are for the succeeding 4 years. The bill is founded on the premise of "zero-based" budgeting concept which would require Congress to evaluate an entire appropriation request from the bottom up, rather than just considering requests for increases, and therein identify unnecessary expenditures. In essence, this "sunset" concept as applied to budgetary reviews would take Congress away from its habit of shot-gun appropriations and instead institute a methodical, organized, and extremely thorough confrontation with the question of how and where public funds are to be spent.

Several facts of budgetary life in Congress point out the need for restoration of effective management. During the drafting of the Government Economy and Spending Reform Act, the Senate sponsors encountered difficulties in cataloging the horrendous number of Federal agencies. Beginning from the 11 Cabinet-level departments, they tallied 44 independent agencies, and more than 1,200 advisory boards, commissions, committees, and councils. There is really no complete list of the countless Federal agencies and jurisdictions under the Federal auspices whose existence was at one time or other probably legislated, extended, or affirmed by Congress. Spread throughout the vast bureaucracy there are 1,000 aid programs for State and local governments, 228 health programs, 156 income security programs, and 83 housing programs—many of these overlapping one another and duplicating efforts. The extent of the problem is reflected in the fact that many congressional committees do not even know the programs in their jurisdictions. A sad fact for an oversight body.

One reason for this is that of the approximately $400 billion we will spend this year, approximately 75 percent is classified by the Office of Management and Budget as "uncontrollable." These funds include social security benefits, medicare and medicaid, interest on the public debt, and other longstanding, mandated programs which have become woven into our national fabric. The financing level of these programs was prescribed by formulas written into the law and cannot be influenced by the Appropriations Committee. Of the remaining 25 percent which is in the control of Congress, the better part goes to defense. After this large share is accounted for, there is only a scant 7 percent which remains in the control of yearly authorizations. This share consists of grants to States and localities, and many social programs such as employment, education, health care, environment, law enforcement, recreation, and natural resources. When considering reductions in these areas, important considerations of human needs must be accounted for. Thus a critical aspect to be considered in a program of budget reform should be bringing much of this uncontrollable sector into the review and authorization process at least every 4 years.

There are many diverse efforts in Congress which share the goal of governmental reform or curbing the bureaucracy. These range from rulemaking activities and paperwork control to opening Government and increasing accountability. However, it is my feeling that the cornerstone of reform remains within the pursestrings and regaining control of the budget. It is interesting that even these problems of expanding Government did not go unrecognized by the founders of this Nation. Jefferson once commented that we would never be happy unless we could prevent Government from wasting the labors of the people under the pretense of caring for them. I find it perfectly credible that our present impacted, overextended Government stems directly from efforts to care for and anticipate every need of American citizens. Yet, however virtuous our motives, we must realize that a government that does too much for the people prevents them from doing things themselves and fosters resentment. The task ahead is now to recognize and accommodate ourselves to a new conception of the future which is not predicated on government omnipotence.

HOUSE OF REPRESENTATIVES—*Wednesday, August 4, 1976*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Keep yourselves in the love of God.—Jude 21.

Almighty Father, who art above all and in all, whose love never fails and whose truth endures forever, make us aware of Thy presence as we worship Thee in spirit and in truth. Keep us true to ourselves at our best, giving us power to resist everything that is dishonest and helping us to so live that we can face our loved ones, our fellowmen, and Thee without fear or favor. Give us the will to do our work as well as we can do it and to accept our responsibilities cheerfully and with enthusiasm.

We are stunned by the passing of our beloved JERRY LITTON and his family. We thank Thee for him and for his devotion to his people and to our country. May the memory of his presence in our midst linger long in our hearts. Bless those who grieve with the comfort of Thy Spirit and give them the assurance Thou art with them all the way.

Guide us all with Thy truth and keep us in Thy love: through Jesus Christ, our Lord. 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that the announcement of the death of our beloved colleague, the gentleman from Missouri (Mr. LITTON) will be made prior to all other business, under the 1-minute rule and otherwise.

The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

THE LATE HONORABLE JERRY LITTON

(Mr. HUNGATE asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous material.)

Mr. HUNGATE. Mr. Speaker, most men walk through life. JERRY LITTON ran. He ran hard; he ran fast; he ran far. No one who knew JERRY well doubts that he had not gone as far as he could go when last night's tragic accident cut short his career.

A prosperous farmer, a Charolais cattleman, a distinguished Congressman, an accomplished politician—everything JERRY LITTON did he did well.

He approached public service with a zeal and a dedication which justified the faith his Sixth District constituents placed in him and which earned him deserved recognition not only in Missouri but in Congress.

It is sad and ironic that he died on the night of the greatest victory in his life. He died as Missouri Democrats chose him to carry their standard in this fall's Senate race.

Mr. Speaker, I know that I join all of his colleagues in the Congress and all Missourians in mourning the loss of this committed public servant. That loss is only compounded by the death of his wife and their children. JERRY LITTON will be missed in Missouri and in Washington, and we can only hope that we may lift our efforts and better serve our Nation because of his exemplary record of service.

THE LATE HONORABLE JERRY LITTON

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ICHORD. Mr. Speaker and Members of the House, I join with my colleague, the gentleman from Missouri (Mr. HUNGATE), in announcing to the House the tragic airplane accident which has just taken the life of our colleague, JERRY LITTON, and, as well, his entire family, consisting of his wife, Sharon, his son Scott, and his daughter Linda.

Mr. Speaker, I have had the privilege of serving in public office for 24 years, and during that time I have met many people who have mapped out a political career and who were possessed with a strong and determined desire to serve the American public. When I first met JERRY LITTON some 20-odd years ago, he was, I believe, at that time a high school student or, at most, he was in the first or second year of college. He was working in the campaign of the senior Senator from Missouri, STUART SYMINGTON, the

father of our colleague, JIMMY SYMINGTON.

At that time JERRY LITTON asked me how he could best serve the public. At that tender age, as a teenager working for Senator SYMINGTON, in his campaign for either the Presidency or the U.S. Senate, he had come to the conclusion that the best way to be successful in his efforts to obtain public office was to first be successful in business. He pursued a very successful business career, with the idea in mind of later pursuing a public career.

I will state to the Members of the House that the campaign which he just conducted in Missouri was a classic one that will be studied for many years by men and women who aspire to hold public office. In the primary he defeated a former two-term Governor, Governor Hearnes, and our colleague, JIMMY SYMINGTON, by the latest figures with 53 percent of the vote, enjoying a share of the votes approximately equal to that received by the second candidate, Governor Hearnes, and the third candidate, our colleague, JIM SYMINGTON. The final returns are not yet available and the results could be different, but victory was his.

Mr. Speaker, all of JERRY's ambitions were in his grasp but yet never realized.

