bears repeating "that effective restraints on . . . exercise [of the Commerce power] must proceed from political rather than from judicial processes." *Wickard* v. *Filburn*, *supra*, at 120.

It is unacceptable that the judicial process should be thought superior to the political process in this area. Under the Constitution the judiciary has no role to play beyond finding that Congress has not made an unreasonable legislative judgment respecting what is "commerce." My Brother BLACKMUN suggests that controlling judicial supervision of the relationship between the States and our National Government by use of a balancing approach diminishes the ominous implications of today's decision. Such an approach, however, is a thinly veiled rationalization for judicial supervision of a policy judgment that our system of government reserves to Congress.

Judicial restraint in this area merely recognizes that the political branches of our Government are structured to protect the interests of the States, as well as the Nation as a whole, and that the States are fully able to protect their own interests in the premises. Congress is constituted of representatives in both Senate and House *elected from the States*. The Federalist No. 45, at 311–312 (J. Cooke ed. 1961) (J. Madison). The Federalist No. 46, at 317–318 (J. Cooke ed. 1961) (J. Madison). Decisions upon the extent of federal intervention under the Commerce Clause into the affairs of the States are in that sense decisions of the States themselves. Judicial redistribution of powers granted the National Government by the terms of the Constitution violates the fundamental tenet of our federalism that the extent of federal intervention into the State's affairs in the exercise of delegated powers shall be determined by the States' exercise of political power through their representatives in Congress. See Wechsler, The Political Safeguards of Federalism: The Role of the States in the Composition and Selection of the National Government, 54 Col. L. Rev. 543 (1954). There is no reason whatever to support that in enacting the 1974 amendments Congress, even if it might extensively obliterate state sovereignty by fully exercising its plenary power respecting commerce, had any purpose to do so. Surely the presumption must be to the contrary. Any realistic assessment of our federal political system, dominated as it is by representatives of the people *elected from the States*, yields the conclusion that it is highly unlikely that those representatives will ever be motivated to disregard totally the concerns of these States.[13] The Federalist No. 46, *supra*, at 319. Certainly this was the premise upon which the Constitution, as authoritatively explicited in *Gibbons* v. *Ogden*, was founded. Indeed, though the States are represented in the National Government, national interests are not similarly represented in the States' political processes. Perhaps my Brethren's concern with the judiciary's role in preserving federalism might better focus on whether Congress, not the States, is in greater need of this Court's protection. See *New York* v. *United States*, *supra*, at 582 (opinion of Frankfurter, J.); *Helvering* v. *Gerhardt*, *supra*, at 416.

A sense of the enormous impact of States' political power is gained by brief reference to the federal budget. The largest estimate by any of the appellants of the cost impact of the 1974 amendments—one billion dollars—pales in comparison with the financial assistance the States receive from the Federal Government. In fiscal 1977 the President's proposed budget recommends $60.5 billion in federal assistance to the States, exclusive of loans. Office of Management and Budget, Special Analyses: Budget of the United States Government, Fiscal Year 1977, p. 255. Appellants complain of the impact of the amended FLSA on police and fire departments, but the 1977 budget contemplates outlays for law enforcement assistance of $716 million. *Id.*, at 258. Concern is also expressed about the diminished ability to hire students in the summer if States must pay them a minimum wage, but the Federal Government's "summer youth program" provides $400 million for 670,000 jobs. *Ibid.* Given this demonstrated ability to obtain funds from the Federal Government for needed state services, there is little doubt that the States' influence in the political process is adequate to safeguard their sovereignty.[14]

My Brethren's disregard for precedents recognizing these long-settled constitutional principles is painfully obvious in their cavalier treatment of *Maryland* v. *Wirtz*. Without even a passing reference to the doctrine of *stare decisis*, *Wirtz*—regarded as controlling only last Term, *Fry* v. *United States*, *supra*, at 548, and as good law in *Employees* v. *Missouri Public Health Dept.*, *supra*, at 283—is by exercise of raw judicial power overruled.

No effort is made to distinguish the FLSA amendments sustained in *Wirtz* from the 1974 amendments. We are told at the outset that "the 'far-reaching implications' of *Wirtz* should be overruled," *ante*, at 5–6; later it is said that the "reasoning in *Wirtz*" is no longer "authoritative," *id.*, at 19. My Brethren then merely restate their essential

Footnotes at end of article.

function test and say that *Wirtz* must "therefore" be overruled. *Id.*, at 21. There is no analysis whether *Wirtz* reached the correct result, apart from any flaws in reasoning even though we are told that "there are obvious differences" between this case and *Wirtz*. *Ibid.*[15] Are state and federal interests being silently balanced, as in the discussion of *Fry*, *id.*, at 18–19? The best I can make of it is that the 1966 FLSA amendments are struck down and *Wirtz* is overruled on the basis of the conceptually unworkable essential function test; and that the test is unworkable is demonstrated by my Brethren's inability to articulate any meaningful distinctions among state-operated railroads, see *id.*, at 20 n. 18, state-operated schools and hospitals, and state-operated police and fire departments.

We are left then with a catastrophic judicial body blow at Congress' power under the Commerce Clause. Even if Congress may nevertheless accomplish its objectives—for example by conditioning grants of federal funds upon compliance with federal minimum wage and overtime standards, cf. *Oklahoma* v. *United States Civil Service Comm'n*, 330 U.S. 127, 144 (1947)—there is an ominous portent of disruption of our constitutional structure implicit in today's mischievous decision. I dissent.

FOOTNOTES

[1] "A government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and to the complete execution of the trusts for which it is responsible; free from every other control, but a regard to the public good and to the sense of the people." The Federalist No. 31, at 195 (J. Cooke ed. 1961) (A. Hamilton).

[2] Some decisions reflect the Court's reluctance to interpret legislation to alter the federal-state balance of power. See, *e.g.*, *Employees* v. *Missouri Public Health Dept.*, 411 U.S. 279, 285–287 (1973); *United States* v. *Bass*, 404 U.S. 336, 349 (1971). Rather than state any limit on congressional power, however, these decisions merely rely on our traditional canon of construction in the face of statutory ambiguity that recognizes a presumption that Congress normally considers effects on federalism before taking action displacing state authority. Stern, The Commerce Clause and the National Economy, 1933–1946, Part Two, 59 Harv. L. Rev. 883, 946 (1946). There is no claim that the 1974 amendments are not clearly intended to apply to the States, nor is there any suggestion that Congress was unaware of the federalism issue.

[3] As support for the creation of a state sovereignty limitation on the commerce power, my Brethren quote this statement in *Wirtz* out of context. *Ante*, at 8. This statement is at the end of a paragraph in *Wirtz* recognizing that Congress' commerce power is limited because it reaches only "commerce with foreign nations and among the several States." 392 U.S., at 196, quoting *Santa Cruz Fruit Packing Co.* v. *NLRB*, 303 U.S. 453, 466 (1938). The passage that follows the language quoted by the Court is:

"But while the commerce power has limits, valid general regulations of commerce do not cease to be regulations of commerce because a State is involved. If a State is engaging in economic activities that are validly regulated by the Federal Government when engaged in by private persons, the State too may be forced to conform its activities to federal regulation." 392 U.S., at 196–197. It is clear, then, that this Court's "ample power" to prevent the destruction of the States was not found in *Wirtz* to result from some affirmative limit on the exercise of the commerce power, but rather in the Court's function of limiting congressional exercise of its power to regulation of "commerce."

[4] The Court relies on *Fry* v. *United States*, 421 U.S. 542, 547 n. 7 (1975), but I cannot subscribe to reading *Fry* as departing, without analysis, from a principle that has remained unquestioned for over 150 years. Although the Tenth Amendment "is not without significance," *ibid.*, its meaning is clear: it declares that our Federal Government is one of delegated powers. And it is because of this contraint, rather than the state sovereignty doctrine discovered today by the Court, "that Congress may not exercise power in a fashion that impairs the States' integrity or their ability to function effectively in a federal system." *Ibid.* *Fry* did not say that there is a limit in the Tenth Amendment on the exercise of a delegated power, but instead said that "Congress may not exercise power in a fashion that. . . ." The only import of the footnote in *Fry*, then, is that Congress may not invade state sovereignty by exercising powers not delegated to it by the Constitution; since the wage ceilings at issue in *Fry* were clearly within the commerce power, we found no "drastic invasion of State sovereignty." *Ibid.* Even the author of today's opinion stated in *Fry* that the Tenth Amendment does not "by its terms" restrict Congress' power to regulate commerce, *Id.*, at 557 (Rehnquist, J., dissenting).

[5] In support of the first quoted paragraph, *Darby* cited II Elliot's Debates 123, 131 (2d ed. 1787); III *id.*, at 450, 464, 600–601; IV *id.*, at 140-141, 148–149; I Annals of Congress 432, 761, 767–768 (1789); Story, Commentaries on the Constitution §§ 1907–1908 (2d ed. 1851) "It is plain, therefore, that it could not have been the intention of the framers of this amendment to give it effect, as an abridgement of any of the powers granted under the constitution, whether they are express or implied, direct or incidental. Its sole design is to exclude any interpretation, by which other powers should be assumed beyond those which are granted.").

Decisions expressly rejecting today's interpretation of the Tenth Amendment also include *Sperry* v. *Florida*, 373 U.S. 379, 403 (1963); *Oklahoma* v. *United States Civil Serv. Comm'n.* 330 U.S. 127, 143 (1947); *Case* v. *Bowles*, 327 U.S. 92, 102 (1946); *Fernandez* v. *Weiner*, 326 U.S. 340, 362 (1945); *Oklahoma ex rel. Phillips* v. *Guy F. Atkinson Co.*, 313 U.S. 508, 534 (1941); *United States* v. *Sprague*, 282 U.S. 716, 733–734 (1931).

[6] *Case* also expressed concerns about creating a state sovereignty limitation on a delegated power that are equally applicable to restrictions on the commerce power: "The result would be that the constitutional grant of the power to make war would be inadequate to accomplish its full purpose. And this result would impair a prime purpose of the Federal Government's establishment." 327 U.S., at 102. The Brethren intimate that Congress' war power is more properly viewed as "a prime purpose of the Federal Government's establishment" than the commerce power. *Ante*, at 20 n. 18. Nothing could be further from the fact. "The sole purpose for which Virginia initiated the movement which ultimately produced the Constitution was 'to take into consideration the trade of the United States; to examine the relative situations and trade of the said States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony . . .' No other federal power was so universally assumed to be necessary, no other state power was so readily relinquished." *H. P. Hood & Sons, Inc.* v. *Du Mond*, 336 U.S. 525, 533–534 (1949); see *id.*, at 532–535.

[7] Even in the tax area the States' immunity has not gone unchallenged. The separate opinion of Mr. Justice Frankfurter in *New York* v. *United States*, 326 U.S. 572, 573 (1946), argued that the only limitation on the federal power to tax was that Congress not discriminate against the States. There is no such discrimination in the 1974 amendments, since they apply to both public and private employers. Mr. Justice Frankfurter noted a distinction between immunities claimed to invalidate state taxes on federal activities and those urged as a basis for rejecting federal taxes. "The federal government is the government of all the States, and all the States share in the legislative process by which a tax of general applicability is laid." *Id.*, at 577. See *McCulloch* v. *Maryland*, 4 Wheat. 316, 405–406 (1819). He also recognized that immunity in this area had been significantly eroded since it was first used to protect state officials from a federal tax in *Collector* v. *Day*, 11 Wall. 113 (1871). See, e.g. *Graves* v. *New York ex rel. O'Keefe*, 306 U. S. 466 (1939), overruling *Collector* v. *Day*, *supra*; *Helvering* v. *Producers Corp.*, 303 U. S. 376 (1938); *Fox Film Corp.* v. *Doyal*, 286 U. S. 123 (1932).

Even more significantly, Mr. Justice Frankfurter pointed out that the existence of a state immunity from federal taxation, to the extent that it was based on any vague sovereignty notions, was inconsistent with the holding in *United States* v. *California*, 297 U.S. 175 (1936), that state sovereignty does not restrict federal exercise of the commerce power. 326 U. S., at 582.

[8] My Brethen's reliance on *Texas* v. *White*, 7 Wall. 700, 725 (1869), and *Lane County* v. *Oregon*, 7 Wall. 71, 76 (1869), is puzzling to say the least. The Brethren make passing reference to the unique historical setting in which those cases were decided, *ante*, at 10, but pointedly ignores the significance of the events of those days. During the tenure of Chief Justice Chase, the War Between the States, fought to preserve the supremacy of the Union, was won; Congress and the States then enacted three constitutional amendments, the Thirteenth, Fourteenth, and Fifteenth, enlarging federal power and concomitantly contracting the States' power, see *Ex parte Virginia*, 100 U.S. 339, 345 (1880); and Congress enacted a variety of laws during Reconstruction further restricting state sovereignty. *Texas* v. *White* itself noted that the Constitution empowered Congress to form a new government in a State if the citizens of that State were being denied a republican form of government. 7 Wall., at 729. And the Court recognized in *Lane County* that "[t]he people of the United States constitute one nation, under one government, and this government, within the scope of the powers with which it is invested, is supreme." 7 Wall., at 76.

[9] Even those dissenting opinions, however, were more faithful to the Constitution than is today's decision. They relied on the Tenth Amendment to invalidate federal legislation only because they found the enactments not within the scope of the commerce power, and thus not within a power delegated to Congress. More importantly, they made no distinction between private parties and States; in their view, what was not commerce for one was commerce for no one. My Brethren today, however, arrive at their noval constitutional theory in defiance of the plain language of the Tenth Amendment, differentiating "the people" from "the States." They apparently hold that a power delegated to Congress with respect to the former is, contrary to the clear wording of the Amendment, not delegated as to the latter, because this conclusion is more consonant with their view of a proper distribution of governmental power. But, "however socially desirable the goals sought to be advanced . . . , advancing them through a free wheeling non-elected judiciary is quite unacceptable in a democratic society." REHNQUIST, The Notion of a Living Constitution, 54 Texas L. Rev. 693, 699 (1976).

[10] The danger to the federal power to tax of hypothesizing any constraint, derived from state sovereignty and monitored by this Court, was expressly recognized:

"Another reason [for narrowly limiting

state sovereignty restrictions on the power to tax] rests upon the fact that any allowance of a tax immunity for the protection of state sovereignty is at the expense of the sovereign power of the nation to tax. Enlargement of the one involves diminution of the other. When enlargement proceeds beyond the necessity of protecting the state, the burden of the immunity is thrown upon the national government with benefit only to a privileged class of taxpayers. See *Metcalf & Eddy* v. *Mitchell*, 269 U.S. 514 [1926]; cf. *Thomson* v. *Pacific Railroad*, 9 Wall. 579, 588, 590 [1870]. With the steady expansion of the activity of state governments into new fields they have undertaken the performance of functions not known to the states when the Constitution was adopted, and have taken over the management of business enterprises once conducted exclusively by private individuals subject to the national taxing power. In a complex economic society tax burdens laid upon those who directly or indirectly have dealings with the states, tend, to some extent not capable of precise measurements, to be passed on economically and thus to burden the state government itself. But if every federal tax which is laid on some new form of state activity, or whose economic burden reaches in some measure the state or those who serve it, were to be set aside as an infringement of state sovereignty, it is evident that a restriction upon national power, devised only as a shield to protect the states from curtailment of the essential operations of government which they have exercised from the beginning, would become a ready means for striking down the taxing power of the nation. See *South Carolina* v. *United States*, 199 U.S. 437, 454–455 [1905]. Once impaired by the recognition of a state immunity found to be excessive, restoration of that power is not likely to be secured through the action of state legislatures; for they are without the inducements to act which have often persuaded Congress to waive immunities thought to be excessive." *Helvering* v. *Gerhardt*, 304 U.S. 405, 416–417 (1938) (footnote omitted).

[11] My Brethren also ignore our holdings that the principle of state sovereignty held to be embodied in the Eleventh Amendment can be overridden by Congress under the Commerce Clause. *Parden* v. *Terminal R. Co.*, 377 U.S. 184 (1964). Although the Eleventh Amendment can be overcome by exercise of the power to regulate commerce, my Brethren never explain why the protections of state sovereignty they erroneously find embodied in the Tenth Amendment cannot similarly be overcome. Instead, they merely tell us which delegated powers are limited by state sovereignty, *ante*, at 9 n. 14, and which are not, *id.*, at 20 n. 18, see also *Kleppe* v. *New Mexico*, —— U.S. —— (1976), but neither reason nor precedent distinguishing among these powers is provided.

[12] My Brethren's reluctance to rely on the cost of compliance to invalidate this legislation is advisable.

"Such matters raise not constitutional issues but questions of policy. They relate to the wisdom, need, and effectiveness of a particular project. They are therefore questions for the Congress, not the courts." *Oklahoma ex rel. Phillips* v. *Guy F. Atkinson Co.*, 313 U.S., at 527.

See *Employees* v. *Missouri Public Health Dept.*, 411 U.S., at 284. Although my Brethren accept for present purposes the well-pleaded allegations of appellants' complaint, I note that the Secretary vigorously argues in this Court that appellants' cost allegations are greatly exaggerated and based on misinterpretations of the 1974 amendments. For example, the Executive Vice President of the National League of Cities stated in a deposition that the federal minimum wage would have little impact on city budgets since "most cities are already in compliance." App. 124. My Brethren's concern about the use of volunteers is also unfounded. No provision proscribes the use of volunteers or regulates their compensation in any way. Indeed, the Department of Labor's regulations read the FLSA as providing that payments to individuals below a certain level are presumptive evidence of volunteer status; above that level volunteer status depends on particular circumstances. 29 CFR § 553.11. That the question whether an individual is an employee or a volunteer might be resolved in the courts has nothing to do with federalism, since Congress has rationally decided to regulate the wages of state employees under the Commerce Clause. The Secretary also maintains that misconceptions permeate the other claims of final impact, such as the failure to account for overtime exemptions for police and fire personnel, 29 U.S.C. § 207(k), but further analysis of appellant's allegations would not be profitable, nor might it even be possible in view of their failure to specify adequately the method of calculating the costs.

[13] The history of the 1974 amendments is a striking example of the political process in operation. When Congress in 1973 passed FLSA amendments that extended coverage to state and local employees, the President vetoed the bill and stated among his objections that "[e]xtension of Federal minimum wage and overtime standards to State and local government employees is an unwarranted interference with State prerogatives." 119 Cong. Rec. 28743 (1973). The veto was sustained. *Id.*, at 30266. But when Congress moderated its position and passed the bill in another form, the President signed it and noted the compromise: "S. 2747 also extends coverage to include Federal, State, and local government employees, domestic workers, and others previously excluded from coverage. The Congress has reduced some of the economic and social disruptions this extension could cause by recognizing the unique requirements of police, fire, and correctional services." 10 Weekly Comp. of Pres. Docs. 392 (1974).

[14] In contrast, my Brethren frequently remand powerless individuals to the political process by invoking doctrine of standing, justiciability, and remedies. For example, in *Warth* v. *Seldin*, 422 U.S. 490 (1975), the Court suggested that some residents of Rochester, New York, "not overlook the normal democratic process," *id.*, at 508 n. 18, even though they were challenging a suburban zoning ordinance and had no voice in the suburb's political affairs. In this case, however, those entities with perhaps the greatest representation in the political process have lost a legislative battle, but when they enter the courts and repeat the arguments made in the political branches, the Court welcomes them with open arms, embraces their political cause, and overrides Congress' political decision.

[15] In contrast, the Court measures the legislation at issue in *Fry* in light of today's decision, although, as I have noted, that consideration amounts to a repudiation of the Court's holding. See pp. 16–17, *supra*. Just as the reasoning of *Wirtz* is rejected, however, the reasoning of *Fry*, decided only last Term, must also be deemed rejected, for it adhered totally to the principles of *Wirtz*. That the Economic Stabilization Act was an emergency measure was not dispositive in *Fry*; it merely rendered the Act "even less intrusive" than the "quite limited" legislation sustained in *Wirtz*. 421 U.S. at 548.

DISC—WHO GETS THE WINDFALLS?

Mr. KENNEDY. Mr. President, the current issue of Tax Notes contains an excellent factual analysis of the various beneficiaries of DISC, the controversial export tax subsidy in the Internal Revenue Code.

The analysis, which is for 1975 data, bears out the recent Treasury DISC report, which indicated that in 1973, 52 percent of net income of DISC operations accrued to only 11 percent of the DISC's, belonging to 249 corporations with assets of $250 million or more, and 39 percent went to only 23 corporations.

The Tax Notes analysis, based on data reported to the SEC, shows that 30 percent of the $1.3 billion in DISC tax subsidies in 1975 went to 109 large firms.

Mr. President, many of us believe that DISC is an extremely wasteful and inefficient tax subsidy that ought to be repealed. The Tax Notes study demonstrates how lucrative the DISC windfall actually is for some of the Nation's largest corporations. This sort of upside-down tax welfare has no place in our tax laws.

Mr. President, Tax Notes has performed a useful public service in compiling this data and I ask unanimous consent that the study be printed in the RECORD.

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

[From Tax Notes, June 21, 1976, Pages 7–11]

LARGE FIRMS ARE MAJOR DISC BENEFICIARIES

A Tax Notes study of 1975 data supports an earlier Treasury Department finding that the bulk of benefits arising from the domestic international sales corporation (DISC) tax subsidy goes to the nation's largest companies. According to data reported to the Securities and Exchange Commission, 30% of the $1.3 billion in 1975 tax savings due to DISC went to 109 firms on the Fortune magazine list of the 500 largest industrial corporations. As of December of 1975, there were 8,258 DISCs according to the Treasury.

In its report, released last April 13, on DISC year 1974 (roughly, calendar 1973), the Treasury said 52% of the net income of the 2,333 DISCs with corporate owners for which asset size is available, accrued to 11% of the DISCs whose parent companies assets were at least $250 million.

The revenue costs of DISC for the 109 firms in the Tax Notes survey begin on page 8. The negative 1975 figures for American Petrofina, Inc. and Reichhold Corp. are due to timing differences that resulted in taxes being paid on previously deferred DISC income.

[Due to mechanical limitations, tables included in the study will appear in a later issue of the RECORD.]

REMOVAL OF INJUNCTION OF SECRECY—EX. K, 94TH CONG., 2D SESS.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Convention with the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at London on December 31, 1975, together with an exchange of notes modifying certain provisions of the Convention signed at London on April 13, 1976 (Executive K. 94th Cong., 2d sess.), which was transmitted to the Senate today by the President of the United States, and also that the Convention with accompanying papers be re-

ferred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The message from the President is as follows:

PRESIDENT'S MESSAGE FROM THE WHITE HOUSE

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at London on December 31, 1975, together with an exchange of notes modifying certain provisions of the Convention signed at London on April 13, 1976.

I also transmit for the information of the Senate the report of the Department of State with respect to the Convention and the exchange of notes.

This Convention and exchange of notes are designed to modernize the relationship with respect to taxes on income which has evolved between the United States and the United Kingdom from a similar Convention signed at Washington on April 16, 1945.

The Convention with subsequent exchange of notes is similar to other recent United States income tax treaties, although it does have some new features which are described in the enclosed report of the Department of State.

Such tax conventions help promote economic cooperation with other countries. I urge the Senate to act favorably on this Convention and exchange of notes at an early date and to give its advice and consent to ratification.

GERALD R. FORD.

THE WHITE HOUSE, *June 24, 1976.*

ORDER FOR RECOGNITION OF SENATOR BIDEN, DESIGNATION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS, AND CONSIDERATION OF CERTAIN MEASURES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. BIDEN be recognized for not to exceed 15 minutes, after which there be a brief period for the transaction of routine morning business not to exceed 10 minutes with statements limited therein to 2 minutes each, at the conclusion of which the Senate proceed to the consideration of the ERDA authorization bill, upon the disposition of which the Senate resume consideration of the tax reform bill.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TIME-LIMITATION AGREEMENT—H.R. 14231

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—this has been cleared with Mr. YOUNG and with Mr. STEVENS—that when the Interior appropriation bill is called up, there be a time limitation thereon of one hour to be divided between myself and Mr. STEVENS, and a time limitation on any amendment thereto of 20 minutes, and a time limitation on any debatable motion or appeal, or point of order, of 20 minutes, and that the agreement with respect to the division and control of time be in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, Mr. BIDEN will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business not to exceed 10 minutes, with statements limited therein to 2 minutes each; at the conclusion of which period the Senate will proceed to the consideration of Calendar Order No. 835, S. 3105, the ERDA authorization bill, on which there is a time agreement of 2 hours on the bill, 2 hours on the Haskell amendment, 40 minutes on a Randolph amendment, 1 hour on any other amendment, 20 minutes on any debatable motion, appeal or point of order, if such is submitted to the Senate for discussion, and the agreement is in the usual form.

Rollcall votes will occur in relation to the ERDA authorization bill, and upon the disposition of that bill the Senate will resume consideration of the tax reform bill on which rollcall votes are expected to occur tomorrow afternoon.

I would say that the first rollcall vote will not occur before 10 a.m., unless there is a need to have the Sergeant at Arms rally Senators to the cause, in which case the yeas and nays might be demanded, but I would doubt there would be a rollcall vote before 10 o'clock tomorrow morning.

However, the Senate is expected to be in late again tomorrow. The fact that the Senate will be in on Saturday cuts no ice and Senators may expect rollcall votes early and late on tomorrow.

RECESS TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the previous order, that the Senate stand in recess until 9 a.m. tomorrow.

The motion was agreed to; and at 11:47 p.m., the Senate recessed until tomorrow, Friday, June 25, 1976, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24, 1976:

OVERSEAS PRIVATE INVESTMENT CORPORATION

The following-named persons to be members of the board of directors of the Overseas Private Investment Corporation for terms expiring December 17, 1978:

Donley L. Brady, of California (reappointment).

Allie C. Felder, Jr., of the District of Columbia (reappointment).

IN THE ARMY

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, and 3290:

Bennett, Paul D., [redacted].
Douglas, Donald C., [redacted].
Glasco, Donald G., [redacted].
Paige, James A., Jr., [redacted].
Tomlin, Harry A., [redacted].

The following-named distinguished military students for appointment in the Regular Army of the United States in the grade of second lieutenant under the provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Balzer, Craig J., [redacted].
Claybrook, Carol A., [redacted].
Downs, Wallace T., [redacted].
Elliott, Paul E., [redacted].
Everly, Clarence A., [redacted].
German, Bobby L., [redacted].
Hite, Tommy W., [redacted].
Huntington, Lawrence W., [redacted].
McDonald, Kenneth G., [redacted].
Miller, Ross N., [redacted].
Minerich, Lloyd M., [redacted].
Nicholson, Mark E., [redacted].
Rains, Jack C., Jr., [redacted].
Sarro, Mark J., [redacted].
Scaggs, Michael D., [redacted].
Smith, Michael D., [redacted].
Snyder, Charles E., III, [redacted].
Sousa, Richard T., [redacted].
Stephens, Ricardo E., [redacted].
Zeiher, Garland R., [redacted].

IN THE AIR FORCE

The following Air Force officer for appointment in the Regular Air Force in the grade indicated, under the provisions of section 8204, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

LINE OF THE AIR FORCE

To be captain

Confer, Dennis W., [redacted].

The following persons for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Anderson, Harris R., [redacted].
Basinger, Harold P., [redacted].
Booth, Fred S., [redacted].
Cabrera-Ramirez Lorenzo, [redacted].
Cock, Thomas C., [redacted].
Connelly, Jesse P., [redacted].
Dest, Paul, [redacted].
Geller, Joseph, [redacted].
Giller, Walter J., [redacted].
Greaves, Douglas T., [redacted].
Greisman, Paul A., [redacted].
Hohn, Gerald J., [redacted].
Humphries, Ivan C., [redacted].
Kashgarian, Mark, [redacted].
King, Wesley A., [redacted].
Mathews, Thomas P., [redacted].
Mays, Joseph L., [redacted].
McDonald, Harold T., [redacted].
Miller, Gilbert, [redacted].
Moseley, John C., [redacted].
Ogg, Billy D., [redacted].

Owens, Wyeth E., [redacted].
Pates, Don C., [redacted].
Pickering, Lloyd G., [redacted].
Rollins, Pat, [redacted].
Russo, Charles P., [redacted].
Schaap, George A., [redacted].
Seeglitz, William A., [redacted].
Siegel, Daniel K., [redacted].
Tolson, James M., [redacted].
Tsomides, James L., [redacted].
Weber, Arthur O., [redacted].
Weinman, Tay J., [redacted].
White, Glenn D., [redacted].

The following persons for appointment as Temporary officers in the United States Air Force, in the grade indicated, under the provisions of sections 8444 and 8447, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Alexandre, Journal, [redacted].
Anderson, Harris R., [redacted].
Anderson, John A., [redacted].
Basinger, Harold P., [redacted].
Booth, Fred S., [redacted].
Bourgeois, Stephen D., [redacted].
Cadol, Roger V., [redacted].
Carver, Richard F., [redacted].
Cock, Thomas C., [redacted].
Connelly, Jesse P., [redacted].
Cooper, William R., [redacted].
Dest, Paul, [redacted].
Edwards, Charles H., [redacted].
Emmite, Joseph P., [redacted].
Ergas, Ralph E., [redacted].
Francisco, Edgardo C., [redacted].
Gardner, John C., [redacted].
Geller, Joseph, [redacted].
Greaves, Douglas T., [redacted].
Greisman, Paul A., [redacted].
Hohn, Gerald J., [redacted].
Holbrook, James A., [redacted].
Hovick, Jack H. "O", [redacted].
Humphries, Ivan C., [redacted].
Johnson, Herbert S., [redacted].
Jones, Warner E., [redacted].
Kashgarian, Mark, [redacted].
King, Wesley A., [redacted].
Lina, Manuel S., [redacted].
Long, Truman E., [redacted].
Mabie, James E., [redacted].
Mathews, Thomas P., [redacted].
Mays, Joseph L., [redacted].
McDonald, Harold T., [redacted].
Miller, Gilbert, [redacted].
Ogg, Billy D., [redacted].
Owens, Wyeth E., [redacted].
Pates, Don C., [redacted].
Pickering, Lloyd G., [redacted].
Pineda, Jose D., [redacted].
Resol, Juan H., [redacted].
Rollins, Pat, [redacted].
Russo, Charles P., [redacted].
Rustia, Ricardo M., [redacted].
Ryals, Jarvis D., [redacted].
Schaap, George A., [redacted].
Seeglitz, William A., [redacted].
Siegel, Daniel K., [redacted].
Stalzer, Edward V., [redacted].
Tolson, James M., [redacted].
Tsomides, James L., [redacted].
Unahalekhaka, Arnath, [redacted].
Vizcarrondo, Felipe E., [redacted].
Weber, Arthur O., [redacted].
White, Glenn D., [redacted].
Wilkins, Edmund E., Jr., [redacted].
Zaayer, Dolph W., [redacted].

The following persons for appoiontment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, Title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Dotson, Robert S., [redacted].
Horner, Kenneth R., [redacted].

The following officer for appointment as Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593, 8351 and 8392, title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Gemberling, Edwin L., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Balash, Theodore A., [redacted].
Christensen, William O., Jr., [redacted].
Kari, Duane J., [redacted].
Leviseur, Carl R., [redacted].
Potton, Dale H., [redacted].

MEDICAL CORPS

Delpriore, Joseph A., [redacted].
Jones, Henry A., [redacted].
Julian, Mark D., [redacted].
Legowik, John T., [redacted].
Netreba, Jules L., [redacted].
Rissier, Herbert L., [redacted].
Sayre, Malcolm M., [redacted].
Shipp, Robert H., [redacted].
Solomon, James W., [redacted].
Speckhard, Mark E., [redacted].
Warrender, Charles L., [redacted].
Winter, Oliver S., [redacted].

NURSE CORPS

Bradley, Patricia E., [redacted].

IN THE NAVY

The following-named Naval Reserve officers for temporary promotion to the grade of commander in the line, subject to qualification therefor as provided by law:

Abrahams, Paul F.
Abrell, Gary A.
Abreu, Norman H.
Adams, Richard F., Jr.
Aimone, Robert J.
Aisthorpe, John E.
Alafetich, Jack M.
Alberty, James A.
Alkema, Andrew G.
Alkov, Francis L.
Allen, Arnold C.
Allen, Frederick S., Jr.
Allen, Martyn A.
Ambrose, Robert C.
Anderson, William W.
Andre, William A.
Andrus, Frederick H.
Andrus, Roger D.
Antonio, Robert J.
Ardleigh, Paul D.
Armes, Donald S.
Armstrong, Fred G., Jr.
Armstrong, Melvin R.
Arseneault, Walter A.
Arthur, Paul K.
Ashbaugh, Charles I.
Atwood, Alan F.
Aulenbach, Glen L.
Ayers, Robert J.
Backman, John R.
Bailey, Albert E., Jr.
Bailey, Charles E., Jr.
Bailey, James G.
Baker, Arthur J., III
Baker, Forrest L.
Baker, Frank J.
Baker, William E.
Bakula, William J., Jr.
Baldes, Joseph J.
Baldwin, Donald R.
Baldwin, George L.
Baldwin, John G.
Balog, Julius, Jr.
Barnum, Daniel B.
Baublitz, John E.
Bauer, Douglas C.
Bay, Barton H.
Beam, Henry H.
Beck, Luther B.
Becker, Paul W.
Beckett, Joseph M., III
Bedard, Gerald F.
Beesburg, Robert Y.
Belperain, Lloyd G.
Bendel, James D.
Bennett, William D.
Bennington, William J.
Benson, Leo, II
Bergert, James W.
Bertonneau, George A.
Bidwell, John B.
Bigley, Thomas L.
Birgeles, Joseph J.
Bishop, Jerrold K.
Bishop, John W.
Biss, Joseph E.
Bittle, Lehner K.
Blake, Joseph C., Jr.
Blalock, Leonard K.
Blanz, Charles D.
Block, John A.
Blomgren, Harry L.
Bloodworth, Gerald H.
Bloore, John L.
Blunt, William G.
Boaz, David M.
Boch, Ronald V.
Bodmer, James R.
Bonar, Clyde A.
Bonham, Charlton H., II
Bonn, Richard I.
Boosman, Jaap W.
Booye, Robert J.
Bordenkircher, Charles E.
Bourcier, Robert S.
Bourgeois, Gerald R.
Bourke, Robert H.
Bowman, John L.
Bowser, John V.
Boykin, Milton L.
Braden, Frank E.
Bradish, Steven D.
Brant, Joseph W.
Braswell, Joel H.
Brewster, Thomas P.
Brockman, John L., Jr.
Brooks, Billy C.
Brow, John J.
Brown, Edward A.
Brunnworth, Rolland H.
Bryan, William A.
Budai, Donald M.
Buford, Manville T., III
Burgdorf, Otto
Burke, Patrick J.
Burmester, Raymond F.
Burnett, Donathan
Burns, Robert N.
Burns, William F., Jr.
Burrud, Richard J.
Byrd, David G.
Byrne, Robert A.
Campbell, George R.
Campbell, Thomas H.
Cant, Geoffrey D.
Cantrell, William A.
Cappabianca, Domenic R.
Charlson, Ferderick P.
Carlson, John W.
Carr, Jay C.
Carter, James E.
Carter, Paul A.
Centodocati, Anthony A.
Chapman, Craig B.
Chatt, Rodrick H.
Churdar, John B.
Clarke, Brandon O.
Clendenon, Claude E.
Coates, John, Jr.
Coburn, George H.
Cockelreas, Charles E.
Coffman, Richard L.
Collins, Everett F., Jr.
Collins, Thomas E.
Collins, William A.
Coltrin, William A.
Colver, John F.
Conlin, George B.
Connell, James G., Jr.
Conner, Steven E.
Cook, Ben C.
Coolican, Donald J.
Coomer, Lesley B., Jr.
Cooper, Jerry A.
Corboy, Thomas S.
Corley, Daniel I.
Cota, Charles D.
Coughlan, George R., III
Coughlin, Daniel T., Jr.
Cox, Larry G.
Cox, Mack M.
Craig, Charles E.
Crais, Henry R.
Crowder, Rex C.
Crownover, James E., Jr.
Culp, Melvin F.
Cunningham, Glenn J.
Cyr, Charles R.
Dalbey, Ralph J., Jr.
Danby, Charles E.
Daniel, Troy E.
Davidson, Barrett K.
Davis, Charles S., III
Davis, Jerry S.
Davis, John B.
Delaune, Clarence R.
Deloach, Robert D.
Delprincipe, Ronald F.
Delude, Howard D.
Dennis, John P., Jr.
Dennis, Lester J.
Dennison, Thomas W.
Depirro, Michael J.
Derr, Thomas A.
Desjardins, Charles R.
Deveau, Roger L.
Diamond, Kent J.
Dick, Calvin R.
Dighton, Anthony E., Jr.
Dillon, Martin C.
Dimsdale, William
Dirksen, John V.
Dismukes, Newton B., Jr.
Dobson, Percival D. G.
Dohner, David E.
Dolan, Peter B.
Dommers, Richard W.
Donevant, Jerry A.
Donnelly, William J., Jr.
Doran, David J.
Dorman, Marshall L., Jr.
Dorsey, Joseph C.
Dowd, John E., Jr.
Dower, John J.
Doxey, Samuel G.
Doyle, Charles A.
Drakes, Robert L.
Draper, John A.
Driesen, Jeffrey M.
Droes, Karl E., Jr.
Drummond, Richard C
Duffy, Charles J.
Duggan, Edward H.
Dulin, Robert O., Jr.
Duncan, Hugh C.
Dunham, Edward M., Jr.
Durbin, Gerald T.
Durling, Allen E.
Earls, Larry R.
Eastham, Clarence S., Jr.
Ebel, Frederick W.
Edwards, James D., III
Eichorn, Robert R.
Ellett, Frank T.
Ellis, Donald D.
Embree, Frank G.
Emery, Richard L.
Engel, Gary L.
Englehardt, Dan T.
Ergle, Thomas S.
Essary, Wilburn D.
Esslinger, Jon H.
Evans, David S.
Evans, Homer D.
Everman, Jerry D.
Falck, Henry J.
Falco, James F.
Fasano, Vincent P.
Fash, Robert S.
Favrot, Richard G.
Fawthrop, Roland P., Jr.
Feld, Gerald A.
Ferguson, Malcolm M., Jr.
Ferrara, John J.
Fidler, William K.
Flagg, Wilson F.
Fleming, Garwin K.
Flodman, William C.
Flynn, Harry F.
Flynn, Henry M., Jr.
Ford, Thomas G.
Forrest, "L" Albert
Fossell, Roland G.
Foster, John C.
Foster, William L., Jr.
Fowler, Carlo S.
Franklin, David C.
Franklin, John D.
Franks, Frederick B., III
Freise, William A.
Frick, Alvin F.
Frick, Bill L.
Frye, David B.
Fuller, Brooks, Jr.
Gable, Carl F., Jr.
Gallagher, Eugene J.