This is not the first time that a lightplane accident has taken the life of one of our Members, and I doubt if it will be the last. As one who flies light airplanes, along with several of my colleagues in the House, as an effective means of communicating with my constituents, I must say that it is just one of those things that happens. Personally, I do not consider light airplane flying any more dangerous than flying a commercial airline, because you are taking off and landing many, many times in short-hop general aviation flying. Yet it is a hazard that many of us in this House and in the Senate face.

Mr. Speaker, in light of this great tragedy which faces us today, and in an attempt to console and perhaps admonish the Members of this House, I can only use the words of one of America's greatest poets, William Cullen Bryant, in his famous poem written at the tender age of 17 years, Thanatopsis:

So live, that when thy summons comes to join
The innumerable caravan which moves
To that mysterious realm, where each shall take
His chamber in the silent halls of death,
Thou go not, like the quarry-slave at night,
Scourged to his dungeon, but, sustained and soothed
By an unfaltering trust, approach thy grave,
Like one that wraps the drapery of his couch
About him, and lies down to pleasant dreams.

JERRY LITTON approached the unknown hereafter in a similar manner.

Mr. Speaker, I cannot adequately express the great and tragic loss, nor the grief that holds me personally and grips the Litton family as well as JERRY's colleagues and the entire State of Missouri.

The SPEAKER. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Speaker, I should like to state that it is the purpose of the Missouri delegation to take a special order at a later date in which all may join in an appropriate tribute to our departed colleague, JERRY LITTON.

THE LATE HONORABLE JERRY LITTON

(Mr. TAYLOR of Missouri asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TAYLOR of Missouri. Mr. Speaker, I deeply regret the tragic and untimely death of my friend and colleague, JERRY LITTON, and his family.

JERRY and I entered the Congress together in 1973 and, while we sat on opposite sides of the aisle, we were good friends and always worked closely together on matters concerning the people of our State.

JERRY was a good Congressman. A strong and able advocate for his point of view. He was knowledgeable of the issues and a hard worker. He was a staunch supporter of the farmer and was an eloquent speaker in behalf of the preservation of the family farm.

He was innovative and imaginative. His dialog with Litton television programs were well received around the State of Missouri because of their unique format and wide range of subject matter.

Certainly no greater tribute could be paid to JERRY than the overwhelming victory that was accorded him by the people of Missouri when they cast more votes for his candidacy than the two distinguished and well known Missourians who contested him in the Democratic primary election for nomination to the U.S. Senate on Tuesday, August 3, 1976.

His presence will be missed in the House of Representatives and by the constituents he served so well.

I extend my heartfelt condolences to his mother and father who mourn his loss.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I assume that this request has been cleared with the gentleman from Alabama (Mr. DICKINSON) for the minority.

Mr. BRADEMAS. Mr. Speaker, if the gentleman will yield, I cannot say that to the gentleman because I do not know. I was asked to make this request.

These are standard matters that are before the Committee on House Administration. I do not know of anything unusual about them, but I could not make that assurance to the gentleman.

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from New Jersey.

Mr. THOMPSON. To answer the inquiry of the gentleman from Maryland (Mr. BAUMAN), Mr. Speaker, I have discussed these matters with the minority.

There are one or two controversial items which, because of their nature, have been isolated on the agenda for the day. The other matters are routine matters which have been gone over and will be taken up en bloc.

Mr. Speaker, the gentleman from California (M. WIGGINS) has been extremely anxious to have law fees for four or five contested elections paid. They are a year overdue; and, in my judgment, it is really imperative that the committee have the opportunity to act on these matters.

Mr. BAUMAN. Mr. Speaker, does the gentleman from New Jersey assure us that the minoriy has no objection to meeting for this purpose?

Mr. THOMPSON. If the gentleman will yield further, my staff informed me this morning that the gentleman from Alabama (Mr. DICKINSON) has acquiesced with respect to this request, and I talked with him yesterday.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON PRINTING OF COMMITTEE ON HOUSE ADMINISTRATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Printing of the Committee on House Administration be permitted to sit today during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 599]

Andrews, N.C.	Ford, Tenn.	O'Hara
Archer	Fountain	Passman
Ashley	Fraser	Patten, N.J.
Badillo	Hansen	Pressler
Biaggi	Hayes, Ind.	Randall
Boggs	Hébert	Rees
Bolling	Heckler, Mass.	Riegle
Bonker	Hefner	Risenhoover
Brinkley	Heinz	Rostenkowski
Burke, Calif.	Helstoski	Santini
Burke, Mass.	Hinshaw	Sebelius
Burlison, Mo.	Holtzman	Sisk
Chappell	Howe	Skubitz
Chisholm	Ichord	Steed
Clay	Jones, Ala.	Steelman
Collins, Ill.	Jones, N.C.	Steiger, Ariz.
Conlan	Jones, Tenn.	Stephens
Conyers	Jordan	Stokes
Corman	Long, La.	Stuckey
D'Amours	McCollister	Sullivan
Diggs	McKinney	Symington
Esch	Melcher	Udall
Evins, Tenn	Mills	Vander Jagt
Findley	Murphy, Ill.	Vander Veen
Flynt	Murphy, N.Y.	Waxman
Ford, Mich.	O'Brien	Wiggins

The SPEAKER. On this rollcall 353 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

NUCLEAR FUEL ASSURANCE ACT OF 1976

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 8401, with Mr. PIKE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, July 30, 1976, the bill had been considered as read and open to amendment at any point.

Mr. HARSHA. Mr. Chairman, there have been all sorts of rumors around as one would expect about the Nuclear Fuel Assurance Act and the intention of the administration as to what it shall do insofar as the "add-on" facility at Portsmouth, Ohio, is concerned. To clarify the administration's position, I have received a letter from the President of the United States and I herewith include it in my remarks:

THE WHITE HOUSE,
Washington, July 29, 1976.

Hon. WILLIAM H. HARSHA,
U.S. House of Representatives,
Washington, D.C.

DEAR BILL: I understand that you have a concern about our intentions to build the enrichment facility add-on at Portsmouth, Ohio. I can assure you that in the context of the Nuclear Fuel Assurance Act, it is our firm intention, subject, of course, to the completion of the required environmental procedures, to complete that plant.

Moreover, the Portsmouth plant does not conflict with other additions to our enrichment capacity and our progress on it will not depend upon completion of any other facilities.

I hope that these comments give you the assurances that you require.

Sincerely,

GERALD R. FORD.

Mr. HILLIS. Mr. Chairman, I rise in opposition to the Bingham amendment. I believe that there are really two issues which the House is debating today. The first issue is whether or not we should allow private industry to build uranium enrichment plants and the second issue, and perhaps the most important, is the underlying question of whether or not we are willing to provide an adequate supply of energy for the future growth and economic well-being of the United States.

I do not believe that those who oppose the passage of H.R. 8401, as reported, do so simply because they oppose the private sector of our economy getting involved in uranium enrichment plants or because they object to the use of loan guarantees by the Federal Government. It is obvious to me that passage of this measure will reduce the future budget of the Federal Government by billions of dollars. There are adequate safeguards in this bill to protect the United States from the misuse, or careless use, of nuclear technology. The bill is designed to give the Congress an active role in determining which corporations will be awarded contracts to build the enrichment plants. I commend the Joint Committee, and its chairman, Senator PASTORE, and its vice chairman, Congressman PRICE, for their fine work in these areas.

Historically, the United States has relied upon private industry to develop and provide needed energy resources. Our free enterprise system demands that this practice be continued. Private industry is prepared to take reasonable risks, has the flexibility, the investment funds, and the managerial capabilities to build and operate uranium enrichment plants effectively.

In "A National Plan for Energy Research, Development, and Demonstration—Creating Energy Choices for the Future," recently published by ERDA—ERDA states that—

> A basic premise in national energy policy and planning for R.D. & D. is that the private sector has the primary role in creating new energy alternatives; the federal government's role is to assist the private sector in the development and market penetration of new energy technologies.

It is the rightful place for the private sector of our economy to get actively involved in uranium enrichment plants. The Federal Government should play a supplementary role of sharing risks, conducting R.D. & D. programs, and developing general energy policies. H.R. 8401 as reported appropriately defines the roles of both the public and private sectors in the area of uranium enrichment plants.

I am fully aware that there are several Members who would disagree with me on this point. Studying the House debate on the Bingham amendment July 30, it appears that the major objection to H.R. 8401 as reported is the loan guarantee provision. The House heard the argument that H.R. 8401 "represents an unhealthy precedent of excessive Federal subsidy." I submit that H.R. 8401 represents no such precedent. There are several areas of the private sector which the Federal Government already provides subsidies. I do not believe that the loan guarantees provided for in H.R. 8401 are really that much different than the subsidies provided to the railroads and PanAm Airlines for example. To imply that this Congress is against seting subsidy precedents is a misrepresentation of the facts. Must I remind the Congress of the precedent set last December in giving Federal loans to New York City? In fact, the Congress provided loan guarantees for new underground coal mines in section 102 of the Energy Conservation and Oil Policy Act of 1975, Public Law 94–163. The loan guarantee provision, as set forth in H.R. 8401, is not unique, nor does it establish a precedent.

If we are to accept the arguments expressed by the supporters of the Bingham amendment, it is not clear why an amendment was not offered to simply delete the loan guarantee provisions of the bill as reported instead of gutting the measure almost entirely. In fact, it is not even clear why the loan guarantee provision of the bill has attracted so much attention unless there is an underlying reason which the supporters of the Bingham amendment do not wish to debate openly. The loan guarantee merely acts as a warranty on already proven technology. I do not understand why so many Members of Congress are upset with Federal warranties when we demand warranties from the private sector for their products. The House was also told on Friday that the Bingham amendment was not an antinuclear amendment.

In my opinion, the underlying reason for support of the Bingham amendment is that some Members of Congress do not want to use nuclear power to meet our future energy needs. Our energy situation is, without a doubt, the single most important issue with which this Congress must deal. It is perhaps the most complex, most far reaching, and most urgent issue to which this body can address itself. With this in mind, I do not feel we can afford to limit the options the United States has in determining how to meet our future energy needs. This is the basic issue with which this Congress must come to grips.

The United States faces a serious, and continuing, energy problem caused by increased and undue reliance on imported oil and the lack of readily available energy alternatives. I would like to remind the Congress of President Ford's State of the Union message of 1975 in which he enunciated three national energy policy goals necessary for the Nation to regain energy independence. These goals, which he reiterated in his 1976 energy message are: First, to halt our growing dependence on im-

ported oil during the next few critical years; second, to attain energy independence by 1985 by achieving invulnerability to disruptions caused by oil import embargoes; and third, to mobilize our technology and resources to supply a significant share of the free world's energy needs beyond 1985. In April 1976, our crude oil stocks equaled 21.8 days' supply of input to refineries. Through 1976, crude stocks have been only about 2 days' supply higher than during the months immediately prior to the embargo of 1973. This fact must not escape the attention of Congress, for we must act effectively, and responsibly, in determining how to improve this situation.

To refuse, or to continue to delay, the full development of nuclear energy as an alternative source of fuel would severely limit our available options enabling the United States to become independent from imported oil, and on how to meet our future energy needs. Nuclear energy, along with coal, are the major exploitable resources which the United States can use to supplement and offset oil and gas over the next several decades. A number of my colleagues here in the House of Representatives would rather not see nuclear energy developed as an alternative source of fuel.

I must disagree with them. In the report entitled "Review of National Breeder Reactor Program," published by the ad hoc Subcommittee To Review the Liquid Metal Fast Breeder Reactor Program of the Joint Committee on Atomic Energy, the subcommittee noted that even if projected energy contributions from solar, geothermal and other alternative technologies were to be doubled, the need for nuclear power would not change significantly. We must realize that even though our country has an abundant amount of energy resources, we are currently dependent upon a very narrowly based supply of petroleum and natural gas resources. Because oil and gas supplies are limited, there will be a shift to electricity between now and the year 2000 causing electrical growth rates to be substantially larger than our total energy growth rate. This Congress must produce a coordinated energy program which includes every possible alternative source of fuel. To do otherwise would be extremely dangerous.

I know that we have heard a number of fears expressed concerning the safety of nuclear energy. I hope that those who express these fears will not forget the dangers which face the United States should we run short of energy to run this country. The results of such an energy shortage may well prove more drastic than any of the fears which have been expressed concerning nuclear safety. I ask those who oppose the further development of nuclear energy to consider the ramifications of depleted U.S. energy supplies to our economy. I ask them to consider what will happen to those who lose their jobs because our industries do not have available energy to operate their plants; what will happen to those who do not have fuel to heat their homes in the winter; what will happen to our national security should our military not be able to defend us because they do not have the energy necessary to operate; what will happen to our agricultural production should the farmer not have the fuel to operate his machinery; and what will happen to our economy should our trucks and railroads be forced to stop running?

In the Nuclear Regulatory Commission's reactor safety study, it was determined that risks to the public from potential accidents in nuclear powerplants are comparatively small compared to the possible consequences of nonnuclear accidents.

NRC stated that—

Consequences (of nuclear reactor accidents) are predicted to be smaller than people have been led to believe by previous studies which deliberately maximized estimates dents that have similar consequences.

NRC further determined that—

The likelihood of reactor accidents is much smaller than that of many non-nuclear accidents that similar consequences.

All nonnuclear accidents examined in the study, including fires, explosions, toxic chemical releases, dam failures, airplane crashes, earthquakes, hurricanes and tornadoes, are much more likely to occur and can have consequences comparable to, or larger than, those of nuclear reactor accidents.

It is true that nuclear energy has inherent safety hazards. However, we can provide safeguards adequate to protect us from these hazards as we have with all other forms of energy. We cannot, however, provide safeguards to prevent the drastic economic consequences I have described should we run short of energy. I, therefore, urge this body to include the full development of nuclear power in our scenario on how to meet future energy needs. Although it is impossible to determine the exact scenario which will be needed to meet these needs, it is clear that the United States must maintain nuclear power as an active and viable source of fuel for the future, and passage of H.R. 8401 as reported is a vital factor in maintaining this option.