Galuppo, Lawrence J.
Gandia, August N., Jr.
Gardenier, John S., II
Gardner, Chester R.
Gardner, John E., Jr.
Gause, Gadsden S.
Geaney, John R.
Gehman, Thomas E.
Geimer, Allan F.
Geronime, Lee J.
Ghiradella, Ronald J.
Gick, Robert P.
Gilbert, William C.
Gill, Henry A., Jr.
Gillio, David A.
Glenn, Robert C.
Gnaedinger, Wallace R.
Gniffke, Bruce A.
Goggin, William G.
Gooch, Tarrant A.
Good, Edwin M.
Gorena, Rolando R.
Gosda, Gary L.
Gott, Carl F.
Graham, Albert E., Jr.
Gravagna, Angelo F.
Greenberg, Samuel J.
Greeves, Robert E.
Griner, Donald J.
Grey, Barry W.
Griffith, John F.
Grimson, James A.
Guenter, Gordon E.
Gunderson, Robert C.
Gustafson, Donald L.
Guthrie, Wallace N., Jr.
Hahn, Carl G.
Hahn, Peter W.
Hairston, Waller S.
Hall, Arthur H.
Hall, Charles E.
Hall, Robert R.
Hanke, Harold W.
Hanson, Wayne E.
Harcos, Kermit A., Jr.
Hardesty, William H., III
Harding, Francis A., Jr
Harris, Ezra R.
Harrison, William L.
Harryman, Carrel R.
Hart, Irving H., III
Harvey, William L.
Haug, Shain B.
Hawk, Richard S.
Haworth, Charles T.
Haworth, William P.
Hayes, Arthur A.
Heacock, Louis W.
Heasley, Allen D.
Heimerdinger, Walter L.
Held, John N.
Helland, Paul A. S.
Hellewell, Martin S.
Henderson, Jack D.
Henning, Harld E.
Henry, James R.
Herbein, John G.
Herman, Peter E.
Herman, Richard M.
Herr, James F.
Herring, Benjamin C., Jr.
Hervey, John C., Jr.
Heslar, Fred G.
Hesse, Francis L.
Hickey, Dennis J., IV
Hickok, William G.
Hilf, Paul T.
Hill, John D.
Hill, Terrance G.
Hills, Chester I., Jr.
Hoak, Frank M., III
Hoch, Robert G., Jr.
Hockett, Harold L.
Hoel, Willard R.
Hoff, Walter M.
Hoffman, Charles E., Jr.
Hollmer, Alvin
Holloway, Richard E.
Honderich, Kenneth O
Hood, William S., Jr.
Hooper, Frank R.
Hopkins, David H., Jr.
Hoppe, Gary H.
Horner, George R.
Horner, John B.
Houtz, Leroy C.
Howard, Billy C.
Howlett, Frederick J.
Huey, Victor B., Jr.
Huggins, Bobby W.
Hulley, William P.
Hulse, Robert C.
Hunt, Joe M.
Hunter, Gilbert R.
Hurst, Daniel S.
Hutchins, James R.
Hutchison, Claude B., Jr.
Hutton, Robert G.
Indiviglia, Salvatore J.
Jackson, Donald G.
Jacobs, Kenneth W.
Jamison, Lyle C.
Jarchow, John H.
Jarmer, Elwood R.
Jaroszewski, Milroy R.
Jeffrey, Samuel D.
Jennings, George R.
Johnson, Clinton B.
Johnson, Donn R.
Johnson, Donald L.
Johnson, Paul W., Jr.
Johnson, Stephen J.
Johnston, Douglas M., Jr.
Jones, Robert W.
Jordan, Alexander J., Jr.
Jordan, Kenneth L.
Jory, Jerrold G.
Juergens, Kenneth C.
Karger, Ernest W.
Katilus, George J., Jr.
Keck, William D.
Keefer, Frederick E.
Kees, William R.
Keeslar, Paul T.
Keliikoa, Edward N.
Keller, Donald G.
Kelly, John P.
Kennedy, James D.
Kennedy, Jared P.
Kercsmar, John
Kerr, William B.
Kiewel, Peter W.
Kiker, Robert D.
King, George S.
Kinney, James R.
Kinzie, Larry L.
Kirby, James E.
Kizer, Clyde R.
Klein, Anthony J.
Kline, Warren S.
Klocek, Matthew W.
Knopf, Peter W.
Knowles, Charles E.
Knowles, Jonathan R.
Knutsen, Edward W.
Kowall, Robert J.
Kramer, Joseph P., III
Kramer, Robert M.
Kreisher, Durrell M.
Kroner, Frank R., Jr.
Kyle, James P.
Lahey, Leroy A.
Laird, Roger S.
Lakeway, Frederick J.
Lamb, Dennis W.
Lammers, Charles M.
Land, Walter R.
Landers, Edward J.
Landers, Edward L.
Langan, John J., Jr.
Lange, James B.
Langenbach, Ross K.
Larson, Arthur D.
Larson, Frederick R.
Larson, James F.
Larson, Richard H.
Lawler, Albert M.
Lawson, David S., Jr.
Lazzaretti, Anthony F.
Leahy, John H.
Leathem, Douglas B.
Lee, Jerald K.
Leeney, John P.
Lekebusch, Adolf O.
Leonardy, Donald B.
Lester, John E.
Levenson, Saul
Levine, Emil H.
Levine, Jules I.
Lichtenberg, Robert H.
Liddle, Donald J.
Lindbloom, Arthur L., III
Litchfield, Rodger A.
Lockland, Walter G.
Locklin, Ralph H.
Loeffler, Lawrence E.
Logan, Alexander S.
Logan, James L., Jr.
Lommel, Carlyle J.
Long, James P.
Long, James L.
Long, Robert L.
Longyear, George Y.
Lu, Davidson C. C.
Lueder, John R.
Lukert, James L.
Lukinbeal, Donald L.
Lykins, Lidle L.
Lyman, Charles W., III
Lynch, John J.
Lyons, William M.
Magers, Francis D., Jr.
Mahone, Philip H.
Malecki, Gerald S.
Malmberg, Norman R.
Manthorne, Stephen J.
Marsh, John L., Jr.
Martenson, Craig S.
Martin, Albert J.
Martin, Roman G., Jr.
Mash, Rodney L.
Maskell, David K.
Mason, Charles C.
Matthews, Robert S.
Mayfield, Howard E.
Maynard, Theodore W.
McAfee, Robert E.
McBryde, Robert D.
McCarthy, Eugene J.
McCarthy, Matthew A.
McCartney, Robert L.
McCloskey, Henry F.
McCravy, Frank E., Jr.
McCreedy, William H.
McCreight, Floyd A.
McCutcheon, Rob A.
McDougle, John D.
McElroy, Jerry L., Jr.
McElroy, Lowell R.
McElroy, Robert D.
McEnery, Thomas A.
McKinley, Samuel H.
McKinney, Joe R.
McKinney, Kenneth W.
McKnight, James P.
McMahon, John P.
McMahon, Raymond J., Jr.
McManus, Arthur T.
McMillan, Malcom R.
McSharry, Dennis M.
McWilliams, Samuel E.
Mead, David R., Jr.
Meagher, Maurice F., Jr.
Meeks, Harman T.
Mehldau, Alan P.
Mello, Edward
Merselis, Stephen W.
Metz, Thomas O.
Meyer, Karl A., Jr.
Michael, Cloyd R.
Miller, Allen I.
Miller, Donald E.
Miller, James M.
Miller, Melvin D.
Miller, William E., III
Millroy, Donald L.
Milotich, Alexander A.
Minzner, Allan L.
Misner, Russell F.
Mitchell, Ellis G.
Mitchell, Gary A.
Moe, Gerald L.
Moir, Edwin L.
Monahan, Edward J., Jr.
Monson, Arthur C.
Montanaro, Joseph A.
Montelaro, Carlos P.
Moore, Andrew J., Jr.
Moore, Dudley B., III
Moore, George W.
Moorhead, Robert G. C.
Moorhead, Todd H.
Morey, Eldon L.
Morrison, Todd H.
Mortensen, Lloyd P.
Morton, William W., Jr.
Mullen, Claude H., Jr.
Mullenhoff, Paul F.
Muller, Robert J.
Murphy, Clifford W.
Murphy, Daniel W.
Murphy, John R.
Myers, Dale F.
Myers, George K., Jr.
Naab, Geoffrey
Nagel, David J.
Nagle, John S.
Nannini, Albert A.
Navin, John J., Jr.
Naylor, James R.
Neal, Morris L.
Neef, James V.
Neemes, John C., III
Nehrich, Richard B., Jr.
Nelson, Gary L.
Nelson, Roger E.
Newburn, Robert M.
Newcomb, Joseph S.
Newman, Jack G.
Nichols, James A.
Noble, Herbert G., Jr.
Norcross, Philip F., Jr.
Normandeau, Robert J.
Norris, Elliott W.
Nossen, Robert P.
Nuissl, Rudolph F. H.
Oberin Frederick W.
Oberle, William J.
O'Brien, Edmund R.
O'Brien, Ward J.
O'Donnell, William P., Jr.
Olsen, Kenneth F.
Omara, William M.
O'Neil, William D., Jr.
Orr, Charles W., Jr.
Ostrom, Kenneth R.
Osucha, Harold D.
Otness, Phillip C.
Owens, Bruce H.
Pankratz, John M.
Pannell, Clifton W.
Panshin, Daniel A.
Parkinson, Bobbie J.
Parks, Richard E.
Patterson, William H.
Paty, Charles R.
Paules, Granville E., III
Payne, Harvey M.
Peace, H. W., II
Pearson, Robert W.
Peloquin, Robert A.
Peluso, Angelo R.
Pencek, Edward A.
Pendergast, Thomas P.
Perotti, Joseph G.
Perrault, Robert A.
Peterson, David W.
Peterson, James E.
Phillips, Edwin D., Jr.
Phillips, Joe C.
Picher, Walter W.
Pierce, Glenn I., Jr.
Pierce, Huey L.
Pierce, Richard J.
Pinkerton, James B., Jr.
Plattis, Michael L.
Poe, James L.
Polgreen, John A., Jr.
Poling, John D.
Pollock, Orthello B., Jr.
Porter, William R., Jr.
Poulton, William L.
Powers, Thomas J.
Prebola, George J.
Press, William A.
Preston, Harvey R., Jr.
Previ, Ronald W.
Price, Robert D.
Pritt, Myron R.
Pruett, Burley F.
Punches, Gerald N.
Quaglino, Joseph, Jr.
Quigley, Gary P.
Quinn, Felix P.
Raack, James D.
Rabideau, Joseph E.
Raleigh, James J., III
Raney, Clair A.
Raskopf, Frederick J., Jr.
Rasmus, Ronald C.
Rastallis, Henry A.
Rauch, Rufus W., Jr.
Raudabaugh, Richard
Rauen, Theodore J.
Ravetta, Richard C.
Ravitz, Robert A.
Raymond, David A.
Reed, James D.
Reimann, Ronald H.
Rener, Richard H.
Rhoades, William W.
Rhodes, Thomas W.
Rich, Charles H., Jr.
Richards, Harry K.
Richardson, Park W.
Riddle, Peter E.
Ridgway, Paul M., Jr.
Riepe, William J.
Riess, Daniel M.
Riess, John K.
Rieves, Ralph A.
Riley, Frederick L.
Riley, Thomas F.
Ripberger, Raymond J.
Ripsom, George A.
Rivera, William H.
Robb, David M., Jr.
Roberts, James E., Jr.
Roberts, John S., Jr.
Roberts, Lawrence W.
Roberts, Rex G.
Robeson, Ross K.
Robinson, David G.
Robinson, Richard H.
Robison, Earl L.
Robson, John H.
Roby, David D.
Rodger, Thomas W.
Rodriguez, Ramon
Roosen, John B.
Rousseau, Charles E.
Ross, Benjamin A.
Rouze, Glen E.
Rowe, John B.
Roy, Robert L.
Rucker, James B., Jr.
Rudnik, James R.
Russell, Kenneth M.
Russo, Ronald A.
Sander, Reginald R.
Sansone, Wallace T.
Sasser, Lyle B.
Saul, Billy H.
Savio, Leo J.
Savrides, Peter S.
Schmitt, John A.
Schmook, James R.
Schnabel, Walter F.
Schnauffer, Patrick M.
Schneider, William J.
Schomer, Peter A.
Schuller, John L., Jr.
Schulz, Roy S.
Schwartz, Ronald L.
Scott, Joseph R.
Scott, Lawrence S.
Seanor, James E.
Seawright, Robert E.
Seeley, Jimmie W.
Segrest, Joe E.
Sergio, Frederick A.
Sheehan, Brian T.
Sheridan, Earl A.
Shigekawa, David G.
Sibold, Robert D.
Sidler, Norman F., Jr.
Siler, Eugene E., Jr.
Sisley, Dale L.
Skaggs, Cecil M., Jr.
Skidmore, Frederick A., III
Skinner, William L.
Slater, Martin I.
Smalley, Reed A.
Smith, Charles J., Jr.
Smith, David W.
Smith, Fred B., Jr.
Smith, Gary N.
Smith, Gerald A.
Smith, Henry H.
Smith, Loren M.
Smith, Peter H.
Smith, Regis R.
Smith, Richard C.
Smith, Robert E.
Smits, Walter I.
Solyts, Robert S.
Southerland, Arnold J.
Spears, Richard E.
Spencer, Edmund B.
Sporre, Charles W.
Spurlock, Burton C., Jr.
Staes, James P.
Stambaugh, Roger V.
Stanley, Howard C.
Starke, Bolling P., Jr.
Stauffer, William H.
Steinkrauss, Joseph C.
Stetson, John B.
Stewart, Johnnie L.
Stites, John, Jr.
Stone, Philip L.
Storer, Arthur E.
Styers, James D.
Sullivan, Paul F.
Sullivan, Patrick H.
Summers, Bruce G.
Sumner, Warren K.
Sutherland, Charles S.
Sweeney, Jeremiah J. J.
Sylvester, Torrey A.
Szabo, Alex J.
Szurpicki, John J.
Taft, Richard P., Jr.
Tait, John H.
Taylor, Malcolm E.
Temanson, Lee E.
Terry, John T.
Terry, Thomas J., Jr.
Tharnish, John L.
Thiele, Gary F.
Thomas, Charles E.
Thomas, David L.
Thomas, Quinn D.
Thompson, David A.
Thorderson, John R.
Thorp, Chester A., Jr.
Thorstad, Harvey L.

Thweatt, Frank M., Jr.
Tickle, Tommy R.
Tidd, James F.
Titus, James R.
Tobin, Daniel J.
Toland, David A.
Toleno, Daniel R.
Tomlinson, Rodney G.
Trammel, James A.
Traut, Arthur J.
Treanor, James A., III
Trierweiler, James R.
Trimble, David C.
Troidle, Thomas N.
Trotter, John H.
Trout, Ben T.
Truty, John T.
Tuma, Albert L., II
Tutt, Billy D.
Tweden, Wallace D.
Twigg, David W.
Twilla, William M., Jr.
Twiss, Ralph B.
Umpleby, Marshall F.
Umstead, Robert L.
Unger, Verner B.
Unser, Philip J.
Valley, Raymond L.
Vanduyn, David L.
Vatter, Robert B.
Vickery, Walter R.
Vikdal, Allen C.
Vohs, Paul A.
Vonfischer, Eduard L., III
Vongarlem, Thomas A.
Wagner, Thomas C.
Wales, William D.
Walker, Lynn W.
Walker, Wallace H.
Walsh, James W.
Walsh, Joseph F., Jr.
Ward, Jack H.
Ward, John W.
Warner, Joseph E.
Warren, John A.
Warrington, Robert G.
Watkins, John R.
Watson, William H., III
Weaver, David K.
Webb, Robert E.
Webber, Kent S.
Weidner, Robert C.
Weingartner, John
Weiske, Harold R.
Weitgenant, Harold R.
Welsh, David M.
West, David P.
Westbrook, John F.
Wetzel, Robert E.
Weyler, Frank W.
Whitaker, David A., Jr.
White, Thomas L., Jr.
Whitehead, Morris R.
Whitmore, John B., Jr.
Wiegand, James J.
Wilber, James D.
Wille, Gerald H.
Williams, James M.
Williams, Robert W.
Willis, Raymond E., Jr.
Wilpitz, Louis W., Jr.
Wilson, Larry K.
Wines, Richard L.
Winstead, Walter G.
Witcher, Murray H., Jr.
Withers, Larry K.
Wolpert, Donald T.
Womack, Lowell A.
Wood, Kenneth L.
Wood, Ralph V. H., Jr.
Wright, Bruce C.
Wright, Charles W. J., Jr.
Wright, Gary D.
Wyatt, David R.
Yeager, Thomas D.
Yossem, Eugene D.
Young, Harold A.
Young, James F.
Young, William K., Jr.
Zannis, Thomas N.
Zavisza, Daniel M.
Zeilinger, Ronald F.
Zorn, Robert M., Jr.
Zumwalt, Robert E.

The following-named officers of the Navy for permanent promotion to the grade of lieutenant commander:

LINE

Aaker, Charles Ervin
Aanerud, Kenneth Dean
Abbate, Robert Philip
Abbott, Richard Leroy
Ables, Wallace J., Jr.
Acord, Jiles Underhill, Jr.
Adair, Hugh Reeves
Adamek, James Rudolph
Adams, Donald Franklin
Adams, Frederick Arthur
Adams, Richard Peerson
Adams, Robert Frederick
Adkerson, Roy Gene
Aeschleman, Vance E., Jr.
Agee, Jerry Bond
Ahlgren, Roy Carl Eric
Ahlstrom, Kenneth Theron
Albers, Robert John
Albers, Steven Conn
Alcon, Charles Arthur
Aldo, Albert Erwin, Jr.
Alexander, Marion Romaine, Jr.
Allen, Glenn R.
Allen, Harry Benjamin
Allen, Kenneth Eugene
Almon, John Sterling
Alton, Cecil Claude
Amann, Lawrence Stephen
Amborn, Lloyd P.
Amerau, Harold Francis, Jr.
Amerault, James Frederick
Amidon, Ronald Edwin
Amos, Robert Edward
Anastasi, George Martin
Andersen, Lewis R.
Andersen, Robert Viggo
Anderson, Allan Walker
Anderson, Cecil Charles
Anderson, Charles Augustus
Anderson, David Graham
Anderson, David Wiley
Anderson, Dennis Dean
Anderson, Gareth Laverne
Anderson, Harold Murray
Anderson, Jimmy Duke
Anderson, Michael John
Anderson, Raymond Eugene
Anderson, Russell Frederick
Anderson, Thomas Patrick
Andrews, Edward Keith
Apple, Lester Arthur
Aquino, James Musni
Argubright, Stephen F., Jr.
Armstrong, William Louis
Arndt, Keith Milford
Arnold, John Paul
Arny, Louis Wayne, III
Arquette, Howard Ralph
Arrison, James Matthew, III
Asbell, Richard Carroll, II
Ashburn, Erich Harry
Ashby, Elton Truxton
Asher, Philip Gillespie, Jr.
Athanson, John Wayne
Atkins, Ronald Wayne
Atwell, Felton Gerard
Austin, Marshall Harlan, Jr.
Authement, Charles Francis
Aven, Joseph Michael
Avers, Richard Paul
Avery, Robert Butner
Ayers, Daniel Owen
Axtman, Darold Steven
Baca, Fidel Leroy
Bachofer, Christian F., II
Bacon, Robert Peter
Bade, Bruce Charles
Bailey, David Laurence
Bailey, James William
Bailey, Jerry Robert
Bailey, Philip Eugene
Bajuk, Gregory Emil
Baker, Garrett Elbert
Baker, Jerry, Jr
Baker, Ronald Boyd
Bakken, Warren Howard
Baland, George Arnold
Ball, Robert Harold
Ball, Robert Lee
Ballard, Michael Hitchcock
Ballback, Leonord John, Jr.
Ballew, William Chadwick
Bankson, Rodney Alan
Bare, James Clement
Barker, Bruce William
Barker, Kenneth Dale
Barker, Michael Don
Barker, Wilbert Blair
Barnes, Thomas Raymond
Barnett, Thomas Joseph
Barrett, James Wilson
Barrett, Raymond Thomas
Barry, David John
Barry, Robert Francis
Barry, Thomas Anthony
Barsosky, John Joseph
Barstad, David Delano
Bartmess, Curtis, Jr.
Barto, Jonney Lynn
Barton, William Bruce
Bauman, James Robert
Bauman, Carl Vincent
Baumhardt, Robert James
Baumstark, James Schilling
Baxley, Warren Candler, Jr.
Baxter, Peter Crockett
Bays, Robert
Beach, Raymond Carl
Beaird, Perry Wayne
Beall, James Mandaville, Jr.
Beam, David Mitchell
Beam, Sherrill Wayne
Beard, Eugene D.
Beard, Garnet Chapman, Jr.
Beard Tommy Hugh
Beardsley, John William
Beauchamp, Robert Lewis
Beaudry, Rodolphe Wildy
Becker, Alan Robert
Becker, Alfred Edward
Beckes, Michael Edward
Beckett, Robert Sampson
Beckham, Kenneth Joseph
Beeler, Carroll R.
Bers, Robert Norman
Beery, James Robert
Beeson, Thomas Franklin
Belanger, Ronald Francis
Bell, Duncan W. J., Jr.
Bell, John Martin
Bell, Robert Alfred
Bell, Robert Stevens
Bell, Russell Anson
Belser, Richard Baker, III
Belyan, Michael Paul
Bendetsen, Brookes McIntosh
Benintende, Bob
Benn, Ross Gary
Bennett, David Cushing
Benson, Ray Wallace
Beougher, Rolland Ben
Berger, John Harry
Berkebile, Donald Freeman
Berley, Leonard Eugene
Bernard, Alan Christian
Berry, William
Berry, William Lee
Bertsch, William Preston, Jr.
Beschta, Gerald Thomas
Beshirs, George Russell
Best, John Albert
Betz, Bradford Byron
Bidlake, Kenneth Morton
Bidwell, Henry Wadsworth
Bieble, Gerald John
Bienlien, Daniel Edward
Biery, George Monroe, II
Billings, Alan J.
Billings, Leland Raymond
Binford, Benjamin James
Bingham, Clyde Leroy
Bingham, Glenn Stevenson
Birch, Barry Stanway
Bird, Noel Thomas
Bird, Ronald Stanley
Bishop, Ronald Floyd
Bitzberger, John Charles
Bixler, Michael Balfour
Bjerke, David Gerhard
Blackmon, Larry W.
Blades, Peter David
Blakely, Frederick Martin
Blakeslee, Theodore Frederick
Blanton, James Cordell
Blaylock, William Fuller, Jr.
Bledsoe, Frankie Carl
Blevins, Luther
Blinn, Norman Roy
Bliss, Larry Dean
Bloch, Paul Stanley
Bloomer, John Godfrey
Blount, Thomas Edward, Jr.
Boatright, Billy Carrol
Bobo, Wilton Cornelius, Jr.
Boehmer, Charles Edward
Boink, Louis Herman, III
Bolger, Robert Kevin
Bollow, George Edward
Boncal, Richard
Bond, Rogers Anthony
Bondi, Robert Carl
Bonewitz, Richard Frederick
Bontrop, Paul Nichols, Jr.
Bookhultz, John Wesley
Booth, Michael Brady
Borchardt, Curtis George
Borchers, Carl Bruce
Borchers, Doyle John, II
Borcik, Paul Robert
Bordy, Michael William
Boren, Norris Henderson
Bormann, Conrad P.
Borsh, Richard Martin, Jr.
Bostic, Wayne Huston
Boston, Glenn John
Bosworth, Robin
Both, Edward Joseph