The responsibility we have to our future generations mandates that we recognize the Bingham amendment as a camouflaged antinuclear power effort. We have seen this same tactic used before and we will undoubtedly see it used again. It is my sincere hope that the House will ignore the arguments so skillfully designed by the supporters of the amendment to camouflage the intent of this move and vote on the true merits of H.R. 8401 as reported. Failure to reverse the earlier House vote on this amendment can only lead to the most serious breach of responsibility with which our constituents have entrusted us to act in the best interest of the United States.

Mr. CLEVELAND. Mr. Chairman, I intend to vote against the Bingham amendment to H.R. 8401, the Nuclear Fuel Assurance Act, as I did when the House first considered the issue on July 30.

The Bingham amendment would remove from this bill the provisions for entry of the private sector into uranium enrichment, subject to congressional and GAO review. My concern is that this action would have a drastic impact on the availability of nuclear power to meet our energy needs in the future and could conceivably lead the United States to a position of dependence upon foreign sources of even this supply of energy, a situation which is unacceptable.

As one who strongly supports solar and other alternative forms of energy—I recently cosponsored amendments to sharply increase both the authorization and appropriation of funds for development of solar energy technology—I feel that the U.S. energy supply situation is so critical that we cannot allow ourselves to run out of nuclear generating capacity on the assumption that solar and other sources will be available in the near future. The risks of facing another energy crisis demand that we be prepared to meet the projected need for enriched uranium and the best way to do this, in my opinion, is under the terms prescribed by this legislation.

The argument has been made that the bill's authorization of $8 billion maximum contingent liability that the Government could conceivably assume if private firms cannot furnish the enriched uranium amounts to a "sweetheart" deal for big business. I simply cannot accept the assumption underlying this argument which discounts the fact that any proposed contracts will be subjected to intensive review of their terms and conditions by the Congress and the General Accounting Office prior to any awards.

Ms. ABZUG. Mr. Chairman, the state of our economy and the priorities of this administration have resulted in tremendous cutbacks in our cities and forced austerity upon social service programs at all levels. Yet, in a time of peace, while our defense budget is continually increasing H.R. 8401 was brought to the floor including provisions to subsidize private industry by placing a heavier burden on the taxpayer and limiting services and employment in the public sector.

Contrary to claims by proponents of the bill, private contracts will not foster competition and low prices. Bechtal Corp., the major partner of Uranium Enrichment Associates and the largest construction company in the world, will be the prime beneficiary of private contracts. With both a virtual monopoly on the market and unrestricted Government guarantees of risk, there will be little motivation for equitable operation or technological development. The Bingham amendment removes the undesirable provisions which create these conditions.

The Federation of American Scientists, a group which is neither against nuclear power, nor against private industry's involvement in enrichment has taken a stand against the thrust of H.R. 8401 because of its unnecessary private industry assurances. A statement by the organization observes that—

The agreement would provide UEA with little or no risk to balance its expectation for substantial gain.

In the same statement of June 23, 1976, the GAO summary is quoted as finding the proposal for Government liability as "excessively generous."

Hidden outlays are inherent in the bill, providing extensive assurances for operation, completion, or disposal of a plant

if there is insufficient demand. Approval of this legislation would again illustrate our willingness to prop up industries with "special interests" who, by any standards should be judged by the activities of the free market, and who should not be given special consideration.

Although the provisions stricken by the Bingham amendment provide for assistance only to domestic concerns, it is the nature of private industry that—without sufficient regulation to assure adequate control on the marketing of the enriched uranium—there will be substantial motivation for foreign sales. Sixty-six percent of Uranium Enrichment Associates is comprised of foreign ownership. There will be no safeguards against decisions and sales of a dangerous technology to any of a number of foreign investors. Even with the reliance on foreign markets from the resulting overabundance in supply, ERDA's own studies cast doubt on foreign demand for the technology.

Foreign investment will result in a drain on profits and payments. At a time when we are all deeply concerned with our economic outlook and effects of legislation on unemployment, we should heed the opposition of the United Auto Workers to this proposal, as well as the threat it poses to oil, chemical and atomic workers. The positive impact on unemployment of the provisions deleted by the Bingham amendment is questionable. The dangers they pose to workers are real.

There is considerable doubt as the necessity and usefulness of these additional plants. Science magazine states:

> The prospect of so much additional enrichment capacity, however, raises the possibility that what was at one time expected to be an acute shortage is to be replaced by a glut.

ERDA's plants are operating in a mode that is not only economically inefficient and contributive to perceived shortages and high prices for uranium, but, paradoxically, results in the accumulation of a huge Federal stockpile of enriched uranium.

The enriched uranium stockpile being created presently, could serve for nearly 5 years supply of enriched material. This stockpile is being accumulated for the benefit of private industry as a guarantee against possible shortages. The stockpile, however, is greatly responsible for perceived shortages of uranium, and persistent rate hikes that have resulted. Its existence will cost the consumer an estimated $1 billion yearly.

Mr. Chairman, we cannot continue to pass on the burden of monopolistic business practices and unnecessary appropriations to the taxpayer. By financing uranium enrichment through the private sector rather than direct Government authorizations, we will be confronted with hidden costs that keep risk in the hands of the Federal Government with the benefits accruing to big business. Our cities and social service programs at all levels are suffering at the hands of austerity budgets. At a time when our priorities should be in maximizing employment and increasing the domestic flow of capital, we are only fooling ourselves and the public by enacting this legislation.

Mr. PATTISON of New York. Mr. Chairman, for the second time within a 7-day period, we are considering the Nuclear Fuel Assurance Act, H.R. 8401. In the previous debate we discussed the various problems with the bill. It would be repetitive to raise them all again. However, there is one question I ask you to seriously consider. If the Government is interested in creating a private enterprise, do we want it to be the uranium enrichment business? The answer must be no. The risks of increased nuclear proliferation are too great to allow private industry to enter this sensitive area.

The proponents of this bill argue that unless it is passed, proliferation will increase because the United States will lose its lead in the production of enriched uranium. They argue that many smaller countries will be forced to go elsewhere to obtain their supplies of this dangerous substance. If we pass this bill we will insure that there will be ample supplies of enriched uranium for many smaller nations. The United States does not have the authority to decide how this uranium will be used once it is sold to another country. We can provide for its production, but once they get it, they will use it for whatever reason they want, including atomic weapons. One country has taken this substance, sold to them as a fuel, and produced an atomic weapon. Will we be able to control proliferation by allowing private industry, such as the Uranium Enrichment Associates—60 percent owned by Iran, France, Japan, and West Germany—to begin producing enriched uranium?