Bouck, David W.
Boughan, David Alan
Bowden, Peter Klaus
Bower, Ammon William, III
Bowman, Gene Melvin
Bowman, Michael Lee
Boyer, Bruce Alden
Boyle, Robert Scott
Boyter, James Thomas
Bozich, Robert
Bozzelli, Philip Anthony
Bracht, Steven Edward
Brackx, Omer Maurits
Bradbury, Donald Taylor
Bradford, Alan Roger
Bradner, Charles Rawles
Bradt, Douglas James
Brady, Bruce Milo
Brady, Charles Raymond
Brady, James H. R.
Brady, Timothy Sterling
Bragunier, William Edwin
Branco, Robert John
Brandenstein, Daniel Charles
Brannon, Michael Lee
Brant, Robert Leon
Braun, Farrell John
Brearton, Gerald Arthur
Breen, William James, III
Brenner, William Rush, Jr.
Brenton, George Wilbert, III
Brereton, Richard Grant
Bretz, Benjamin Craig
Brewer, Joe Robert
Bright, Charles Norman
Brindel, Glenn Richard
Britain, John M, III
Brittain, Albert Russell, Jr.
Brockley, John Patrick
Broder, William Thomas
Brodt, Roger W.
Brooks, Leon Preston, Jr.
Brooks, William Keith
Brouwer, Daniel Conrad
Brouwer, Frederick Paul, II
Brown, Charles Joseph, III
Brown, David Melton
Brown, Duane Lawrence
Brown, Jeffrey Lynn
Brown, Michael Thomas
Brown, Robert Lee
Brown, Wendell Earl
Browne, Herbert A., Jr., II
Browne, Peter Aidan
Bruckner, James Winston
Brufiat, Arne Bredo
Brugh, Lon Edgar
Bryan, Herbert Francis
Bryant, Leon Cullen
Bryce, William J.
Buchheim, Paul J.
Bucholz, Albert August, Jr.
Bucholz, Marvin John
Buckley, John Thomas
Buckley, Russell Henry, Jr.
Bukowick, Albin Pafford
Bunker, Mark Arnold
Bunker, Michael George
Bunting, Daniel Charles
Burcham, William Richard
Burger, James Lambert
Burgess, Clifford Thomas, Jr.
Burgess, Larry Lee
Burke, James Lawrence
Burke, Richard Leon
Burlingame, Anson H., Jr.
Burman, George Alfred
Burmaster, Charles Lyman
Burns, Richard James
Burrows, Dee Wayne
Burtch, Patric James
Burton, Charles William
Burton, Hurshel Bruce, Jr.
Busch, John Robert
Bush, Gray Albert
Bushong, Robert Lee
Butler, Edward John
Butler, Joseph Malcolm
Butler, Richard Montague
Butler, Thomas Harold
Butterfield, Richard Stanley
Button, Andrew Jerome
Buttram, Robert Henry
Byerly, James Hampton, Jr.
Byerly, Kellie Sylvester
Byers, William Brewster
Byron, John Ladue
Byron, Roger Walter
Cain, William Michael
Calabough, Jerry Simms
Caler, John Earl
Callahan, Gary Wilson
Callahan, Jeffrey Edwin
Callaway, Leigh Lawrence
Callies, Lee Roy
Calloway, Charles Lee
Cameron, John Ross
Campbell, Archibald George
Campbell, David Russell
Campbell, James D.
Campbell, James John
Cannon, Arthur B.
Cannon, Olin Charlie, Jr.
Caplinger, Royce Lee
Carden, Arthur Bruce
Carey, Albert Daniel, Jr.
Carey, David Jay
Carey, James Robert
Carlin, Daniel Stephen
Carlisle, James Allen
Carlson, James Leeroy
Carlton, Raymond M., Jr.
Carolan, James Cummings
Carpenter, Melvin R., III
Carpenter, Robert Alphonsus
Carroll, Charles Cecil
Carroll, David Lee
Carson, William Henry, II
Carter, James Jefferies
Carter, James M.
Carter, Lee Scott
Carter, Major Leonard
Carter, Ronnie Gene
Carter, Stanley Jerome, Jr.
Carty, John Raymond
Carwin, Harold John
Caseman, Jerry Brant
Cashman, David Matthew
Castelano, Kenneth Michael
Casterline, John Braman
Catlin, Carl V.
Catone, Richard Arthur
Cavaluchi, Robert Andrew
Cavanaugh, Francis Patrick
Cebrowski, Arthur Karl
Ceckuth, Richard Edward
Cepak, Robert Joseph
Chagaris, Peter James
Chalfant, Donald Kenneth
Chalkley, Henry George
Chambers, Robert Alvin
Champoux, Robert Louis
Chancellor, Robert Oren
Chandler, James Francis
Charles, James R., Jr.
Chasey, August Authony
Chenault, David Waller, II
Chenery, Robert Lucius
Chernesky, John Joseph, Jr.
Childs, Jack Manning
Chotvacs, Charles Julius
Chrisman, Willard George
Christensen, Charles Leslie
Christensen, Ernest E., Jr.
Christian, Dennis Howard
Christian, George Frederick
Christian, Michael D.
Christiansen, Michael Paul
Christie, Warren Byron, Jr.
Christman, Robert Harvey
Chubb, John Everson, Jr.
Church, Wayne Clifton
Churchwell, Ralph Nero, III
Cinco, Raymond, Jr.
Cipriano, Roberto
Cisek, Peter John
Claassen, Steven Hurley
Clancy, James Patrick
Clark, Dale Veldon
Clark, Donald Bartlett
Clark, Edward, Jr.
Clark, Jack C.
Clark, Jackie Lee
Clark, James Ward
Clark, John William
Clark, Robert Hugh, Jr.
Clark, Ronald Woodrow
Clark, Terrell Irvin
Clark, William Harry
Clark, William Stephen
Clarke, Frederic T., Jr.
Clarke, Lawrence Mason, Jr.
Clay, Henry Leonard, III
Claybrook, Sam
Clemins, Archie Ray
Clesen, Gerard Foster
Cliffton, Donald Wayne
Clime, Robert Henry
Cline, Gary Keith
Cloninger, Arthur Douglas
Clough, Geoffrey Armstrong
Cloward, Richard Stuart
Clyma, Dale Curtis
Coady, Philip James, Jr.
Coats, Michael Loyd
Cobb, Robert Linah
Coburn, Clarence Dowell, Jr.
Coburn, Lewis Laddie
Cockcroft, Thomas D.
Cogswell, John Cleveland, III
Coker, George Thomas
Cole, Bernard David
Cole, Robert S.
Cole, Ronald Arthur
Coleman, Carrol Eugene
Coleman, James Evans
Coleman, John Boddie, Jr.
Coleman, Randy J.
Coleman, William Arnold, Jr.
Colgan, Stephen Gregory
Collier, Arthur Hugh
Collier, James Church
Collins, Alfred Leroy, Jr.
Collins, James Alexander
Collins, John Patrick, Jr.
Collins, Walter Sever
Colvin, Clarence Earl
Colyar, Robert William
Colyer, Thomas James
Combe, Andrew John
Combs, John Wesley
Conant, Edward Harvey
Concannon, Michael J.
Conder, Robert Aubrey
Conjura, John Edward
Conley, William Henry, Jr.
Conner, Bryan Thomas
Conner, Ernie Eugene
Connor, Theodore Patrick
Conrad, Raymond Paul
Cook, Charles Allen, Jr.
Cook, Clarence L.
Cook, Donald Edward, Jr.
Cook, Gary Newton
Cook, James Ray
Cook, John Clark, Jr.
Cook, Martell J.
Cook, Oren Francis
Coonan, John Joseph, Jr.
Cooney, Terence James
Cooper, Samuel Allen, Jr.
Cooper, William Patrick
Cope, Alfred Lovell, Jr.
Corcoran, Joseph Lynn Kevin
Corgnati, Leino Bart, Jr.
Corsette, Richard Bemis
Costello, Terrence W., III
Couch, Dale Myles
Coughlin, Frank Thomas
Counter, James R.
Counts, Jimmie Allen
Covitz, Andrew John
Cowell, Neil
Cox, Norman Otha
Coyle, Michael Thomas
Cragg, Eugene Earl, Jr.
Craig, John Stephen
Craig, Norman Lindsay
Cramer, Charles Rebert
Crane, Stephen Herman
Cranford, John Edwin
Crawford, Frederick Roberts
Creager, Hugh Gunder

Creely, Allan John
Crisafulli, Miguel Joseph
Croll, William Howard
Cronin, Robert Redmond
Crooks, David R.
Cross, Robert Clinton, Jr.
Crossen, William Joseph
Crosskno, Harold Leon
Crowe, Olen
Crowley, William Francis, Jr.
Crumly, William Arthur
Crump, David Allen
Crutchfield, James C., III
Cummings, Ronald Leo
Curland, James William
Curley, Richard Charles
Curran, William Francis, Jr.
Current, Donavon Clark
Currier, Richard Martin
Curtis, Albert Lawrence
Cutchin, Richard Lee
Czech, Theodore Thomas
Dahlvig, Alan Lee
Dailey, William Randolph
Daisley, Richard Avery
Dalager, Neil Robert
Daly, Beverly A.
Daly, Daniel Anthony
Dambekaln, Andris
Dammeyer, George Howard
Damron, John Richard, Jr.
Dangel, John Henry
Daniel, Johnny Hale
Daniels, Gerald Everett
Daniels, John Henry
Danner, Terrence Nye
Dannerth, Richard Carl
Dantone, Joseph John, Jr.
Darrow, Lester Martin
Darsey, Edgar Bruce
Davenport, Wortham David
Davidson, Bruce Ernest
Davidson, Wayne Fred
Davies, William Edgar, Jr.
Davis, Alden Carter
Davis, Aubrey, Jr.
Davis, Dean Dudley
Davis, Dickey Parrish
Davis, George Harrison, Jr.
Davis, George McMillan
Davis, Harold Walker
Davis, Henry Louis
Davis, James Willard, Jr.
Davis, John Edgar, Jr.
Davis, Lee Alfred
Davis, Norman Ewing
Davis, Ralph Richard
Davis, Stephen Brooks, Jr.
Davis, Thomas Anthony
Davis, Thomas Kevin, Jr.
Davison, Charles Alexander
Davison, Charles Alexander
Dawson, Richard Wesley
Day, Charles James
Day, Gerald Walter
Day, James Roby, Jr.
Deaton, James Paul
Debenport, David Rogers
Deboer, James Keith
Decker, Russell Herd, Jr.
Deda, Donald James
Deer, Robert
DeGreef, Donald James
Deitrick, Charles Lewis
Delaney, Kevin Francis
Dell, Julius Bloxhem, Jr.
Delong, Raymond James
Demarse, John Purchase
Demchik, Robert Paul
Denbow, Kenneth Duane
Denham, Denny Jackson
Denlea, Edward Peter
Depew, Robert Charles
Deroco, Alan Preston
Derousie, William Louis
Deserio, Darryl James
Desrochers, Joseph Omer
Destcroix, Lawrence E., Jr.
Dethomas, John Victor
Dettman, Bruce Maxwell
Diaz, Donald Gilbert
Dick, Albert Gano
Dickens, Phillip Wayne
Dickey, Robert Lincoln
Dickson, James William
Dickson, Paul Bevis
Dietzler, Andrew John
Dilley, James Earl
Dirkx, Peter Cornelius
Dirren, Frank Matthew, Jr.
Dittmer, Edward Raymond, Jr.
Dixon, Thomas Earl
Dobbins, William Peyton, Jr.
Dobson, Ralph Paul
Doherty, Hugh Michael
Dolan, Peter James
Dolbec, Richard David
Dolgow, Barry Lee
Donahue, John Cliff, III
Donnelly, John Thomas, Jr.
Donnelly, Michael Patrick
Donovan, Daniel Jeremiah
Dooley, John Patrick
Dopson, Michael Imler
Doran, Joseph Patrick
Doroshenk, Theodore
Dorsi, Robert Anthony
Douglas, Billy Stephen
Douglass, John Allen, Jr.
Dow, John Irvan
Dow, Paul Richard
Dowd, James Lawrence
Dowgwilla, Frank Michael, Jr.
Downey, Robert Vincent
Doyle, Bruce Nelson
Doyle, Dennis Michael
Doyle, Michael William
Draper, Robert Albert
Drennan, Arthur Paul
Driscoll, Thomas John
Drumm, R. David
Drummond, George Lee
Duermeyer, Stephen Paul
Duff, Byron Lynn
Duffy, James Michael
Dumas, James Walter
Dunagan, Jerry Mac
Dunlap, David Bartlett
Dunn, Dale Raymond
Dunn, Donald Bertram
DuPont, Francis William, Jr.
Dur, Philip Alphonse
Durden, John Delano
Durham, Andrew Canton
Durham, Wayne Carlton
Durham, William Rucker
Durr, Donald Gordon
Duskin, George Harley
Dutrow, Samuel Richard, Jr.
Duva, Alfred N., Jr.
Dwinelle, William Alfred
Dyches, Fred Dennis
Dyck, Harry Milton, Jr.
Dye, George Walter, Jr.
Dyer, Donald Alvin
Dyer, Robert Deane
Dykeman, Paul Richard
Dynes, James Henry
Eacott, Richard George
East, Don Charles
Eastman, Robert James, Jr.
Eaton, George Arthur, Jr.
Echlin, Delos E.
Eckard, Palmer Glenn, Jr.
Ecker, Paul William
Eckles, James Warren
Eddingfield, Lawrence E.
Eddy, Rodman Michael
Ede, Terrence Frederick
Edens, Roderick Jefferson, Jr.
Edmiston, James Benjamin
Edwards, Buford Ray
Edwards, Harry Sanford, Jr.
Edwards, James Nathaniel, Jr.
Edwards, Michael Bruce
Eggleston, Larry Glenn
Ehlers, Theodore Jay
Eidenshink, Gerald Michael
Elder, Philip Robert
Eldridge, James Donald, Jr.
Elkins, David Raymond
Elkins, Rodger Neil
Elliott, Shirley Holt
Elliott, Thomas Jene
Ellis, Robert Lee, Jr.
Emerson, David Charles
Ensch, John Clyde
Enterline, Edward Russell
Erickson, William John
Ericson, Walter Alfred
Ernst, Eric Rodholm
Ernster, Glen Herman
Erny, Paul Frank
Erskine, Donald Alexander
Escobar, Frank A., Jr.
Eskridge, Escal L.
Etka, Craig Louis
Evanguelidi, Cyril Gregory
Evans, Charles J.
Evans, Gerald Riendeau
Evans, John Morgan
Evans, Oliver Keith
Eversole, Thomas Young
Ewing, Kent Walker
Faddis, Walter Huston
Fagaley, Donald Clifford
Fagan, Patrick Michael
Fahsl, John James
Fahy, Andrew Wilson
Faller, Theodore Henry
Faltisco, Joseph Edward
Fant, Glenn Ernest, Jr.
Faricy, John Jerome, Jr.
Farnsworth, William A., Jr.
Farr, Leroy Allen
Farrell, Richard Stephen
Farrell, Robert Joseph
Farris, Robert Owen, Jr.
Farrow, Stephen Richard
Fast, Richard Edwin
Faust, Bobby Lynn
Fausz, James Edward
Favaro, Joseph Dominic
Feeser, Henry Roger
Fegan, Robert Joseph, Jr.
Fellows, Richard Hudson
Felton, Lewis Allen
Fenton, Paul Herbert
Ferguson, James Beaty, III
Ferguson, Lawrence Leroy
Ferguson, Robert Lee
Fernandez, Wayne Jacinto
Ferry, Francis Joseph
Fesler, Walter Carl, Jr.
Feuerbacher, Dennis George
Fickenscher, Edward R., III
Fike, Burtis Phenone
Filippi, Richard Anthony
Fillingim, Ronald Louis
Finch, Donald Leslie
Fink, Ralph, III
Finley, Robert Alexander
Finney, James Hardin
Finotti, Donald Gustavo
Finta, Thomas William
Fitch, Patrick Edwin
Fitch, Rex Burnham, Jr.
Fitts, Joel Rea
Fitzgerald, John William H.
Fitzpatrick, Thomas George
Fitzpatrick, William Edward
Fladd, Wirt Ross
Flanagan, William John, Jr.
Flentie, David Lee
Fletcher, Jerry J.
Fletcher, Luther Lawrence, III
Fletcher, Paul Reed
Flint, Charles G.
Flynn, James M.
Flynn, John Patrick
Foard, John Stager, Jr.
Fogerson, Arron Stephen
Folk, Reau Estes, II
Follett, Scott Charles
Folsom, Benjamin Franklin, Jr.
Foltzer, Louis Leonard
Fones, James Milton, Jr.
Foote, Morris Cooper
Forbes, George Thomas
Formo, David Jerome
Forrester, George Steven
Forsberg, Gary Lee
Fortenberry, Bobby Joe

Fortenberry, Henry Charles
Fosina, Andrew Joseph
Fox, Arthur Dale
Fox, James Charles, Jr.
Foy, Clarence Allan, Jr.
Fragomene, Vincent Michael
Fraine, Robert Howard
France, Frederick Michael
Franconeri, James Joseph
Freas, Henry Edward
Freeman, David Lansing
French, Charles Everett
French, Gary Lester
French, Stanley Lee
Frenzel, Joseph William, Jr.
Frenzinger, Thomas Walter, II
Fricke, Harold Jean, Jr.
Friel, David J.
Friese, Laurence Victor
Frigge, William Joseph
Fryer, James Norman
Fuetsch, Carl Turner
Fuge, Douglas Paul
Fujimoto, Toshio
Fulkerson, Grant Dale
Fulton, Rodney Gene
Gabrielson, Dale Ellard
Gage, Carvel Clinton, Jr.
Gail, Carl Frederick, Jr.
Gaither, Ralph Ellis, Jr.
Galbraith, Peter Marshall
Gale, Ernest Frederick, Jr.
Galen, James Frederick, Jr.
Galietta, Albert Frank
Galkin, Kenneth Earl
Gallagher, Tilden Matthews, Jr.
Galler, Joseph Louis
Gamrath, James Carl
Garber, John William, Jr.
Gardiner, Lawrence Edwin
Gardner, Richard Wayne, Jr.
Garrett, Cain, Jr.
Garrett, Philip Trafton
Garuba, Joseph Anthony
Gastar, Stanley Douglas
Gatliffe, Thomas Robert
Gavin, Gerald Robert
Gawne, John Charles
Gay, John Phillip
Gay, William Wilson, III
Gazarek, Michael Joseph
Gebhardt, Laurence Philbert
Geddie, John McPhail, Jr.
Gee, Daryl, Letho
Gee, John Claude
Gehman, Harold Webster, Jr.
Gemmill, John Wiley
Genet, Richard Paul
Genrich, Charles Mainard
George, Paul John
Georgenson, Ronald George
Gerard, Walter J.
Gerber, Joseph A.
Gerber, Raymond
Gerhard, Guy Edward
Gibbs, Maurice Edward
Gibson, Davis R.
Gibson, Elwood Lloyd
Gibson, Richard Allen
Giffin, Eugene Riley
Giffin, Henry Collins, III
Gifford, Corydon Rouse
Gilbert, Gordon Franklin, Jr.
Gildersleeve, Elmer James
Giles, Grover S.
Gill, James Michael
Gillen, Robert Leo
Gillett, John Braxton, Jr.
Gilmartin, John Thomas
Gilmore, Richard Delano
Gionet, Laurence Joseph, Jr.
Girard, Paul Edward
Gist, David Moore
Given, Robert Ole
Gladin, Bennie Ronald
Gladston, Steele
Glaeser, Frederick John
Gleason, David Alan
Glennon, Robert Clifford
Glevy, Daniel Francis
Glover, William Stewart, Jr.
Gnilka, Charles William
Godbehere, Richard Gerald
Goesling, William Hayes
Gomez, John Ferdinand, Jr.
Gonzalez, Pedro
Gonzalez, Rene Eugenio, Jr.
Goodermote, Wayne Keith
Goodin, William Franklin
Goodlett, Wallace Duane
Goodwin, Michael Roy
Goolsby, Richard Edwin
Gordon, Kenneth Elwood, Jr.
Gore, Michael Wayne
Gorell, Frederick Reimer, Jr.
Gosselin, Richard Leon
Gottlieb, William Albert
Graef, Peter John
Graf, Clifford Maxwell, II
Graham, Alan Stevens
Grant, Homer Thomas, Jr.
Grant, Richard
Grant, Richard Francis
Grant, Stephen Irving
Grasser, Philip Farr
Grause, Francis Patrick
Graves, David Michael
Graville, William Neil
Gray, Jimmie Lee
Gray, Ronald Eugene
Greene, Friedel Clarence
Greene, Robert Michael
Greenwell, William Manly
Greeson, Bernard Dandridge
Gregoire, John Albert
Grieve, David James
Griffin, Paul Adolph
Griffith, David Howard
Griggs, Carlton Albert
Grigsby, Jerry Carson
Grillo, Pat Louis
Griswold, Robert Joseph
Grosser, Harold John, Jr.
Grostick, John Larsen
Grubaugh, Gene Calvin
Guenther, Michael Lyle
Gulley, John Howard
Gumm, William Eugene
Gunn, Lee Fredric
Gustafson, Carl Eric
Gustavson, Fred Perry
Gwinn, William Herbert
Habermeyer, Howard W., Jr.
Hack, David Faustin
Haines, William Robert
Haley, Willard J.
Hall, James Otto
Hall, John Preston, Jr.
Hall, Robert Eric, III
Hall, Thomas Renwick, Jr.
Hallahan, Edward Thomas, Jr.
Halligan, James Reginald
Halyburton, Porter Alexander
Hamill, Ernest Eugene
Hamilton, Gerald Kent
Hamilton, John D. M., IV
Hamilton, Stephen Howard
Hamly, Richard Dana
Hamma, John Francis
Hammond, Thomas Jerry
Hancock, William Charles
Hand, James Michael
Hanke, Robert Richard
Hannam, Donald Charles
Hannum, Edmund, Pennell, Jr.
Hanson, Dale Eugene
Hanson, Donald Arthur
Harder, Ronald Erwin
Harding, Ronald William
Hardt, Lorry Michael
Hardy, Richard Wayne
Hargis, Richard Anthony
Harlan, Richard Lavergne
Harmon, Hollis William
Harper, Joseph Cerue
Harper, Stephen K.
Harreld, Roger Allen
Harrell, Joe Wayne
Harrington, Thomas Edward
Harris, Arthur Charles, III
Harris, Floyd Stevenson
Harris, Michael Jon
Harris, William Ronald
Harrison, Cecil Alvin
Harrison, Gilbert Arthur
Harrison, James Douglas
Harrison, Robert Wesley
Harrison, Russell W., Jr.
Hart, Bruce Harold
Hartinger, Ronnie Joe
Hartkopf, Kenneth Walter
Hartman, William Ray
Hartung, Ralph D.
Hartzell, Ray Kaufman M.
Hasenbauer, Richard David
Hassett, Daniel Francis
Hassler, Bobby Vernon
Hastings, Steven Chad
Hatch, Wayne Edward
Hatfield, Stephen Harry
Hatleberg, Clarence James
Hausmann, Gerald Leo
Haveman, Jason Norman
Hawkins, Thomas Lynn
Hawley, John A., III
Hawley, Thomas Peck, Jr.
Hawver, Jack Hunter, Jr.
Hayden, William Buford
Hayes, Michael Ney
Hayes, William S.
Healy, John Francis, Jr.
Heames, Richard David
Heath, Charles Maples, Jr.
Heckler, Francis Daniel, Jr.
Heffernan, Richard Francis
Heid, Billy Lee
Heinecke, Walter Richard
Hekel, Ulis Dean
Helm, Larison F.
Helt, James Franklin
Hemmerle, George Edouard
Henderson, Harry Gene
Henry, Gordon A.
Hepner, Bruce William
Herbster, Gerald Fredrick
Herranen, Peter Andres
Herrick, Stephen E.
Hershey, David G.
Hertzler, Charles Miller
Hess, Gerald R.
Heufelder, John Richard
Hewitt, George Michael
Heyer, Robert Ward
Hibler, Ross Gordon
Rickey, Robert Philip
Hickman, Donald Patrick
Hickman, Gerald Charles
Hickman, Harold William, Jr.
Hicks, Norman Keith
Hiestand, Frank Hilty
Higdon, Kenneth Hill
Higgins, Edward Joseph, II
Higgins, Edward P.
Hildebrandt, John L., III
Hilgeman, John Lawrence
Hill, Daniel Davies
Hill Theodore Drummond, Jr.
Hillier, Donald Rand
Hilton, Jay Ingrisch
Hilzer, Ralph Conrad, Jr.
*Hinds, Howard Huntington, Jr.
Hinds, James Judson
Hines, Ronald Dewitt
Hinesley, Harold H., Jr.
Hinkel, Harold James
Hiss, Roger Anthony
Hitchcock, Terrence Walton
Hodgdon, Walter Graham
Hodgens, Timothy Holdridge
Hoepfner, Karl Thomas
Hoferkamp, Richard Allan, Sr.
Hofstetter, Lawrence Lynn
Hofstetter, Robert Emil
Hogan, Jerry Franks
Hogan, John Benedict, Jr.
Hoggard, John Hyde
Holbert, Warren Lee
Holbert, William Harold
Hollarn, James William
Hollender, Edmund Victor

Holliday, Harley Junior
Hollinger, Merlin Bruce
Holmes, Robert Leo
Holmes, Thomas Eugene
Honey, Lowell Ray, Jr.
Hood, John Timothy
Hood, William T. T., Jr.
Hooper, Charles Noble
Hoover, Charles Byron, Jr.
Hoover, Joseph Giles
Hoover, Philip Efird
Hope, Robert Edward
Hopewell, Robert S.
Hopkins, James Robert
Hopkins, Ralph Wendell, Jr.
Hopson, Thomas Edward
Horner, Ronald Dean
Hornick, James Freeman
Horst, Rudolph Albert
Horton, Douglas James
Horton, Forrest Austin
Horvatic, Thomas Lawrence
Hoskins, Samuel Britton
Hough, Howard Arthur
Hough, James Robert
House, William Louie
Houser, George Clifford, Jr.
Howard, Hugh Wyman, Jr.
Howe, Michael Edward
Howell, Stephen Hunt
Howze, Odis William, Jr.
Hubble, Hilbert Roland
Huber, Dale Richard
Huber, Donald Henry
Hudiburgh, Charles William
Hudnor, Francis Lee, III
Hudson, Lyndon Ray
Huff, Gerald Lewis, Jr.
Huffines, Charles Wayne
Huffman, Kenneth Alan
Hughes, Gary Michael
Hughes, Ivan Estes
Hull, Bradley Wayne
Humphreys, Thomas Blake
Humphreys, Wayne Ives
Hunt, Clark Harvey
Hunt, John West
Hunt, William Baile
Hunter, Lewis Thomas
Hunter, Robert Stanley
Hurley, George Edward, Jr.
Husak, Stephen Bruce
Hutmaker, Matthew Aaron, Jr.
Hutnik, Joseph Michael
Hutt, Gordon William
Huxhold, George Emery
Hyde, Joseph Goree
Hyland, William Walker, Jr.
Hynes, Robert Frank
Irvin, Clarence Frank
Isaacs, Phillip Warren
Jaccard, Michael Dandridge
Jackson, Lesley Jerry
Jackson, Richard Alan
Jacob, Frank Edward
Jacob, Glenn R.
Jacobi, Leslie Martin
Jacobs, Brent W.
Jamerson, Clifford Larry
Jantz, Michael William
Janus, F. James
Jardine, David Andrew
Jarecki, Stephen Allen
Jeffers, Barry N.
Jeffries, Clifford Leroy, Jr.
Jenkins, James Alan
Jenkins, Neal Cornell
Jensen, Michael George
Jessup, Frederick Don
Joa, William Ray
Jogan, Stephen
Johnson, Alan Keith
Johnson, Carlton Roy
Johnson, Charles Harold
Johnson, David Allen
Johnson, Elton Wendell
Johnson, Gary L.
Johnson, Hartle Eric
Johnson, Kenneth G.
Johnson, Kenneth Humphrey
Johnson, Laurence Everett
Johnson, Leonard E., Jr.
Johnson, Myron Theodore, Jr.
Johnson, Norman Martin
Johnson, Paul Kenneth
Johnson, Robert Frederick
Johnson, Robert Lee, Jr.
Johnson, Thomas Randall
Johnston, Jasper Brinson, Jr.
Johnston, Raymond Albert
Johnston, Thomas McCorvey
Jolley, Ronald Scott
Jones, Charles William
Jones, Charles Reed, Jr.
Jones, David Allan
Jones, Dennis Alan
Jones, Edward Allen
Jones, James Voland
Jones, Jerry L.
Jones, Raymond David
Jones, Richard Thomas
Jones, Robert Drake
Jones, Robert Russell
Jones, Stephen Howe
Jordan, David L.
Joslin, Roland Wayne
Joyce, Robert H.
Judd, Raymond Joseph
Juhl, Clarence Henry
Jukoski, Michael Joseph
Julian, James Allen
Juroff, Kurt Thomas
Kaeser, Karl Heinz
Kafka, William Joseph
Kalal, Lindsey Edward
Kalin, David Michael
Kallsen, Bruce Donald
Kalyn, Richard Adrian
Kampf, Michael, III
Kamrath, Robert Allan
Kanning, David Warren
Karl, George John, III
Karlisch, Manfred
Kastel, Bruce Allen
Katz, Douglas Jeffrey
Katz, Richard Gordon
Kaufman, Edwin Joseph
Kaye, Barry Nelson
Kearley, John Albert
Kearns, Walter Edward
Keenan, Richard Calvert, Jr.
Keiser, Ray Robert Jr.
Keith, Roy Edward
Keller, George Joseph Jr.
Keller, James Henry
Keller, Paul Parker
Kelley, John H.
Kelley, Kenneth William
Kellner, Gary Earl
Kelly, George William
Kelly, Robert Tyrone
Kelsey, John Paul
Kemmerer, Frank Edward
Kemple, Morris Michael Jr.
Kenneally, Thomas Daniel
Kennedy, James Conway Jr.
Kennedy, William Henry
Kenslow, Michael Jay
Kent, George Alan
Kenton, Bruce Holladay
Kenyon, Morton William
Kerley, Thomas Owen
Kerry, William Schouman
Kessmann, Richard D.
Key, Charles T.
Kibble, Anthony John
Kientzler, Phillip A.
Kight, Ben
Killam, Kent Hannaford
Killion, Robert Allan
King, Carl
King, Edward Francis
King, Francis Edward
King, Harold Warren
King, John David
King, John Elmer, III
King, Larry Lee
King, Leon Fleming Jr.
Kinlaw, Howard McConneral Jr.
Kipp, John Lowell
Kirchhoff, Charles William
Kirk, Kerry Elvin
Kirkland, Moritz Earl
Kirkland, Richard Geoffrey
Kirkpatrick, Howard David
Kirkwood, Kenneth Melvin
Klaas, Jack Ulrich
Kleemann, Henry Martin
Klein, George Adam, III
Klein, John Frederick
Klein, Karl Manly, Jr.
Klemm, Richard Eller
Klopfenstein, Timothy David
Kmetz, Stephen George
Kodalen, Kenneth Cameron
Koepke, William Reimers
Kohler, John Edward, Jr.
Kohler, Robert Wilmer
Kohn, William Houseal
Koiro, Ralph Nicholas
Kolata, John Dennis
Kolipano, Dante Anthranich
Konczey, Alexander C.
Konetzni, Albert Henry, Jr.
Kosakoski, Robert Anthony
Kost, Lawrence Michael
Kott, James Richard
Kozain, William Paul
Kozoyed, Lawrence William
Kraft, James Clinton
Kraft, James Nicholas
Kramar, Joel David
Kramer, Wesley Marvin
Krapohl, Richard Francis
Krasniewski, Stanley Edward
Kratz, Allen Z.
Krause, Lawrence Charles
Krieger, David Harry
Krieger, Dennis Harold
Kristensen, Edward Kristian
Krom, Richard William
Krueger, Roger William
Kruse, Harry Rudolph
Kruszona, Raymond Robert
Kuehn, Ronald Edwin
Kuhn, Frank Rudolf
Kukulski, Dennis Reginald
Lacher, Richard Gray
Lacroix, Francis William
Ladek, Kenneth Eugene
Lagomarsino, Thomas S.
Lagregs, Jay Gary
Laib, Ronald John
Laible, Norman Wayne
Laing, James William
Lamb, James Bernard, Jr.
Lambert, John Frederick
Lamey, James Hazzard
Lamoureux, George Joseph
Landon, John Larue
Landry, Robert
Landwehr, Edwin J.
Lane, Thomas Francis
Lansford, Martin Carl
Lapierre, Terrence Paul
Laprevotte, William
Larguier, Isidore, Jr.
Larrabee, Stephen Harris, Jr.
Larsen, Kenneth James
Larson, Gary Lee
Larson, Matthew Donald
Lashley, Lewis
Laskey, Charles E.
Lassen, Clyde Everett
Lassiter, Ronald Lawrence
Latendresse, Thomas B.
Lauder, Robert James
Lauer, Joseph James
Laughlin, Gary Reed
Lautrup, Robert William
Lavarre, Claude Andrews, Jr.
Laverty, William Kenneth
Law, Gordon H.
Law, James Willard
Lawler, Curry Montgomery, Jr.
Lawless, William Claude
Lawrence, Walter Berry
Lawrence, William Robert
Lebaron, George Rohmer, Jr.
Lecompte, Walter Herrell, Jr.

Lecours, Thomas Edward
Ledbetter, Douglas Eugene
Lee, Howard Frank
Lee, Jimmy Mcarthur
Lee, John Douglas
Lee, Kenneth Arthur
LeFavour, David Anthony
Lehman, Harry
Lehmann, Charles Edward
Lemke, Anthony Michael
Lentz, Frederick Charles, Jr.
Leo, Don Garrett
Leon, Kenneth Francis
Leonard, William Douglas
Leone, Robert Wayne
Leonhardt, Richard John
Lepage, Roger Henry
Lessard, Norman Raymond
Levi, Gordon H.
Levien, Henry A.
Levin, Kenneth
Levin, Sidney M.
Lewandowski, Henry Michael
Lewis, Earl Gardner, Jr.
Lewis, Leland Grant
Lewis, Ronald Bruce
Lewis, Ronald Patterson
Lherault, David John
Libbey, Grey Dennison
Libbey, Miles Augustus, III
Liechty, Kenneth Raymond
Liedel, George Anthony
Liemandt, Michael Jerome
Lilly, David Edmund
Lindt, Jimmie Lee
Linz, Edwin Raymond
Lipscomb, Warren Neilson, Jr.
Lischke, Erwin Josef, Jr.
Listol, Lavern Duwane
Litrenta, Peter Louis
Litvin, Frederick Daugherty
Livermore, Leroy Walter
Livingston, Douglas Henry
Lockard, John Allen
Lockard, Martin Edward
Lockhart, Albert Lewis
Lockwood, Ernest Reese
Lockwood, Wayne Edward
Loconte, Salvatore John
Logan, Royal Hampton, Jr.
Long, Edward Charles, III
Long, Gary Lamour
Long, John Andrew
Long, Laurence Graves
Longcore, Duane Maclyn
Longeway, Kenneth L., Jr.
Longshaw, Jeffrey Scott
Lonnon, Lawrence Walter
Loosbrock, Thomas Lee
Lopez, Teodoro Granillo
Lopez, Thomas Joseph
Lortscher, David John
Losure, Edward Ronald, Jr.
Lothrop, Peter Scott
Loucks, Steven Jay
Lough, Dennis Elliot
Loughmiller, James Michael
Louk, John David
Louy, Michael Stephen
Love, Buddy Alfred
Loveland, Richard Stroud
Lowe, Julian R.
Lowell, Bobbie Ray
Lubking, John Frederick, Jr.
Luce, Charles Marlin, Jr.
Luck, David Lee
Ludlow, Ronald Gene
Ludwig, Carl Levi
Ludwig, John Elmer, III
Luecke, John Michael
Luksich, John William
Lull, Thomas Elwood
Lundberg, Marshall Bertram
Lundstrom, Robert A.
Lupton, William Lloydd
Lutz, Frederick Ray
Lyall, Gerald James
Lyford, George, Jr.
Lyman, Melville Henry, III
Lynch, Philip Nichols
Lynch, Robert Burgess
Lyons, Richard Leo
MacDonald, Hugh H., II
MacDonald, James Ronald
MacFadyen, Bruce Alan
Mackey, William Chambers, III
MacMichael, John Lee
Madden, Lynn Merle
Madigan, Paul James
Madison, William Ross
Magalis, Richard Ludwell
Magnus, Royal Stapleton
Mahood, James Norton
Mairs, Lee Stafford
Maixner, Harold Vincent, Jr.
Major, William Earl, II
Malo, John Allen
Maloit, Robert James, Jr.
Manko, Michael Bradley
Manley, Jerry Bell
Manlove, Donald N.
Mann, Charles Edward
Manning, Amon Wade, Jr.
Manning, John Francis, Jr.
Marcely, James Abert
Marciniak, Walter, Jr.
Marcinko, Richard
Margolis, Sheldon Lee
Markowicz, John Charles
Marlowe, Gilbert Murray
Marsden, Richard Alan
Marshall, David Joe
Marshall, Richard Robin
Marshall, Rolf
Martin, James Harold
Martin, Jerome Lawrence
Martin, John Leslie
Martin, Kenneth Mark
Martin, Ronald Edmund
Martin, Theodore Joseph
Martinez, Carlos Manuel
Marymont, John Allen
Maslowski, James Irwin
Massey, Frederick Thomas
Masten, Robert L.
Matchett, Charles William
Matheny, David P.
Matson, Howard Lynn
Matthaei, Raymond Eugene
Matthews, John Edward
Matton, William George, III
Mattson, James Lee
Matyas, Carl Edward
Maugeri, Peter James
Mauney, Louie Alton
Maxwell, David James
May, Douglas Edward
Mayfield, George A.
Mayfield, William Terrell
Mayhew, William John
Mazach, John James
McAfee, Rudolph
McAlexander, Elroy Allen
McBurnett, Richard Lee
McCann, Richard Glenn
McCarthy, Richard Joseph
McClelland, Thomas Lee
McClure, Melvin Maury
McConagha, David Leigh
McConkey, Robert Franklin
McCord, Dennis Marchant
McCormack, James Elvin
McCoy, Francis M., Jr.
McCoy, Norman Kitchens, Jr.
McCreary, Richard Allan
McCrory, Seaborn M., III
McCutchen, Frank Kelly, Jr.
McDanel, Brinley Kent
McDaniel, Charles Harold
McDaniel, Howard Ray
McDaniel, Ronald Aubrey
McDaniel, Ted Owen
McDermaid, Steven William
McDermott, Michael James, III
McDevitt, James Joseph, Jr.
McDonnell, Thomas Edward
McDowell, Donald John
McDowell, Gary Allison
McFarland, Robert Stephen
McFeely, Thomas Edward
McGaraghan, Michael John
McGarity, William Dudley, Jr.
McGeorge, Glenwood William
McGhee, Barry Lewis
McGinn, Dennis Vincent
McGivaren, John Michael, Jr.
McGlothlin, Larry Wyman
McGonagle, Leo Edward
McGrath, Frank Kossler
McGruther, Kenneth Ralph
McGuire, Jeremiah James
McHenry, Wendell Carlton, Jr.
McInnis, Louis Carlton, Jr.
McKelvain, Burrel Ray
McKenzie, Jerry Allen
McKinley, David Howard
McKinley, John C.
McKinney, John Wayne
McKinney, Michael Patrick
McLeod, Robert Stirling
McMillan, Robert Hugh
McMinn, John Finley
McMullin, Lynn Darnell
McMunn, David James, Jr.
McRae, Charles Robert
McSwain, George Palmer, Jr.
McWhirter, Michael Reed
Meck, Norman Clare
Mecleary, Read Blaine
Mehard, William James, Jr.
Melanson, Alfred Joseph, Jr.
Melecosky, Timothy Stanley
Mellin, William Francis, Jr.
Menard, Gerald Michael
Meneeley, William Thomas
Menikheim, Jerry Earl
Mennuti, Timothy Mark
Merchant, Michael Gordon
Merlino, Emidio Joseph
Merrill, Grant Blackwell
Merritts, Michael Henry
Meserve, John Shackford, II
Meserve, Theodore Joseph
Messman, Harold Eugene
Metzger, William John, Jr.
Meyer, Herman Joseph
Meyer, James Roger
Meyer, John Ferrandello
Michaels, Gregory A.
Michele, Dennis Allen
Michelini, Raymond Theodore
Michna, Kenneth R.
Mickelson, Paul Fredrick
Midgard, John Danner
Mielnik, Michael Joseph
Mies, Richard Willard
Miess, Samuel Allan
Milam, Lonzo Oliver
Miles, Kenneth Kinard
Miley, Frank A.
Milioti, Louis David, Jr.
Millard, August Vonborn, Jr.
Miller, Burton Hugh, Jr.
Miller, Calvin George
Miller, Charles Robert, III
Miller, David
Miller, Dennie Lee
Miller, Donald Charles
Miller, Gary Raymond
Miller, Harry James, Jr.
Miller, Herman Morris
Miller, Lawrence Everett, Jr.
Miller, Luke Horrell, Jr.
Miller, Richard Gillette
Millis, Archibald Edward, Jr.
Mills, Clifford Childers
Mills, Michael John
Millward, John Emery
Milner, Scott Fullerton
Minderlein, James Lloyd
Miner, John Odgers, Jr.
Minnich, Richard Willis, Jr.
Mitchell, Charles Scott, IV
Mitchell, George Franklin
Mitchell, John Bullard, Jr.
Mitchell, John Thomas, Jr.
Mitchell, Thomas Arthur
Mitchell, Thomas R., III
Mitchell, William Henry, Jr.
Mitchell, William Ray
Mittell, John Evans
Mixner, Frank Lewis
Mladineo, Stephen Victor