Enriched uranium is one of the most potentially dangerous fuels we have ever developed. It takes only 37 pounds to produce a single atomic weapon. Enriched uranium is one of the most difficult substances to produce, and it is imperative that such potentially dangerous materials be adequately safeguarded from misuse. I question the ability of private industry to do this, and I have serious doubts that they would.

Let us look at the record of private industry in protecting the environment in which they operate, and in reducing the health hazards to the people who live and work in the area in which they operate. The record is not very distinguished. Look at the rivers and lakes near your home. What has the industry of this Nation done to many of them? Has the industry of this Nation led the effort to reduce the amount of pollution released into our atmosphere? We are just beginning to realize the close connection between many fatal diseases and industrial pollution. The fact is that the record of industry in caring for the environment is very poor. And now, we are seriously considering a bill which would allow them to start producing a fuel that, unless it is properly handled and protected, could have a disastrous effects on our environment.

On the other hand, private industry has been very successful in the realization of profits. Their success has benefited this country greatly, but along with the gains have come the losses. Uranium enrichment is not a money making industry. The costs have skyrocketed with the addition of safeguards and protective devices. The costs will continue to rise as additional safeguards are needed in the future. The uranium industry is not a profitmaking industry, it is at best a break even process. But private industry does not succeed by breaking even; it demands profit. Once engaged in the uranium enrichment business, it would be forced to make certain cuts in expenditures in order to realize a certain amount of profit.

The Government is not motivated by profit. It is motivated by concern for the health and welfare of the people. The Government has been concerned with the type of protection needed for this particular industry, it has been concerned with the pollution of the environment, and it has been concerned with the problem of proliferation of nuclear weapons. There are too many possible disasters associated with the production of nuclear fuel. We must continue to be responsible for its production and safety, and we must continue to maintain our controls on its use.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PIKE. Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 8401) to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, and for other purposes pursuant to House Resolution 1242, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment?

Mr. PRICE. Mr. Speaker, I demand a separate vote on the so-called Bingham amendment.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote is demanded.

The Clerk read as follows:

> Amendment: Starting on page 1, line 5, delete sections 2 and 3 of the bill, and renumber section 4 as section 2.

The SPEAKER. The question is on the amendment.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. RYAN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 193, not voting 47, as follows:

[Roll No. 600]

AYES—192

Abzug	Green	Nix
Addabbo	Gude	Nolan
Allen	Hamilton	Nowak
Ambro	Hanley	Oberstar
Andrews, N.C.	Hannaford	Obey
Ashley	Harkin	Ottinger
Aspin	Harrington	Patten, N.J.
AuCoin	Harris	Patterson, Calif.
Baldus	Hawkins	Pattison, N.Y.
Baucus	Hays, Ohio	Paul
Beard, R.I.	Hechler, W. Va.	Pepper
Bedell	Helstoski	Peyser
Bergland	Holland	Pike
Biester	Holtzman	Railsback
Bingham	Howard	Rangel
Blanchard	Hubbard	Rees
Blouin	Hughes	Reuss
Boland	Hungate	Richmond
Bonker	Jacobs	Rinaldo
Brademas	Jeffords	Rodino
Breckinridge	Jenrette	Roe
Brodhead	Jones, Okla.	Rogers
Brooks	Jordan	Roncalio
Brown, Calif.	Karth	Rosenthal
Burke, Calif.	Kastenmeier	Rostenkowski
Burton, John	Keys	Roush
Burton, Phillip	Koch	Roybal
Byron	Krebs	Russo
Carr	LaFalce	Ryan
Chisholm	Leggett	St Germain
Conte	Lehman	Sarbanes
Cornell	Levitas	Scheuer
Coughlin	Lloyd, Calif.	Schroeder
D'Amours	Long, Md.	Schulze
Daniels, N.J.	Lundine	Seiberling
Danielson	McHugh	Sharp
Davis	McKay	Simon
Delaney	Madden	Skubitz
Dellums	Maguire	Smith, Iowa
Dent	Mann	Solarz
Derrick	Matsunaga	Spellman
Dingell	Mazzoli	Staggers
Dodd	Meeds	Stark
Downey, N.Y.	Melcher	Studds
Drinan	Metcalfe	Thompson
Duncan, Oreg.	Meyner	Traxler
du Pont	Mezvinsky	Tsongas
Early	Mikva	Udall
Eckhardt	Miller, Calif.	Ullman
Edgar	Mineta	Van Deerlin
Edwards, Calif.	Minish	Vanik
Eilberg	Mink	Vigorito
Evans, Colo.	Mitchell, Md.	Waxman
Evans, Ind.	Moakley	Weaver
Fascell	Moffett	Whalen
Fenwick	Mollohan	Whitten
Fish	Moorhead, Pa.	Wirth
Fisher	Morgan	Wolff
Fithian	Mosher	Yates
Florio	Moss	Young, Ga.
Fraser	Mottl	Zablocki
Gaydos	Murphy, N.Y.	Zeferetti
Gibbons	Natcher	
Gilman	Neal	
Gradison	Nedzi	

NOES—193

Abdnor	Clausen, Don H.	Gonzalez
Albert	Clawson, Del	Goodling
Anderson, Calif.	Cleveland	Grassley
Anderson, Ill.	Cochran	Guyer
Andrews, N. Dak.	Cohen	Haley
Annunzio	Collins, Tex.	Hall, Ill.
Archer	Conable	Hall, Tex.
Armstrong	Cotter	Hammer-schmidt
Ashbrook	Crane	Harsha
Bafalis	Daniel, Dan	Hébert
Bauman	Daniel, R. W.	Heckler, Mass.
Beard, Tenn.	de la Garza	Henderson
Bell	Derwinski	Hicks
Bennett	Devine	Hightower
Bevill	Dickinson	Hillis
Bowen	Downing, Va.	Holt
Breaux	Duncan, Tenn.	Horton
Broomfield	Edwards, Ala.	Hutchinson
Brown, Mich.	Emery	Hyde
Brown, Ohio	English	Ichord
Broyhill	Erlenborn	Jarman
Buchanan	Eshleman	Johnson, Calif.
Burgener	Fary	Johnson, Colo.
Burke, Fla.	Flood	Johnson, Pa.
Burke, Mass.	Flowers	Jones, Ala.
Burleson, Tex.	Foley	Kasten
Butler	Forsythe	Kazen
Carney	Frenzel	Kelly
Carter	Frey	Kemp
Cederberg	Fuqua	Ketchum
Chappell	Giaimo	Kindness
Clancy	Ginn	Krueger
	Goldwater	Lagomarsino
Landrum	O'Neill	Stanton, James V.
Latta	Perkins	Steed
Lent	Pettis	Steiger, Wis.
Lloyd, Tenn.	Pickle	Stratton
Long, La.	Poage	Symms
Lott	Pressler	Talcott
Lujan	Price	Taylor, Mo.
McClory	Pritchard	Taylor, N.C.
McCloskey	Quie	Teague
McCollister	Quillen	Thone
McCormack	Regula	Thornton
McDade	Rhodes	Treen
McDonald	Risenhoover	Vander Jagt
McEwen	Roberts	Waggonner
McFall	Robinson	Walsh
McKinney	Rooney	Wampler
Madigan	Rose	White
Mahon	Rousselot	Whitehurst
Martin	Runnels	Wiggins
Mathis	Ruppe	Wilson, Bob
Michel	Sarasin	Wilson, C. H.
Milford	Satterfield	Wilson, Tex.
Miller, Ohio	Schneebeli	Winn
Mitchell, N.Y.	Shipley	Wright
Montgomery	Shriver	Wydler
Moore	Shuster	Wylie
Moorhead, Calif.	Sikes	Yatron
Murphy, Ill.	Slack	Young, Alaska
Murtha	Smith, Nebr.	Young, Fla.
Myers, Ind.	Snyder	Young, Tex.
Myers, Pa.	Spence	
Nichols	Stanton, J. William	
O'Brien		