Moffat, John Wieber
Moffett, Gordon Niell
Mohns, Karl Frederick
Molnar, David Louis
Moloney, Robert William, Jr.
Mondul, Steven Michael
Monell, Gilbert Finley, Jr.
Moni, Wayne John
Moninger, Edward George, Jr.
Montgomery, David James
Moore, Charles Leighton, III
Moore, Edward, Jr.
Moore, Edwin Terry
Moore, George Daniel
Moore, John Albert
Moore, John Charles
Moore, Randall Jack
Moore, Richard Lee
Moore, Robert Brevard, II
Moore, Thomas Stephen
Moored, Allen Wesley
Moosally, Fred Peter, Jr.
Mordhorst, Rawson Boyd
Morell, Ronald William
Morford, James Richard, III
Morgan, Donald Leroy
Morgan, Edward Lee
Morgan, Jerry Robin
Morgan, John Henry, II
Morgan, Thomas Edmund
Morgen, Marty Paul
Morgenfeld, Thomas Albert
Morris, James Earl
Morris, James Howell
Morris, Ricky King
Morris, Roy Anthony, Jr.
Morrison, Richard Martin
Morrissey, Thomas Kevin
Morrow, Emil David
Moseley, Thomas James, Jr.
Moser, Curtis Clayton
Moser, Ronald Bryant
Mosher, Richard Lee
Moshgat, Jack Wilbur
Mowbray, James Francis
Moyer, Clyde Toone, III
Mueller, James Walter
Muller, George John
Mulligan, William James, Jr.
Mullin, Leo George, Jr.
Mullowney, Penn Evans, Jr.
Munro, Richard Pulliam, Jr.
Murdock, Walter Edmond
Murkland, Richard Grant
Murphy, Andrew Joseph
Murphy, Charles Robert, Jr.
Murphy, Francis Joseph, Jr.
Murphy, Lawrence T.
Murphy, Richard Lawrence
Murphy, Thomas Ernest
Murray, Alan Adair
Murray, Robert Louis
Musitano, John Raymond
Muskovac, John Joseph, Jr.
Mutty, John Edwin
Myers, Kenneth Randall
Myers, Richard Timothy
Myers, Ronald Wayne
Myrick, James Albert
Myron, Terry James
Najarian, Moses Thomas
Naro, Edward Louis
Nash, Arthur Raymond
Nash, John Thornton
Navone, Peter Francis
Neal, David Lewis
Neal, Jerome Birt
Neely, Eugene Garland, III
Negin, Jerrold Jay
Nelsen, Lynn Howard
Nelson, Arthur William, III
Nelson, Barron Craig
Nelson, Bruce Emerson
Nelson, Jerome George Samner
Nelson, Lauren Ernest
Nelson, Paul Lawrence
Nelson, Thomas Schewe
Nelson, Thomas Swan
Nemcosky, Martin Joseph, Jr.
Nester, Cletis Maynard
Neumann, Dennis Ervin
Newby, Lewis Raymond
Newell, Robert Bruce, Jr.
Newlon, Arthur William, Jr.
Newman, Martin Harvey
Newton, David Lee
Nichols, Aubrey Allen
Nicholson, Donald Lee
Nicholson, Edwin Parmelee
Nicholson, Michael Jeffrey
Nickel, Hilary J.
Nickelsburg, Michael
Niemeyer, Louis Timothy
Noce, Robert Stephen
Nolan, David S.
Norcross, William Griffin
Nordeen, Michael Brent
Nordstrom, Louis William, Jr.
Norman, Robert James, Jr.
Norr, Herbert Eric
Norris, Lewis Harold
Norton, James Larry
Norwood, Richard Leon
Novitzki, James Edward
Nuernberger, John Allan
Nundahl, Gerhard Alvin
Nute, Charles Carter
Nutwell, Robert Michael
Oatway, William Hanlon, III
Obar, Michael Wayne
O'Brien, Jack William
O'Brien, John Grant
O'Brien, Peter Anthony
O'Brien, Robert James
O'Connor, James George, Jr.
O'Connor, Paul Patrick
O'Connor, Peter Edward
O'Connor, Thomas Robert
Odegaard, Richard Erling
Odell, William Howard
Odle, Billy Fay
O'Donnell, Robert
Oehlenschlager, John Gary
Offutt, James Hucorn, III
Offutt, Randall Eugene
Ohlander, Ronald Bert
Oien, Harley Martin
Oldson, Dennis Randolph
Oliver, Daniel Trantham
Oliver, Michael Frederick
Olsen, Dieter Heinz
Olson, Harold Muscho, Jr.
Olson, Jack Leland
Olwin, James Lee
O'Neill, David Lynn
Onorato, James Raymond
Orlosky, Robert Andrew
Orr, William Stewart, Jr.
Osier, Charles Joseph
Ostertag, James Joseph
Oudekerk, Milford Merwin
Owen, Harry Clinton, III
Pacek, Robert Dennis
Padgett, John Elliott
Padgett, Norman Ray
Page, Bruce Dean
Paige, Gordon C.
Palm, Danny James
Palmer, Joseph Alouyous, Jr.
Pannunzio, Thomas William
Parish, Roger David
Park, Carl Sheldon, Jr.
Parker, Brance James
Parker, Richard Ernest
Parkinson, Keith Lee
Parkinson, Robert
Parks, Jerry Millard
Parlette, Richard Taylor
Parnell, Allan Donald
Parodi, Richard Steven
Paron, John Richard
Parrett, Gaylord Swayne, Jr.
Parrish, Richard D.
Parry, David Jon
Parry, Thomas Leighton, Jr.
Parten, Gary Lee
Paschall, William Danridge
Pate, David Brantley
Pate, James W., Jr.
Patrick, Mark Sailer
Patterson, James Wheeler
Patton, Bob Riley, Jr.
Paul, Gerald Everett
Paulsen, William Gary
Paust, John Michael
Pawlas, Robert Wayne
Payne, Charles Simmons
Payton, James Eugene
Pearsall, Richard E.
Pearson, Nils Alexander S.
Pearson, Russell Glenn, Jr.
Pearson, Taylor Peter
Pelaez, Marc Yve Eugenio
Pelton, Ronald Lynn
Pennington, Arthur James
Pennington, Larry D.
Perine, Philip Condit
Perkins, Henry Grady, Jr.
Perkins, James Blenn, III
Pernini, James Kanellos
Perron, Robert Arthur
Perry, Harold Eugene
Perry, Rightly Ralph
Perry, Wilburn Robert, Jr.
Peschka, Jerome Aloysius, Jr.
Pessoney, John Thomas
Petersen, Richard James
Peterson, Brent Lynn
Peterson, Charles Edward
Peterson, Eric Laurence
Peterson, Lawrence
Peterson, Michael Curtis
Peterson, Richard Franklin
Peterson, Richard Sprague
Petre, Preston Olivier
Petrovic, William Kirk
Pewett, Robert Haywood
Pfaff, George Leland
Pfister, Stephen Joseph
Phillips, Gary Quinten
Phillips, William Standish
Piatt, Cummings William
Picotte, Leonard Francis
Pierce, David Irving
Pierce, Peter Wood
Pierson, Bruce Kenneth
Pignotti, Dennis Alexander
Pike, Dennis Stanley
Pilling, Donald Lee
Pine, Donald William
Pinkston, Larry Michael
Pirnie, Morgan Scott
Pitman, Edgar L.
Pivonka, Leo Michael
Phelan, Richard Harris
Platt, David Van
Plis, Kenneth Jerome
Ploof, Elden Louis, Jr.
Plott, Barry Merrill
Plum, Jerry Earl
Plunkett, Garry Ray
Plunkett, John Russell
Polk, James Stanley
Pollock, John Corse, III
Polsenski, Martin Joseph, Jr.
Pool, Willard Owen, Jr.
Porch, Stephen L.
Porterfield, James Harold, Jr.
Potts, Ronald Lee
Powell, Orrin Bert
Powell, Robert Richard
Powers, Danny Jay
Powers, Robert Lawrence
Prather, Richard Fay
Pratt, Edmund Lee, Jr.
Previty, William Harry
Price, Harry Jon
Price, Joseph Maurice
Price, Thomas Davis, Jr.
Prickett, Frederick G., Jr.
Priest, Edgar Dolan, Jr.
Probst, Lawrence Everett
Probus, Robert Thomas
Prueher, Joseph Wilson
Pruitt, James Griffin
Prydybasz, Andrew Michael, Jr.
Puccini, Donald Emil
Puffer, James Whitney
Pullen, James Robert
Pulver, William Donald
Purdy, Robert Franklin, Jr.
Purrington, Frederick R.
Pursel, Thomas Moyer

Quanbeck, Brian Richard
Quinn, Donald Anthony
Quinn, Jeffrey
Quist, Alfred Benson
Rabine, Virgil Eugene
Radigan, Matthew James
Raffetto, David James
Railsback, Donald Charles
Rainey, Daniel Lawrence, Jr.
Rainey, Hugh Thomas
Rajaniemi, Charles Hugo
Ramos, Frank Sebastian
Ramsdell, Steven U.
Ramsey, Gerald Frank
Ramsey, William Jasper
Ramskill, Clayton Robert
Randall, Jeffrey Wayne
Randall, Richard Francis
Rantschler, Robert Dale
Rasmussen, Ernie Loris
Ratzlaff, Richard R.
Rauch, Kenneth Norbert
Ray, Dennis Edward
Reason, Joseph Paul
Reckner, James Richard
Redd, John Scott
Redden, John Andrew
Reddoch, Russell
Redus, William Clyde
Reed, Phillip Lance
Refo, Carter Beaumont
Reid, John Mark, Jr.
Reidelberger, William Henry
Reighley, Robert William
Reilly, Michael Joseph
Reiniger, Peter David
Rejda, Dennis Paul
Rempt, Rodney Peter
Renager, Burton Whitmon, Jr.
Renk, Jeffrey Sheridan
Reser, Gerald Harrison, Jr.
Reumann, Richard Edward
Reuthinger, Richard C., Jr.
Reynolds, Craig Lewis
Rezeau, Gary Lance
Rhode, John R.
Rhodes, Donald Ray
Rhodes, Gerry Baxter
Richards, Francis Gerald
Ricci, Enrico Angelo
Rice, Charles Donald
Rice, Ervin Edward
Rice, Paul Donavon
Rice, Peter Adolph
Richards, Francis Gerald
Richardson, Clarence Lee
Richardson, Larry Charles
Riddick, George Thomas, Jr.
Riffle, Nathan Lucern
Riley, Robert Handley
Riley, Stephen George, Jr.
Rinehart, Virgil Wright, Jr.
Rinker, Robert Evans
Riordan, Francis Peter
Risseeuw, Hugh Josias
Ritchey, Glenn Wendell, Jr.
Ritzman, William Floyd
Roach, Charles Alan
Robbins, Richard James
Roberts, Joel Herbert
Roberts, William Ray, Jr.
Robertshaw, Donald George
Robertson, Charles Lowry
Robidoux, Richard Ronald
Robinson, Louis Norman
Robinson, Stuart Newell
Robinson, William Burton
Robson, Clifford Pierce
Rock, Peter Frederick
Rodrick, Peter Thomas
Rogers, Clyde William
Rogers, Howard William
Rogers, James William
Rogers, Kevin George
Rogers, Paul Frederick
Rogers, Paul Harry, Jr.
Rogers, Will Chapel, III
Roletter, George Joseph, Jr.
Ronan, Lawrence Edward
Rooney, James William
Roorbach, James Arthur, II
Rose, Kenneth Ray
Rosselle, William Trevett
Roth, Patrick Henry
Rountree, John McKinley, Jr.
Rouse, James Richard
Roy, James Codori
Rozelle, Edward Clair
Rubeck, James Thomas
Rucker, Alexander Cauthorn
Rudloff, Stephen Anthony
Rudolf, Chester Davis, III
Rugolo, Ralph Ignatius
Rule, William Martz
Rumbley, Daniel Lee
Rummler, David Clark
Runberg, John Eynar, Jr.
Runyon, William Ellis
Rushing, John Michael
Russell, David Leroy
Russell, Hazen C.
Russell, Jay Burton
Ryder, Dan Herold
Ryman, Garry John
Rypka, Allan Edward
Sack, Brian Philip
Sadamoto, Theodore Kanji
Sadler, Clint Densmore
Sadler, John Clinton
Sadler, Lester Hardy
Saenz, Roland Ashley
Safley, Gordon Wayne
Saft, Burton Manly
Sailes, Frank Joseph
Sale, Charles Latane, Jr.
Salonen, John Olof
Samara, George Bitting
Samek, Dan Webster, III
Sanborn, Philip Myron
Sandberg, Nils Stephen
Sandway, Karl Martin
Sanford, Richard Martin
Sapp, Charles Nim, Jr.
Sargent, William Pierce
Sartoris, Joel Ross
Satrapa, Joseph Frank
Saul, Carlton Wayne
Saul, Joe Michael
Saulnier, Steven Craig
Savage, Eugene Maurice
Sawatzky, Jerry Dean
Sawyer, Ivan Ernest
Saylor, William Harry
Scango, Patsy Donald
Scarborough, Oscar D., III
Scardigno, Peter Francis
Scearce, George Edward
Schaar, Brian Warren
Schalde, John Arthur
Scheider, Sam M.
Scherzinger, Victor Lee
Schindler, Charles Richard
Schineller, Frederick J., III
Schleicher, Harold C., Jr.
Schlichter, Ralph
Schmauss, Henry William, Jr.
Schmidt, Clifford B.
Schmidt, Kenneth Anthony
Schmidt, Knute Menge, Jr.
Schmidt, Richard Harry
Schmidt, William Carl
Schmitt, Stuart Orin
Schmoker, Alan Elliott
Schneible, Daniel Carey
Schneider, Paul Thomas
Schnier, Keith Leon
Schoening, Frederick Stephen
Schofield, Lee Neal
Scholl, Clifford William, Jr.
Scholl, Russell Charles, Jr.
Schram, Richard Weaver
Schrock, Edward Lee
Schrodt, Clair James
Schroeder, Arthur John
Schroll, John Raymond
Schultz, David Henry
Schultz, Henry Francis
Schultz, James Stuart
Schultz, Robert William, Jr.
Schultz, Roger Frederic
Schumacher, Frank Arthur
Schupbach, Duane Fredrick
Schuyler, Philip
Schwabe, William Lawrence
Schwing, Emil Mark
Scigulinsky, Kenneth Frank
Scott, Donald James
Scott, Donald William
Scott, Lawrence A.
Scott, Morris B., Jr.
Scott, Norman Suart
Scott, Patrick R.
Scovill, Judson Lawrence
Scully, Michael Charles
Sears, William Carr
Secrest, David Emmett Heaume
Seddon, Frederick Richard
Sedgwick, Dean Lance
Sedlak, John, Jr.
Segen, John Peter
Segraves, Joel Rhinehart
Sehlin, Donald Barry
Seim, Wayne Allen
Seligson, Harold Edward
Senappe, John, Jr.
Setser, Raymond Howard, Jr.
Setzer, Alvah Earl
Sewall, Andrew Carl
Seward, Charles M., Jr.
Seyl, Stephen Joseph
Seymour, Harry Augustus, Jr.
Shaar, Edwin Willis, Jr.
Shackelford, Harry Louis, Jr.
Shaffer, William Harry
Shanahan, James Francis
Shank, Michael Howard
Shannon, John R., Jr.
Shapley, Frederick Easton
Sharp, Erwin Arthur
Sharp, Walter Eugene
Shaw, Michael Gilbert
Shaw, Myron Jack
Shaylor, Stanley Russell
Shealy, William Pierce
Sheehan, Gerard Richard
Sheldon, Gerald Ernest
Shenton, William Thomas
Shepard, Michael Joseph
Shepherd, Patrick Martin
Shields, Charles Daniel, Jr.
Shiffer, William Thurston, Jr.
Shinabarger, Jon Arthur
Shipway, John Francis
Shirley, David Ben
Shoemaker, Charles Lex
Shriver, Ronald Eugene
Shuman, Paul Dennis
Shumway, Geoffrey Raymond
Shurts, Richard Layne
Sicari, Anthony Charles
Siddens, William Michael
Sidney, Richard William
Siebert, Harro Heiner
Siegel, William Morris
Sieren, Gerald Joseph
Sierras, Eugene L., Jr.
Silver, Lawrence Michael
Simms, Richard Galen
Simon, James Richard
Simons, William Edgar
Simpson, John Drury, Jr.
Simpson, John Page, III
Simpson, Richard John
Simpson, Robert William
Singler, James Charles
Singstock, David John
Sirmans, Russell Emerson
Sisson, Harold Denison, Jr.
Sjuggerud, David Milton
Skidmore, William Harvey
Skoog, Mark Chester
Slaasted, Richard Michael
Sloane, Richard Tobias
Small, Robert Frank
Smalling, John Ambler
Smallwood, Frederick Kohler
Smelik, Gerald Thomas