NOT VOTING—47

Adams	Findley	Passman
Alexander	Flynt	Preyer
Badillo	Ford, Mich.	Randall
Biaggi	Ford, Tenn.	Riegle
Boggs	Fountain	Santini
Bolling	Hagedorn	Sebelius
Brinkley	Hansen	Sisk
Burlison, Mo.	Hayes, Ind.	Steelman
Clay	Hefner	Steiger, Ariz.
Collins, Ill.	Heinz	Stephens
Conlan	Hinshaw	Stokes
Conyers	Howe	Stuckey
Corman	Jones, N.C.	Sullivan
Diggs	Jones, Tenn.	Symington
Esch	Mills	Vander Veen
Evins, Tenn.	O'Hara	

The Clerk announced the following pairs:

On this vote:

Mr. Corman for, with Mrs. Boggs against.

Mr. Badillo for, with Mr. Santini against.

Mrs. Collins of Illinois for, with Mr. Stuckey against.

Mr. Diggs for, with Mr. Adams against.

Mr. Evins of Tennessee for, with Mr. Mills against.

Mr. Hefner for, with Mr. Hagedorn against.

Mr. Preyer for, with Mr. Burlison of Missouri against.

Mr. Conyers for, with Mr. Fountain against.

Mr. Clay for, with Mr. Conlan against.

Mr. Ford of Tennessee for, with Mr. Hansen against.

Mr. Stokes for, with Mr. Steiger of Arizona against.

Mr. Vander Veen for, with Mr. Sebelius against.

Until further notice:

Mr. Jones of Tennessee with Mr. Esch.

Mr. Alexander with Mr. Findley.

Mr. Biaggi with Mr. Flynt.

Mr. Brinkley with Mr. Heinz.

Mr. Ford of Michigan, with Mr. Riegle.

Mr. Hayes of Indiana with Mr. Sisk.

Mr. Howe with Mr. Steelman.

Mr. Jones of North Carolina with Mr. Stephens.

Mr. O'Hara with Mrs. Sullivan.

Mr. Randall with Mr. Symington.

Mr. McFALL changed his vote from "aye" to "no."

The SPEAKER. The Speaker votes "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ANDERSON of Illinois. I am, Mr. Speaker, in its present form.

The SPEAKER. The clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ANDERSON of Illinois moves to recommit the bill H.R. 8401 to the House Members of the Joint Committee on Atomic Energy with instructions to report back to the House forthwith with the following amendments:

On page 2, line 4 insert the words "Administrator of" after the word "The", and on page 2, lines 4 and 5 delete the word "Administration".

On page 2, line 5 insert the following after the word "authorized,": "subject to the prior congressional review procedure set forth in subsection b. of this section".

On page 2, lines 8 and 9 delete the words "of the Energy Research and Development Administration".

On page 2, line 20 strike all after "public;" and insert the following: *"Provided, however,* That the guarantees under any such cooperative arrangement which would subject the Government to any future contingent liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the Government-furnished technology and equipment will work as promised by the Government over a mutually-agreed-to and reasonable period of initial commercial operation. Consistent with the foregoing, such cooperative arrangements may include, inter alia, in".

On page 3, line 15 delete the word "individuals" and substitute therefor the words "investors or lenders".

On page 3, line 16 delete the words "to any" and substitute therefor the words "are a".

Delete subsection b which begins on page 4, line 1 and continues through pages 5, line 2, and substitute therefor the following: "b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session with passage by the Congress of a concurrent resolution stating in substance that it does favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): Provided, That prior to the elapse of the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent resolution so reported

shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) with twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine".

On page 5, line 3 delete the word "the" which appears after the word "of", and on page 5, line 4 delete the word "administration".

On page 5, line 7 after the words "as amended," insert the following: "and subject to all of the limitations of Section 45 including the scope of the guarantees under subsection 45a. and the requirement for prior congressional review and approval set forth in subsection 45b.".

On page 5, lines 8 and 9 delete the words "as may be approved in an appropriation Act." and substitute therefor the following: "but in no event to exceed the amount provided therefor in a prior appropriation Act: Provided, That the timing, interest rate, and other terms and conditions of any notes, bonds or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury.".

On page 5, line 12 delete the words "of the Energy Research and Development Administration".

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield briefly to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding. I support private business getting into the nuclear fuel enrichment business but I oppose the guarantees provided in subsection 4 and 5 of section 45(a). Those subsections could remove the risk which private business must assume. It is risk that causes efficiency and economy.

In listening to the motion to recommit, am I right that the gentleman's motion to recommit in effect negates subsections 4 and 5 on page 3 of the bill?

Mr. ANDERSON of Illinois. The gentleman is correct. In order to make crystal clear to the Members of the House I meant what I said the other day that we were limiting this to a warranty of technology, we have put specific language in the motion to recommit that the guarantees under any cooperative arrangement which would subject the Government to any future contingent liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the Government-furnished technology and equipment will work, as promised by the Government, over a mutually agreed to and reasonable period of initial commercial operation—a warranty of technology and nothing more.

We are in an extremely unique parliamentary situation. That is why the vice chairman of the committee on this side of the aisle will join me in urging Members to support this motion to recommit.

The Bingham amendment struck sections 2 and 3. Even with the defeat of that amendment, we are now back to the original committee bill in its unamended form. We must put back in the bill with this motion to recommit and sections that provide for prior congressional approval of any contract that provides that there can be no contingent liability on the part of the Government, save that provided for in an appropriation bill, plus the additional language which I just read to the Members which will assure that we are limiting this to a warranty of technology.

I am sure that regardless of the feelings of the Members on the Bingham amendment that all Members on both sides of the aisle will want to join in supporting the motion to recommit.

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the distinguished gentleman from Illinois (Mr. PRICE).

Mr. PRICE. I thank the gentleman for yielding.

What the gentleman from Illinois is saying is that unless we do recommit the bill with instructions, we will go back to the original bill before it was worked on in the Joint Committee and amended in a way that was palatable to the House and which caused the House eventually to support it. Is that correct?

Mr. ANDERSON of Illinois. The gentleman has stated the parliamentary situation correctly. We will be back to the committee bill before we had amended it with those committee amendments which were accepted without dissent in the Committee of the Whole. Because those sections as amended were stricken, even though we defeated the Bingham amendment, we must now go back and assure this House that we report this bill to this House in a form that contains the provisions for a 60-day congressional review and the vote on any contractual undertaking plus provision for any contingent liabilities being provided for in an appropriation, plus assurance that was not contained in the original committee amendments that we are strictly limiting assurances here to a warranty of the technology the Government is selling and for which over a period of years the Government will receive back hundreds of millions of dollars of royalty payments.

That is the effect of the motion to recommit.

Mr. PRICE. I concur with the statement of the gentleman and I recommend support of the motion to recommit.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, for the reasons explained by the gentleman I will support the motion to recommit and then I will vote against the bill on final passage.

Mr. ANDERSON of Illinois. I thank the gentleman.

Mr. MYERS of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Pennsylvania.

Mr. MYERS of Pennsylvania. Mr. Speaker, does this in any way affect the so-called Myers amendment?

Mr. ANDERSON of Illinois. No, the Myers and the Hughes amendments were not stricken by the Bingham amendment. Therefore, they will not be affected and they will be in the bill as it will be reported back to the House forthwith by the committee.

Mr. Speaker, I urge a vote for the motion to recommit.

Mr. OTTINGER. Mr. Speaker, I rise in opposition to the motion to recommit.

I will speak only very briefly. I do not think the motion to recommit changes the situation significantly. It is still a bill whereby favored corporations are going to receive all the benefits if they are successful and the Government is going to pay all the losses if they are unsuccessful. I think the whole thing is a really bad deal for the people of the United States and the bill with or without the Anderson amendment certainly ought to be defeated.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was agreed to.

Mr. PRICE. Mr. Speaker, in accordance with the instructions of the House in the motion to recommit, I report back the bill with amendments.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

AMENDMENTS: On page 2, line 4 insert the words "Administrator of" after the word "The", and on page 2, lines 4 and 5 delete the word "Administration".

On page 2, line 5 insert the following after the word "authorized,": "subject to the prior congressional review procedure set forth in subsection b. of this section".

On page 2, lines 8 and 9 delete the words "of the Energy Research and Development Administration".

On page 2, line 20 strike all after "public;" and insert the following: *"Provided, however,* That the guarantees under any such cooperative arrangement which would subject the Government to any future contingent liabilities for which the Government would not be fully reimbursed shall be limited to the assurance that the Government-furnished technology and equipment will work as promised by the Government over a mutually-agreed-to and reasonable period of initial commercial operation. Consistent with the foregoing, such cooperative arrangements may include inter alia, in".

On page 3, line 15 delete the word "individuals" and substitute therefor the words "investors or lenders".

On page 3, line 16 delete the words "to any" and substitute therefor the words "are a".

Delete subsection b which begins on page 4, line 1 and continues through page 5, line 2, and substitute therefor the following: "b. The Administrator shall not enter into any arrangement or amendment thereto under the authority of this section, modify, or complete and operate any facility or dispose thereof, until the proposed arrangement or amendment thereto which the Administrator proposes to execute, or the plan for such modification, completion, operation or disposal by the Administrator, as appropriate, has been submitted to the Joint Committee on Atomic Energy, and a period of sixty days has elapsed while Congress is in session with passage by the Congress of a concurrent resolution stating in substance that it does favor such proposed arrangement or amendment or plan for such modification, completion, operation, or disposal (in computing such sixty days, there shall be excluded the days on which either House is not in session because of adjournment for more than three days): *Provided,* That prior to the elapse of

the first thirty days of any such sixty-day period the Joint Committee shall submit a report to the Congress of its views and recommendations respecting the proposed arrangement, amendment or plan and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed arrangement, amendment or plan. Any such concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) within twenty-five days and shall be voted on within five calendar days thereafter, unless such House shall otherwise determine".

On page 5, line 3 delete the word "the" which appears after the word "of", and on page 5, line 4 delete the word "administration".

On page 5, line 7 after the words "as amended," insert the following: "and subject to all of the limitations of Section 45 including the scope of the guarantees under subsection 45a. and the requirement for prior congressional review and approval set forth in subsection 45b.".

On page 5, lines 8 and 9 delete the words "as may be approved in an appropriation Act." and substitute therefor the following "but in no event to exceed the amount provided therefor in a prior appropriation Act: *Provided*, That the timing, interest rate, and other terms and conditions of any notes, bonds or other similar obligations secured by any such arrangements shall be subject to the approval of the Administrator with the concurrence of the Secretary of the Treasury.".

On page 5, line 12 delete the words "of the Energy Research and Development Administration".

Mr. PRICE (during the reading). Mr. Speaker, since these amendments were contained in the substitute that was considered as an original bill, I ask unanimous consent that they be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER. The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

Mr. BLOUIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 222, nays 168, not voting 41, as follows:

[Roll No. 601]

YEAS—222

Abdnor	Bafalis	Burgener
Alexander	Beard, Tenn.	Burke, Fla.
Anderson, Calif.	Bell	Burke, Mass.
	Bennett	Burleson, Tex.
Anderson, Ill.	Bergland	Butler
Andrews, N.C.	Bevill	Carney
Andrews, N. Dak.	Bowen	Carter
	Breaux	Cederberg
Annunzio	Broomfield	Chappell
Archer	Brown, Mich.	Clancy
Armstrong	Brown, Ohio	Clausen, Don H.
Ashbrook	Broyhill	
Ashley	Buchanan	Clawson, Del
Cleveland	Jones, Ala.	Quillen
Cochran	Jones, Okla.	Railsback
Cohen	Jordan	Rees
Collins, Tex.	Karth	Regula
Conable	Kasten	Rhodes
Cotter	Kazen	Rinaldo
Coughlin	Kelly	Risenhoover
Crane	Kemp	Roberts
Daniel, Dan	Ketchum	Robinson
Daniel, R. W.	Kindness	Roe
Davis	Krueger	Rogers
de la Garza	Lagomarsino	Rooney
Dent	Landrum	Rose
Derrick	Latta	Rousselot
Derwinski	Lent	Runnels
Devine	Lloyd, Tenn.	Ruppe
Dickinson	Long, La.	Sarasin
Downey, N.Y.	Lott	Satterfield
Downing, Va.	Lujan	Schneebeli
Duncan, Tenn.	McClory	Schulze
Edwards, Ala.	McCloskey	Shipley
Emery	McCollister	Shriver
English	McCormack	Shuster
Erlenborn	McDade	Sikes
Eshleman	McDonald	Slack
Fary	McEwen	Smith, Nebr.
Flood	McFall	Snyder
Florio	McKinney	Spence
Flowers	Madden	Stanton, J. William
Foley	Madigan	
Forsythe	Mahon	Stanton, James V.
Frenzel	Mann	
Frey	Martin	Steed
Fuqua	Mathis	Steiger, Wis.
Giaimo	Matsunaga	Stratton
Ginn	Michel	Symms
Goldwater	Milford	Talcott
Gonzalez	Miller, Ohio	Taylor, Mo.
Gradison	Mitchell, N.Y.	Taylor, N.C.
Guyer	Montgomery	Teague
Hagedorn	Moore	Thone
Haley	Moorhead, Calif.	Thornton
Hall, Ill.		Treen
Hall, Tex.	Moorhead, Pa.	Vander Jagt
Hammer-schmidt	Mosher	Waggonner
	Murphy, Ill.	Walsh
Hanley	Murtha	Wampler
Harsha	Myers, Ind.	White
Hébert	Myers, Pa.	Whitehurst
Heckler, Mass.	Nichols	Whitten
Heinz	O'Brien	Wiggins
Henderson	O'Neill	Wilson, Bob
Hightower	Patten, N.J.	Wilson, C. H.
Hillis	Pepper	Wilson, Tex.
Holland	Perkins	Winn
Horton	Pettis	Wright
Hutchinson	Peyser	Wydler
Hyde	Pickle	Wylie
Ichord	Poage	Yatron
Jarman	Pressler	Young, Alaska
Jenrette	Preyer	Young, Fla.
Johnson, Calif.	Price	Young, Tex.
Johnson, Colo.	Pritchard	
Johnson, Pa.	Quie	