Smereczniak, David Afton
Smith, Bradley Edsel
Smith, Carleton James, III
Smith, Charles Henry
Smith, David McNeill
Smith, Edwin Lee
Smith, Eldin Dean
Smith, Ernest Mallory
Smith, Esmond Douglas, Jr.
Smith, Gary Allen
Smith, Gerald Clark
Smith, Gerald John
Smith, Gordon Lee
Smith, Herbert Clive L.
Smith, J. Palmer
Smith, Jeffrey Forrest
Smith, John Walter
Smith, Philip Allen
Smith, Ralph Frederick
Smith, Ransome Scott
Smith, Robert Allen
Smith, Robert Lynn
Smith, Thomas Noel
Smith, Walter Kenneth, Jr.
Smith, William Clifford
Smith, William Steele, Jr.
Smittle, John Howard
Smuda, James Francis
Smythe, Hugh Middleton
Snider, William Allen
Snodgrass, Donald James
Snyder, Darrell Paul, Jr.
Snyder, Gerald Warner
Snyder, Glen Dean
Snyder, John Harrison
Snyder, Keith Reif
Snyder, Peter Burgess
Soderman, Arne Paul
Sogga, Donald Nicholas
Sokol, David
Solan, John Michael
Soley, Francis Edward
Solomon, Dennis Lee
Soricelli, Joseph Martin
Sosnowy, Edward D.
Soucek, Philip Merrill
Sowa, Walter, Jr.
Spangler, Carl Rodney, Jr.
Spencer, James Luther, III
Spencer, Robert Cornelius
Spencer, Stanley S.
Spigai, Joseph John
Spradlin, Dennis Richard
Sprague, Jay Woodrow
Spring, William Roger
Springer, Robert William
Sprinkle, James Camp
Sprowls, George Franklin
Spruitenburg, Fredrik H. M.
Stair, Sammy Dean
Staley, Joseph Jarlathe, Jr.
Staley, Richard Jonathan
Stallings, Tellmon Scott
Stamps, David William
Standrich, Elvin Beryle
Standridge, Wylie Lamar, Jr.
Stanfield, Robert Alan
Stankowski, Robert John, Jr.
Staplin, Ralph Asa
Stark, James Reynolds
Starnes, Phillip Van
Starr, Wesley Elliott
Starritt, Douglas Robert
Staub, James Andrew, Jr.
Stauffer, Barry Corbett
Steele, Allen Wayne
Steele, Jon A.
Steele, Joseph Henry, III
Steen. Morris G., Jr.
Steenburgh, Frederick Leroy
Stein, John Howard, Jr.
Steiner, Clifford
Stephan, Charles Royal
Sterner, David L.
Stevens, David Michael
Stevens, Thomas Francis
Stevens, Wayne Ashley
Stevenson, Clyde Melvin
Stevenson, John Wayne
Stewart, Finlay J., III
Stewart, George Calvin
Stewart, Lawrence Letulle
Stewart, Malcolm Wayne
Stewart, Robert Paul
Stewart, Van Nelson
Stickler, Bernard Thomas
Stillwagon, Richard John
St. Martin, Ronald Clayton
Stock, George Henry
Stock, Michael John
Stoll, Peter Steven
Stone, John F.
Storms, Kenneth Robert
Storwick, Richard Allen
St. Pierre, Francis William
Stranick, Francis Joseph
Strauss, Kurt Allan
Streit, Raymond Stanley, Jr.
Stricker, Robert John
Strickland, Duward Keith
Strickland, Henry Wilson
Stroebel, Donald Walter
Strohaker, John Guy
Stromberg, Merle Jon
Strong, Barton Dale
Strong, David Walker
Strong, Walter Garland, Jr.
Struck, Allan Peter
Strum, Richard Ralph
Stryer, Thomas Bruce
Stuart, Thomas Daniel
Stubbs, Frederick Michael
Stuckey, James Godfrey
Stucki, Laurence Valdimir
Stull, David Allan
Suarez, Ralph
Sugermeyer, Neil S.
Sullivan, David Charles
Sullivan, Huey H., III
Sullivan, James Edgar
Sullivan, Jerry Michael
Sullivan, John Lawrence
Sullivan, William James
Summerlin, Thomas Wiley
Sussilleaux, John Francis
Sutton, Larry Paul
Sutton, Robert
Sutton, Ronnie Neal
Swan, James Ned
Swanson, Barry Grant
Swanson, John Frederick
Swartz, Peter Milton
Sweatt, John L., Jr.
Swinger, Alan William
Switzer, William H., III
Syrko, Thomas Michael
Tabor, James Byron
Taday, Alexander Anthony
Taflin, Leo Andrew
Tageson, William John, Jr.
Tana, Yasuto
Tarpley, Robert Paul
Tarr, Edwin Arthur
Tarrant, Yancey Newell
Tasler, Robert Ernest
Tassin, Terry Jude
Taylor, Billy Glen
Taylor, Donald Owen
Taylor, James Louis
Taylor, John Mallory, IV
Taylor, Rufus Lackland, III
Taylor, William Ivey, III
Teague, Reginald Bailey
Tedeschi, Ernest Francis, Jr.
Tedford, Timothy Wallace
Teed, William George
Teichgraber, Walter Michael
Telquist, Lee M.
Templin, Charles Leonard
Tenanty, Joseph Raymond, Jr
Thelen, Frank, III
Thiele, James Frederick
Thomas, Donald Gene
Thomas, Evan Foster, Jr.
Thomas, Lewis Carroll
Thomas, Patrick Edward
Thompson, Bryce Anderson
Thompson, Donald Joseph
Thompson, Joseph Clemenger
Thompson, Melvin Ellis, Jr.
Thompson, Neil Bruce
Thornton, Gary Lynn
Thorsen, Paul Albert
Tillmann, Donald N.
Tilt, Thomas William
Timm, Richard Donald
Timpson, Donald George
Tinsley, James Robert, III
Tinston, William John, Jr.
Tipper, Ronald Charles
Tisaranni, James
Tisdel, Richard Edward
Tittle, Harold Edwin
Tobias, Walter Adam, II
Todd, John Hendrick
Tolbert, James Kirkland
Tolbert, Otis
Tolley, Richard Lyle
Tompkins, Charles Leroy
Tootle, Dan C.
Toporoski, Daniel Michael, Jr.
Tower, Philip William
Tozier, Jack Allan
Tracy, Robert Nottingham, Jr.
Trahan, Edwin Charles
Trahan, Richard Harry, III
Trapnell, Robert Gary
Treiber, Gale Edward
Trevathan, Joseph Coleman
Trickett, James Raymon
Triebel, Theodore Wallace
Tripp, Philip Burr
Trotter, Earl Clay
Trumbauer, Harry Bentley, Jr.
Trump, Peter Arnold
Tryon, Robert Gene
Tsukalas, Denis Nicholas
Tucker, Douglas
Tucker, Leo Pat
Tucker, Ronald Dewey
Tudor, Richard A.
Tufts, Herbert William, III
Tullgren, David Bernard
Tuma, David Foster
Turner, Everett Eugene, Jr.
Turner, Harris Wade
Turner, Howard Stansell
Turner, Jay Scott
Turner, John David
Turner, Joseph Wayne
Turner, Laurence Hay, Jr.
Turner, Walter Scott
Tuttle, Arthur Jay
Twaddle, Roy Royce, III
Tweel, John Alexander
Tyree, Edward C. G., Jr.
Tzomes, Chancellor Alfonso
Uber, Brian Douglas
Ulrich, William Stanley
Ungerman, Michael Kenneth
Unrau, Jerry Lee
Urbanek, Keith Arlen
Vacin, Edward Michael
Vail, David William
Vajda, Thomas Carl
Valenta, Norman Glen
Vallee, Ronald Armand
Valovich, Paul Joseph, Jr.
Vambell, James Peter
Vance, Charles Terry
Vanderschroeff, Coenraad
Vanderwier, Gerald Michael
Van Dyke, John Charles
Vaneps, John Arch
Van Heertum, Bruce
Van Lue, Kenton Walter
Van Winkle, Pieter Kingsland
Veasey, James Alexander, III
Veeck, Charles Richard, Jr.
Vercessi, George Peter
Vermilyea, David Whitney
Vetter, Donald Robert

Viafore, Kenneth Michael
Vickery, Wayne Marshall
Vidrine, David Matthew
Vinroot, Charles Arthur
Vogel, Timothy James
Vogt, Frederick Henry
Volk, Charles Louis, Jr.
Vollmer, Ernst Peter
Vomastic, John Emil
Vosilus, Robert Bruce
Vroom, James Edgar, II
Wacaser, Anderson Wade, III
Waddoups, Lynn J.
Wade, Richard John, Jr.
Wagenseil, Lawrence L.
Wagner, Dennis Larry
Wagner, James Aubrey
Wagner, John F.
Wagner, Tod William
Wahl, Larry Charles
Walberg, Peter Elon
Walchli, John Clark
Walden, Kenneth Allen
Wales, Paul Robert
Waline, Richard Laverne
Walkenford, John Herman, III
Walker, Donald Edgar
Walker, Joseph Scott, IV
Walker, Michael George
Wall, Eugene Albert
Wall, James Herbert
Walsh, Donald Francis
Walter, Louis Alan
Wang, You Lue
Ward, Allan, Jr.
Ward, Robert Furman
Warren, Edward Ola
Washam, Eric Lee
Waters, Michael Charles
Watkins, Edison Lee, III
Watkins, John Roquell
Watson, Bruce Wallace
Watson, Richard G., IV
Watts, McCoy Carlos, Jr.
Watts, Neil Steward
Waylan, Cecil Jerome
Weal, Keith Irving
Weaver, Richard Lee
Weaver, Thomas Stephen
Webb, George Jerome, Jr.
Webb, Hugh Leonard
Webb, Jack Kenneth
Weber, Francis Joseph
Weed, Wilson Geoffrey
Weerts, Gary Lee
Weighton, David D.
Weir, Russell Alexander
Weisbrod, David Stephen
Weisensee, William, John, Jr.
Weiss, John Nickolas
Weittenhiller, Larry Keith
Welborn, Paul Burney, Jr.
Welch, Glenn Ernest, Jr.
Wellik, Marvin R.
Wellmann Donald Albert
Wells Bruce
Wells, William Edward
Welsh, Richard G. T.
Wendt, William Arthur
Wenger, Charles Albert
Weniger, Marvin Joseph
Werner, Keith Michael
Werner, Michael Charles
Wertzberger, Charles Reid
West, Franklin Griffith, Jr.
West, Richard D.
Wetherell, David Lee
Wheat, David Robert
Whiffen, Calvin Uridge
Whitaker, Ronald Gordon
White, Douglas Alan
White, James Allen
White, Michael Vance
White, Raymond Monroe
Whitehead, Albert Edward
Whitehead, Kenneth Lee
Whiteman, Herman Leroy, Jr.
Whitmore, John Thomas
Whitten, Audrey Ben, Jr.
Wicker, Charles Lewis
Wicks, Guy Weaver
Wideman, Robert Earl
Wiegand, Rudolf, Paul, Jr.
Wieland, Billie Wayne
Wielandt, Frederick Moore
Wiggins, Edwin George
Wiita, Marlin Dale
Wilcox, Keith Lee
Wildman, Robert Alan
Wiley, Armando Anibal
Wiley, James William
Wilkes, Marshall Jackson
Wilkes, Paul Douglas, Jr.
Wilkie, Robert Christopher
Wilkins, Frank Scott
Wilkinson, Jay Hall
Wilkinson, John Palen, III
Will, Thomas Joseph
Willenborg, John William
Williams, Billy Bryan
Williams, Donald Edward
Williams, Ivan W.
Williams, Joseph Frederick
Williams, Larry D.
Williams, Lewis Irving, Jr.
Williams, Paul Richard
Williams, Richard C., III
Williams, Richard David, III
Williams, Robert Allen
Williams, Robert Russell, III
Williams, Walter Dehlwyn, Jr.
Williamson, Bruce Stephen
Wills, Douglas Kent, Jr.
Wilson, Christopher T.
Wilson, Clark Albert
Wilson, Edmund Powell A.
Wilson, Eldon Stephen
Wilson, George Eugene, Jr.
Wilson, Jack Wesley
Wilson, Kenneth Leighton
Wilson, Melvin Arthur
Wilson, Stephen Ray
Wilson, Thomas Bryant
Wilson, Woodrow Owen, Jr.
Winn, James Richard
Winter, Albert William
Winters, Timothy Paul
Wirzburger, Allen Henry
Wise, Aubrey Lavoid
Witherspoon, William Wallace, Jr.
Withey, Thomas Arthur
Witter, Ray Cowden
Wittig, Arthur Walter
Witzenburg, Dennis Leon
Witzenburg, Gary Martin
Wixon, Robert Frank
Wojcik, Raymond Thomas
Wojdyla, Michael John
Wojtkowski, William S., Jr.
Wolf, David Carl
Wolff, Richard Ernest
Wolter, Richard Charles
Womble, George Curtis, Jr.
Wong, Henry Kingsy
Wood, Charles Mills, III
Wood, John Robert, Jr.
Wood, Robin Carder
Woodard, James Charles, Jr.
Woodring, George B., Jr.
Woolett, Jerry Frederick
Workman, James Franklin, II
Wright, Daniel Andrew
Wright, Donald Alexander, III
Wright, Douglas Scott
Wright, John Richard
Wright, Robert Ellis
Wright, Thomas Williams
Wright, Webster Matting, Jr.
Wright, William Harry, IV
Wuthrich, Lawrence Gene
Yaconiello, William Joseph
Yasutome, Kenneth Kiyoshi
Yearwood, John Fouche, Jr.
Yeaw, Ronald Everest
Young, Brian Walter
Young, David Gunter
Young, Thomas Richard
Yule, Robert Blakeley
Yusi, Frank Louis
Zafran, Robert
Zak, Frank Joseph, Jr.
Zambie, Henry John, Jr.
Zapatka, Stanley John, Jr.
Zardeskas, Ralph Anthony
Zayicek, James Stanley
Zerr, John Joseph
Zettle, Charles Emerson
Zint, Harold Oscar, Jr.
Ziolkowski, Ronald William
Zohlen, John Thomas
Zschock, Charles Wolfgang
Zuberbuhler, William John
Zuercher, Keith Edward
Zuhoski, Charles Peter
Zunich, Ralph Edward
Zwirschitz, Gary Wayne

SUPPLY CORPS

Allen, Robert Francis
Anderson, John F.
Armstrong, George R.
Ashley, Robert E.
Auerbach, Eugene Edmond
Bary, David Sharp
Bauman, Thomas William
Bedle, William Bliss
Berzins, Aivars Talis
Bezanilla, David George
Biegner, Frederick, Jr.
Bishop, Henry Harold, II
Bishop, Phillip Earl
Bland, Gerald Hall
Blaylock, James Sparkman
Boalick, Howard Russell
Bolling, Terry Lynn
Boyt, George Richard
Brandt, Craig Max
Brighton, Edward Earl, Jr.
Buchholz, Thomas Gottlieb
Burgess, Edward Lamar
Burnette, Jimmy Darwin
Butler, Joel Lee
Byrne, Allan C.
Campisi, Ronald Alexander
Canale, Vincent Timothy
Caplan, David Alan
Carter, W. J., Jr.
Certain, James Dawson
Chase, Dana Chester
Cheney, James Cowser
Chertock, Stephen Herman
Chiomento, Thomas Vincent, Jr.
Christopher, Donald Dominic
Christophersen, Wilhelm G.
Cicio, John David
Clare, Kenneth Calvin
Clark, Robert Hamilton
Conti, Carmen Daniel
Cook, Frank Cummings, III
Cook, Glover Hardy, Jr.
Cook, Herman Theodore
Cordova, Stephen Malcolm
Cosgrove, Patrick Michael
Cribbin, Thomas Michael
Curtis, Glen Dale
Dagrosa, Richard Louis
Dahlen, David Gordon
Danforth, Lawrence Leo
Danielson, Richard Arnold
Davies, David Alan
Dawson, Joseph Charles
Dejanovich, James Peter
Deloach, Stephen James
Deruiter, Kenneth
Dolores, George Jr.
Donato, Robert Casson
Doran, William Earl
Douglas, Bruce Leroy
Downer, Glenn Ivan
Draper, John Vaughn
Drucis, Timothy John
Dunkle, Charles Thomas

Dunkle, James Allan
Eager, Donald Richard
Eaton, Roy William, Jr.
Ebbers, Richard Earl
Ebbesen, Preben Ehlers
Elliot, Ernest Alexander
Engel, Raymond Paul
Fabry, Steven Edwards
Field, Leroy Frank, Jr.
Figueroa, Ernest Luque
Fitzgerald, Preston Hodges
Flint, Ralph Quentin
Foster, Donald Gregory
Free, Willard Dean
Freeman, James Kirk
Freiberg, Leonard Sander, Jr.
Fronczkowski, Ralph Edward
Fuller, John Anson
Fyfe, John Kerr, Jr.
Gabor, John Bernard, Jr.
Gaboury, Paul Albert II
Gallagher, Patrick Francis
Gaunt, John Richard
Gayton, Lewie Ernest
Geroe, Marvin Kenneth
Gibson, Blair Edwin
Giffin, Donald Harry
Gordon, Jeffrey Leroy
Graeter, William F., II
Gray, Cameron Rathbone
Griffin, Leonard Carl, Jr.
Gross, Royce Alan
Groves, Floyd Abram
Gudgen, Richard Abbott
Guth, Michael Harold
Hall, David William
Hamilton, Howard Harvey
Hamilton, James Bevington
Hargus, James William
Harris, Christopher Bertram
Hartwell, William Randolph
Hatcher, Robert Cary
Haynes, James Michael
Heeb, Benny Joe
Hephner, Patrick Jean
Hiltbrand, Jon Haden
Hilton, David Eastwood
Hobbs, Wilbur Neal
Hoffler, Robert Eugene
Holtz, Richard Earl, Jr.
Hopkins, Bruce Allan
Hoyt, Michael Campfield
Hunter, Don Loren
Hurlbutt, James Wilbur
Jaffin, Frederick T., Jr.
James, William Byrd
Jaquith, Linford Jason
Jensen, Albert Lagrande
Jones, Allan Herron
Jordan, Douglas Saunders
Kalas, Frank Joseph, Jr.
Kasse, David Ivan
Kauffman, David Carl
Kelly, Timothy Michael
Kennedy, Hunter Lee
Ketcham, Richard Dean
Keyworth, Richard Evans
Kieckhefer, Edward Herbert
Kincaid, Bruce David
King, Lawrence Allen
Kingston, David Tallman
Kohlmann, John Thomas
Kosmark, Alfred Christopher
Kowalski, Karl Aloysius, Jr.
Krause, Ben Allen
Krause, Donald Edward
Lamm, David Vincent
Larson, Richard Dean
Lee, William Thomas
Lerner, Kenneth Ward
Lessa, Joseph Gerard, Jr.
Lester, Timothy O'Connell
Lewis, Richard Earl
Long, Douglas Allen
Losquadro, Joseph Pasquale
Lutz, Alan Lee
MacArthur, Chester Bruce
Madril, Richard Joseph
Magrogan, William Francis, Jr.
Malloy, Joseph Michael
Mantonya, Robert Raymond
Marino, Stanley, Jr.
Marlin, Frederick Russell, Jr.
Marshall, Terry Lynn
Martin, Patrick Edward
Mate, Gerald Edward
Mayer, Carl Michael
Mayes, Robert David
McCook, Kevin William
McCormack, Robert Steele
McCosco, Charles Fred
McGavran, Samuel Brown
McGinnis, William James
McKechnie, Arnold Wilfred, Jr.
McLaughlin, Robert
McLean, Forrest Thomas
McNabnay, James Richard
McPherson, Thomas Dale
Meehan, Clement Thomas, Jr.
Mesterhazy, Andrew Paul
Meyer, Fred Lewis
Miller, Barry James
Minnis, Mel Wayne
Mitchell, Ralph Melvin, Jr.
Mizer, Robert John
Modrowski, Richard Walter
Moles, Robert Francis
Molishus, Joseph, Jr.
Monteith, Gary Henry
Moran, Thomas Albert
Morgan, Edward Aiken, Jr.
Mortsolf, Larry Alonzo
Mullen, John David
Munro, David Thomas
Murray, Thomas Oliver, Jr.
Myers, William Martin
Nelson, Napoleon B., III
Nelson, Ronald Charles
Nemmers, Robert Stanley
Newton, George Edward
Nichael, Robert Harold
Norton, Ronald Ward
Novak, Wayne Frank
Nuzum, Jude Meigs
Oswald, John Stephen, II
Outlaw, George Dedric, Jr.
Patterson, Kenneth Leon
Paulson, John Jacob
Payne, David Almon
Pearce, Charlie Albert
Peck, Ronald Kenneth
Privateer, Charles Russell
Rapp, Carl Arno
Reagan, Joseph Emmett
Rebarick, William Paul
Riedel, William Michael
Robertson, Herbert Milton
Robinson, Richard D.
Ruble, David Ross
Ruppmann, Heinz Otto
Rutherford, David Owen
Salmon, Robert J.
Sanchez, Domingo Hall
Santucci, David Michael
Sarfaty, Dennis Paul
Sarver, Gordon Jay
Satterthwaite, Peter Leo
Schandel, George William
Schewe, Norman Lee
Schmidt, Carl August, Jr.
Schooley, Robert Allen
Schultz, Thomas Craig
Schutte, Harvey Charles
Schweitz, James Joseph, Jr.
Scott, William Clyde
Scroggs, Clifton Ray, Jr.
Semmens, Thomas Perry, Jr.
Seufer, Stephen John
Seyfried, Philip Joseph, Jr.
Shandy, Jerome Clifford
Sheffo, Donald George
Simpson, Steven Earl
Smith, James Lewis
Smith, Roger Joseph
Spiller, James Thomas
Spyrison, Joseph Akin
Stalnaker, Delbert Kenneth
Stangl, Larry Francis
Steffens, Paul B., Jr.
Sussman, Richard Michael
Swenson, Donald Wayne
Tarantino, David Arthur
Tastad, Michael Louis
Taylor, Richard Eugene
Thieman, Richard James
Tonkovich, Thomas Marvin
Trimpert, Eugene Charles
Tucker, James Thomas
Tucker, Thomas Grady
Tuggle, Richard Carl
Tyson, George James, Jr.
Valenty, Patrick Paul, Jr.
Vandeveer, Charles Edward
Vanhaaren, Cary Grant
Van Rooy, Lester Arthur, Jr.
Van Tassel, Russel Dale
Vigrass, David Harry
Vincent, Leonard
Walker, Francis David, III
Walkovik, Gary Lee
Walton, William Heritage, Jr.
Weaver, Willis Stanley
Webb, James Michael
Weekes, James Ernest
Wheaton, Kenneth Walter
White, Gordon Rollins, Jr.
Wilde, Charles Lee
Wilkinson, Ronald Carr
Williams, Gary Dean
Williams, Jilson Lea
Williams, Michael C.
Wilson, Charles A.
Winget, William Peter
Wright, Harry Neil
Yeatts, Ralph Leroy
Zidek, Michael A.
Ziegler, Lee Alan
Zitzewitz, Robert Frank

CHAPLAIN CORPS

Ball, David Beatty
Bergsma, Herbert Leonard
Billings, Bennie Ira
Blackburn, Warner Phillip
Boerger, Antonine
Briske, Larry Floyd
Calaway, Bernie Lee
Conavad, Joseph John
Connelly, Albert P., III
Cook, Elmer Dean
Cook, Gerald Lee
Day, Richard Thayer
Dickson, Grover James
Dobes, George E.
Drake, Carl Emerson, Jr.
Dressler, Raymond Henry, Jr.
Ellis, Larry Hoyt
Essex, Otis Dean, Jr.
Ethridge, William Murray
Fiol, John Robert
Frankel, Bernard
Ganaway, Samuel
Garrett, Harold Wayne
Germano, Vincent Frank
Gnall, Julian Michael
Griffin, Devin William
Hammond, Hugo Stanley
Hannigan, Richard Francis
Hettish, Richard Clyde
Hiers, Homer Thomas, Jr.
Hill, Edward Thomas
Holderby, Anderson Byron, Jr.
Huebschman, Merlin Edward
Hummer, George Bernard
Jackson, Colon Stonewall, Jr.
Johnson, Andrew Herbert, Jr.
Kelley, James Frederick
Klapps, William Joseph
Knight, Norvell Earnest
Lapp, Charles L.
Lystig, Lawrence J.
Macho, George Stephen

Markham, Leonard Edward
McMahon, Edward Joseph
McNicholl, Michael Paul
Mintjal, Frank Delano
Mitchell, Zeak Clifford, Jr.
Moore, Paul James
Needham, Robert Bennett
Perry, William Lee
Pilarski, Peter Richard
Putt, Kenneth James
Reese, Donald Bruce
Richmond, Joseph John
Rimmer, Charles Stephen
Roberts, Jack Wendell
Rothermel, Fred Allen
Rupp, Lloyd Gary
Rutherford, James Harold
Schultz, Thomas Arnold
Schumm, William Edward
Shoberg, Lawrence Arvid
Slattery, Maurice Cornelius
Smith, Ignatius Edward
Snyder, Edgar Alfrejr
Starling, Ira Carroll, Jr.
Swift, Roy Orlando, III
Thompson, Irvin Hayes
Tumblin, William Everett
Turner, Jerome Robert
Waterson, Allan Frederick
Williams, James Charles
Wilson, Charles Duane
Winterfeld, Eugene Paul
Wooster, Keith Edward
Wright, John Milton

CIVIL ENGINEER CORPS

Ahl, John Stuart
Aksionczyk, Leon
Ankrum, George Theodore
Baratta, Mario Anthony
Barron, Richard Maurice
Bersani, Robert Richard
Bohning, Lee Robert
Bonderman, Warner Edward
Brown, Harry John, Jr.
Buntley, Ronald Eldred, Jr.
Carlson, Richard Eric
Clarke, Wilmot Fred
Clayton, James Busch
Connelie, Thomas P.
Conroy, John Francis
Cook, Roy Herbert, III
Corcoran, Anthony Edward
Coston, Oscar Lee, Jr.
Cugowski, Ralph Marshall
Curtis, Elmer Ross
Dames, Thomas Allan
Delmanzo, Donald Dewees, Jr.
Dodson, James William, Jr.
Donnelly, William Patrick
Dougherty, James Michael
Drouin, Leon Eugene, Jr.
Eckloff, James Clement
Elkins, John Carroll
Estes, George Brian
Everhart, Guy Franklin
Falke, John Whelan
Fowler, Richard Salsbury
Frankum, Stephen Douglas
Fucile, Eugene Paul
Fusch, Kenneth Ericson
Gagen, Robert Edward
Gallen, Robert Michael
Gant, James Bryant
Green, Joseph Behler, Jr.
Hadbavny, Ronald Stephen
Hall, Fredrick Spencer, Jr.
Hamilton, Charles Dewalt
Harrison, Lloyd, Jr.
Hatter, William Hood, Sr.
Henley, John Steele
Hendrickson, Jack Ellis
Herrell, Orval Glenn
Hilderbrand, William Casey
Hopper, Mark Andrew
Jacobs, Paul Francis
Jokela, Carl Richard
Jones, Lloyd S.
Kelley, Kenneth Clyde
Kelley, Timothy Charles
Kennedy, Ronald Edward
King, Donald Madison
Koepp, Gary Eugene
Koski, William Arthur
Laurance, Richard Bruce
Laursen, Brian Ray
Long, Thomas Auburn, Jr.
McBride, Robert Norman
McTomney, William Paul
Meeks, Kenneth Wayne
Milkintas, John Clayton
Mitchum, William Ransome, III
Morris, Henry Minard
Nakahara, Jitsuo
Niemeier, William Ray
Olsen, Ole Leigh
O'Neill, Charles Patrick, Jr.
Pabarcus, John Russell
Parsons, James Fowler
Perry, John Ellery, Jr.
Rein, David Arno
Riggin, Donald Curtis, Jr.
Runberg, Bruce Lee
Sargent, Delon Denny
Schlesinger, Francis David
Sleight, Leon Jay
Smith, Ray Allen
Stamm, John Andrew
Stark, James Reginald
Swyers, Harry Merton
Taylor, Ernest Theodore
Thurston, Benjamin Easton
Valenti, Alan C.
Vizza, William Kane
Walters, Victor Young
Watson, Francis Xavier
Weston, James Edward
Wood, John Fairbanks
Woodhull, Roger Blake

JUDGE ADVOCATE GENERAL'S CORPS

Albrecht, David A.
Anderson, Russell A.
Arbuckle, David L.
Baker, James N.
Barr, Philip Conrad
Blake, Donald Freeman
Bogart, Jeffrey Howard
Boorman, James Albert, III
Broach, Robert Erskine
Cardinal, James
Coyle, Robert Emery
DeCarlo, Nicholas Peter
Deddish, Michael Raymond, Jr.
Durham, Joe B.
Edington, Donald Edwin
Ellis, Charles Edmund, Jr.
Ford, William John, Jr.
Fulkes, Duane Sherman
Garrett, Henry Lawrence, III
Geer, John Joseph, Jr.
Gerard, Kenneth J.
Gerken, Robert Thomas
Gerszewski, Melfred T.
Gordon, John Edward
Griffin, Michael Airey
Hannas, Mike D.
Henderson, William C., III
Hewett, Peter Augustine, Jr.
Hughes, Winston Jackson
Kahn, Thomas Kenneth
Keating, Timothy Dayton
Keithly, Roger Myers, Jr.
Lindberg, Ernest T., Jr.
McMahon, Dennis Charles
Miller, John Roger
Neutze, Dennis Richard
Nivert, Frank J.
Ochsner, Ronald Frederick
Patterson, Perry S., Jr.
Payne, Michael L.
Pinnell, James E.
Riedel, Charles Thornton
Rogers, James Nicholas
Rohner, Richard Anthony
Rosintoski, Lawrence John
Rossi, Robert Raymond
Rowe, Larry R.
Runnels, Joseph Dwayne
Schachte, William Leon, Jr.
Smiley, Clare Brown, Jr.
Strow, Peter H.
Swayze, Frank Benjamin
Wells, George Lawrence
Willever, Kent Arlington
Williams, Duvall M., Jr.

MEDICAL SERVICE CORPS

Anderson, David Edward
Anderson, Dennis Gordon
Antonopoulos, Adam Theodore
Arnold, Leroy Edward
Ashburn, James Henry
Bain, Donald Keith
Baldwin, Jeffrey W.
Barnhill, Russell Wynn
Barr, Kenneth Brian
Barsness, Frederick Raymond
Bates, James Francis
Bazzell, Samuel Clinton
Beene, Joe Ray
Beil, James A.
Belter, Lyle Edward
Berghage, Thomas Eugene
Beuchler, Lamarr George
Bienkowski, Faustyn Joseph
Biersner, Robert John
Bobola, Edward
Bondi, Kenneth Robert
Bookout, Thomas Eugene
Briand, Frederick Francis
Bruhn, John Evan
Butler, Raymond Andrew
Call, Douglas William
Carney, William Patrick
Carpenter, Gorden Lee
Carter, Franklin Wood
Chaput, Raymond Leo
Charland, Normand Louis
Clarke, Norman Barry
Cobet, Andre Benoit
Cole, Dennis E.
Coleman, Robert C.
Collings, Donald Earl
Connors, Francis Simon
Cote, Robert Raymond
Curran, Raymond Michael
Daily, Otis Patrick
Dalton, James Travis
David, Dennis Duane
Davis, Donald Marion
Davis, Donald Ralph
Devine, Robert Thomas
Cook, Elvis Donald, Jr.
Cook, Jimmie Charles
Corley, Richard Annon
Cunningham, William F.
Dekrey, Charles Ross
Delisle, Gary Raymond
Devault, Richard Lee
Doptis, Leigh Errol
Duley, John Wilbur, Jr.
Edwards, Darrel
Eklund, Paul G.
Evans, Delbert Eugene
Felt, Walter Robert
Fisher, Frank D. R.
Fisher, Stephen Todd
Foxx, Stanley Alan
Gaines, Richard Noel
Galbreath, Jerry Dean
Gaugler, Robert Walter
Gibson, Richard Stephen
Glaser, Zorach Raphael
Goodhartt, William Ryan
Greear, John Fields, III
Gregory, George Harry
Gutshall, Richard Brice, Jr.
Hall, David Allen

Hamas, Michael, Jr.
Hammons, Johnnie David, Jr.
Hansel, George Joseph
Hayes, Charles Herbert
Hazelton, Terrial Lynn
Herron, Don Montelle
Heston, Frank David
Hickey, Myron Joe
Hill, Charles Ray
Hilling, Levi Nelson
Hodge, Frederick Allen
Holcomb, Howard Edwin
Hostetler, Melvin Glenn
House, John Francis
Hurder, Richard James
Hutchins, Charles Willis, Jr.
Jeffs, Robert Anton Aulie
Johnson, Larry Wayne
Johnson, Richard Lee
Jones, Thomas Newton
Julius, Leonard Jackson
Karch, Larry Lee
Kinig, William Goodrich
Kouns, David Michael
Lane, Norman Edward
Lashley, Kenneth Lamarr
Levan, Donald Robert
Lewis, Larry Allen
Lindberg, John Robert
Ludwig, William Carl
Maassen, Leland Richard
Mann, Charles Frank, Jr.
Martin, Donald Gene
McCroddan, Donald Matthew
McCullah, Robert Douglas
McDonald, John Leroy
McGrath, William Peter
McIntosh, Wilton Wayne
McManaman, Vincent Leo
Medlock, Thomas Perry
Milek, Mary Lynn
Miller, Allen Byrd
Milliken, Paul Robert
Moore, Leonard Lee
Moore, Patrick Holmes
Moroney, William Francis
Moy, Michael William
Murray, John Lee
Macrelli, Walter Andre
Narut, Thomas Edward
Newman, Reginald Edward
Oglesby, Norman Gabriel
Olson, James Gordon
Ozment, Bob Lee
Palmer, Timothy Trow
Parsons, William Michael
Peck, Robert
Pheeny, Harold Thomas
Pitts, Lucius Loring, II
Rausch, Jack Lee
Raymond, Lawrence Foster
Renfro, Gene F.
Reuter, Nancy D.
Reynolds, Richard Dale
Reysen, Richard Harry
Rice, Edward Allen, Jr.
Riley, Phillip Truman
Robinson, Ralph Eugene
Sammons, John Henry
Sander, Dale Frank
Sawyer, Dennis Lee
Schinski, Vernon David
Schlegel, Elvin Lee, Jr.
Schroll, John Edmont
Schubert, Deane Edward
Schultz, Warren Walter
Schweitzer, James Donald
Scott, Kelvin Peter Gerald
Shaver, Roger Galen
Sherwood, Walter Ollie
Sholdt, Lester Lance
Sides, Alfred Leroy
Sippel, John Edward
Skinner, Howard Lee
Slipsager, Frederick Andrew
Smith, David Gary
Smith, James Dudley
Smith, James Leroy
Smith, James Peter, Jr.
Smith, Robert Edgar
Smith, William Walter
Snittjer, William John
Snow, Kenneth Souder, Jr.
Socks, James Frederick
Sonntag, Robert Richard, Jr.
Sperry, Douglas Ray
Spillman, Graham B., Jr.
Stafford, Erich Estill
Stant, George Mercellous, Jr.
Stefanakos, Thomas Kostas
Stewart, Gene Nicholas
Strong, Douglas Michael
Thomas, Thomas Edward
Thome, Carl Donald
Truman, Patrick Andrew
Turco, Ronald Fisher
Tveten, Paul David
Uddin, David E.
Veckarelli, Donald Thomas
Vickerman, Raymond Harold
Wachal, Frederick Joseph
Waln, William Edward
Watko, Laurence Phillip
Weber, Herta Antoinette A.
Weiner, William Jason
Wienkers, Charles Francis
Wilson, Everett Lynn
Wilson, Jason Aldon
Windholz, Francis Leo
Wood, Duell Eugene
Woodman, Daniel Ralph
Woods, Allen Oliver
Woolf, Earl Ronald
Young, John W.
Zink, George Arthur

NURSE CORPS

Allred, Bertha Ann
Armstrong, Kathryn A.
Bagbey, Stanely Robert
Barthmaier, Jane
Becklun, Joan Kay
Betsch, Janice Ruth
Bousquet, Virginia Mae
Bronokoskie, Ann Marie
Brown, Barbara Frankel
Cash, Carolyn Jeanette
Christensen, Johanna Deborah
Coltharp, Dover Antionette
Colucci, Michael Joseph
Corbusier, Jill Ann
Cornell, Mary E.
Darrah, Elna Ray
Dault, Judith A.
Dlouhy, Elaine Jean
Downs, Robert James
Elsesser, Mary Ann
Engel, Joan Marie
Ferrell, Kirby Ann
Gangwer, Constance Wray
Gannon, Charlotte Caldwell
George, Kay Adair
Gierman, Richard Lawrence
Goss, Barbara Ann
Grace, Roberta Jane
Graham, Roberta M.
Grigg, Peggy Josephine
Hay, Mary Kathryn
Henderson, Rebecca Robertson
Hildebrand, Patricia Ann
Hill, Shirley Ann
Hogan, Virginia E.
Holmes, Sandra Anthony
Hooker, Florentina B. M.
Howard, William James
Hunter, Hazel Mary
Iwata, Miki
Jackson, Charles Ray
Jarrett, Jill E.
Johnson, Carolyn Ann
Jordan, Janice Yvonne
Kelly, Sharon K.
Kerdus, Mary B.
Klefman, Gloria Gay
Kondash, Anna Marie
Krall, Virginia Mary
Krzewinski, Barbara Ann
Langley, Ann
Learned, Charles Everett
Leary, Cornelia Ann
Lee, Annelle Kahalehau
Lindelof, Sandra Sue
Linehan, Patricia Ann
Lucius, Nina Jeanette
Lufkin, Janice Mae
Maffeo, Edith Jane
Mazzone, Nancy Rose Marie
McClelland, Jerry Wayne
McCumber, Susan Anne
Mead, Brenda Anne
Miesko, Judith Ann
Murphy, Rosemary E.
Nye, Margaret Catherine
O'Rourke, Amoret B.
Oswald, Beverly Joyce
Pike, Helen Jacqueline
Polak, Kristen Ann
Pollock, Linda Sue
Pruchniak, Joan Louise
Quayle, Leo Claude
Raach, Carolyn Diane
Reber, Judith Lee
Richards, Jeanne Marie
Rieder, Karen Anne
Roadhouse, Ida Cortez
Rodgers, Barbara Coffin
Sakenes, Charlene Rose
Schneider, Victoria Ann
Shields, Roberta Jean
Smith, Ruth Helene
Snider, Stephen Emmit
Snyder, Eilleen Esther
Spanier, Bernice Clare
Spring, Pollyann
Stoll, Caroline Jean
Stratton, Mariann
Tate, Catharine
Troseth, Marie Phelan
Ulschmid, Margaret Mary
Wadner, Carol L.
Ward, Maureen Winifred
Whalen, Delores Marie
White, Patricia Margaret
Wilke, Joanne Marie
Wray, Fay
Wright, Dolores Ann
Yahner, Ann III
York, Virginia R.
Zuber, Frances Elizabeth

DEPARTMENT OF STATE

Anthony D. Marshall, of New York, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 24, 1976:

NATIONAL INSTITUTE OF BUILDING SCIENCES

The following-named persons to be members of the Board of Directors of the National Institute of Building Sciences for the terms indicated commencing on the date of incorporation:

For a term of 1 year:

Robert J. Brungraber, of Pennsylvania.
Leo J. Cantor, of Virginia.
Jodie R. Johnson, of Mississippi.

Joseph H. Newman, of New Jersey.
Charles H. Pillard, of Maryland.
Robert F. Schmitt, of Ohio.
For a term of 2 years:
William F. Floyd III, of Georgia.
Jasper S. Hawkins, of California.
Warner Howe, of Tennessee.
Charlene F. Sizemore, of West Virginia.
S. Peter Volpe, of Massachusetts.
Jeremiah T. Walsh, of New York.
For a term of 3 years:
O. M. Mader, of Pennsylvania.
Robert A. Georgine, of Maryland.
Rudard A. Jones, of Illinois.
David S. Miller, of Ohio.
Glen R. Swenson, of Utah.
Herbert H. Swinburne, of Pennsylvania.

The above nominations were confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Thursday, June 24, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Trust in the Lord with all thine heart and lean not upon thine own understanding.—Proverbs 3: 5.

Gracious God, beyond whose love and care we cannot drift in the glory of a new day we lift our hearts unto Thee as we set out upon the tasks that await us. We would quiet our souls in Thy presence and receive Thy peace which passes all human understanding. Whatever we do, wherever we go, may we feel sure that Thou art with us, sustaining us, and supporting us all the way.

Amid the many voices that clamor for our attention may we hear Thy still, small voice which alone can lead us in the path of righteousness and make straight the way before us.

Pardon our shortcomings, purify our hearts, and prepare us to serve Thee and our country acceptably and with Godly fear.

In the spirit of Him who is the way we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 12188. An act to amend the Community Services Act of 1974 to make certain technical and conforming amendments.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9771) entitled "An act to amend the Airport and Airway Development Act of 1970."

The message also announced that the Senate agrees to the amendment of the House to a joint resolution of the Senate of the following title:

S.J. Res. 196. Joint resolution providing for the expression to Her Majesty, Queen Elizabeth II, of the appreciation of the people of the United States for the bequest of James Smithson to the United States, enabling the establishment of the Smithsonian Institution.

The message also announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 14237. An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1977, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14237) entitled "An act making appropriations for Agriculture and related agencies programs for the fiscal year ending September 30, 1977, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McGee, Mr. McClellan, Mr. Stennis, Mr. Proxmire, Mr. Robert C. Byrd, Mr. Talmadge, Mr. Fong, Mr. Hruska, Mr. Young, and Mr. Hatfield to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8800) entitled "An act to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Moss, Mr. Tunney, Mr. Baker, and Mr. Stevens to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13655) entitled "An act to establish a 5-year research and development program leading to advanced automobile propulsion systems, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Magnuson, Mr. Moss, Mr. Tunney, Mr. Baker, and Mr. Stevens to be the conferees on the part of the Senate.

ANNOUNCING THE DEATH OF WES BARTHELMES, JOURNALIST AND CONGRESSIONAL STAFF AID

(Mr. BOLLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOLLING. Mr. Speaker, it is my sad task this morning to report the death of a man known by many Members, by many members of the staffs, and by many people in the media. On Tuesday evening Wes Barthelmes died.

He was a dear friend of my wife and myself. I was married at his home, and he was my best man.

He was an eminent newspaperman. He left the newspaper business and worked for our former colleague, Congresswoman Edith Green. He worked with me on both of my books. I do not know really who wrote what parts of them and who is responsible for many of the ideas, Wes or I.

He served on the staff of Senator Robert Kennedy, and he worked for our colleague, the gentleman from Oregon, Bob Duncan. He was my administrative assistant for a number of years. He went to the staff of Senator Frank Church, and when he died, he was the administrative assistant to Senator Joe Biden.

Wes was an extraordinary reporter; he was an extraordinary citizen; he was an extraordinary public servant. We will miss him, and the country will miss him.

Mr. Speaker, I want to express my deepest sympathy to his wife and his family. At a later point in today's Record, under permission granted me, I will include a complete history and details of the life of my departed friend.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF THE COMMITTEE ON THE JUDICIARY TO MEET TODAY BETWEEN 10 A.M. AND 12 NOON DURING THE 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary be permitted to meet today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, would the gentleman confine his request to the hours between 10 a.m. and 12 noon?

Mr. EILBERG. Yes. Mr. Speaker, if the gentleman will yield, I will confine the request to those hours.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.