NAYS—168

Abzug	Delaney	Helstoski
Adams	Dellums	Hicks
Addabbo	Dingell	Holt
Allen	Dodd	Holtzman
Ambro	Drinan	Howard
Aspin	Duncan, Oreg.	Hubbard
AuCoin	du Pont	Hughes
Baldus	Early	Hungate
Baucus	Eckhardt	Jacobs
Bauman	Edgar	Jeffords
Beard, R.I.	Edwards, Calif.	Kastenmeier
Bedell	Eilberg	Keys
Biester	Evans, Colo.	Koch
Bingham	Evans, Ind.	Krebs
Blanchard	Fascell	LaFalce
Blouin	Fenwick	Leggett
Boland	Fish	Lehman
Bolling	Fisher	Levitas
Bonker	Fithian	Lloyd, Calif.
Brademas	Fraser	Long, Md.
Breckinridge	Gaydos	Lundine
Brodhead	Gibbons	McHugh
Brooks	Gilman	McKay
Brown, Calif.	Goodling	Maguire
Burke, Calif.	Grassley	Mazzoli
Burton, John	Green	Meeds
Burton, Phillip	Gude	Melcher
Byron	Hamilton	Metcalfe
Carr	Hannaford	Meyner
Chisholm	Harkin	Mezvinsky
Conte	Harrington	Mikva
Cornell	Harris	Miller, Calif.
D'Amours	Hawkins	Mineta
Daniels, N.J.	Hays, Ohio	Minish
Danielson	Hechler, W. Va.	Mink
Mitchell, Md.	Rangel	Staggers
Moakley	Reuss	Stark
Moffett	Richmond	Studds
Mollohan	Rodino	Thompson
Morgan	Roncalio	Traxler
Moss	Rosenthal	Tsongas
Mottl	Rostenkowski	Udall
Murphy, N.Y.	Roush	Ullman
Natcher	Roybal	Van Deerlin
Neal	Russo	Vanik
Nedzi	Ryan	Vigorito
Nix	St Germain	Waxman
Nolan	Sarbanes	Weaver
Nowak	Scheuer	Whalen
Oberstar	Schroeder	Wirth
Obey	Seiberling	Wolff
Ottinger	Sharp	Yates
Patterson, Calif.	Simon	Young, Ga.
	Skubitz	Zablocki
Pattison, N.Y.	Smith, Iowa	Zeferetti
Paul	Solarz	
Pike	Spellman	

NOT VOTING—41

Badillo	Flynt	Randall
Biaggi	Ford, Mich.	Riegle
Boggs	Ford, Tenn.	Santini
Brinkley	Fountain	Sebelius
Burlison, Mo.	Hansen	Sisk
Clay	Hayes, Ind.	Steelman
Collins, Ill.	Hefner	Steiger, Ariz.
Conlan	Hinshaw	Stephens
Conyers	Howe	Stokes
Corman	Jones, N.C.	Stuckey
Diggs	Jones, Tenn.	Sullivan
Esch	Mills	Symington
Evins, Tenn.	O'Hara	Vander Veen
Findley	Passman	

The Clerk announced the following pairs:

Mrs. Boggs with Mr. O'Hara.
Mr. Corman with Mr. Mills.
Mr. Jones of Tennessee with Mr. Conlan.
Mrs. Collins of Illinois with Mr. Steiger of Arizona.
Mr. Diggs with Mr. Sebelius.
Mr. Evins of Tennessee with Mr. Esch.
Mr. Hefner with Mr. Findley.
Mr. Passman with Mr. Steelman.
Mr. Conyers with Mr. Flynt.
Mr. Clay with Mr. Ford of Michigan.
Mr. Ford of Tennessee with Mr. Sisk.
Mr. Stokes with Mr. Riegle.
Mr. Vander Veen with Mr. Stuckey.
Mr. Santini with Mr. Symington.
Mr. Fountain with Mr. Randall.
Mrs. Sullivan with Mr. Howe.
Mr. Burlison of Missouri with Mr. Jones of North Carolina.
Mr. Biaggi with Mr. Hayes of Indiana.
Mr. Badillo with Mr. Hansen.
Mr. Brinkley with Mr. Stephens.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize cooperative arrangements with private enterprise for the provision of facilities for the production and enrichment of uranium enriched in the isotope-235, to provide for authorization of contract authority therefor, to provide a procedure for prior congressional review and approval of proposed arrangements, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4634, BASIC WORKWEEK OF FEDERAL FIREFIGHTING PERSONNEL

Mr. MATSUNAGA. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1340 and ask for its immediate consideration.

The Clerk read the resolution as follows:

HOUSE RESOLUTION 1340

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4634) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 1 hour.

Mr. MATSUNAGA. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1340 provides for the consideration of H.R. 4634, a bill reported by the House Committee on Post Office and Civil Service, which would improve the basic workweek of Federal firefighters.

House Resolution 1340 is an open rule, providing 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Post Office and Civil Service Committee. After general debate, the bill shall be read for amendment under the 5-minute rule. The resolution makes in order the consideration, for purposes of amendment, of the committee amendment in the nature of a substitute, which is printed in the bill.

After the bill has been considered for amendment, the committee shall rise and report it to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted by the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute.

The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion, except one motion to recommit without instructions.

As the author of H.R. 4634, I strongly urge that the rule be adopted so that the bill can be considered as expeditiously as possible by the House. The bill would correct a serious injustice suffered by Federal firefighters, and would make it easier for the Federal Government to recruit and retain qualified firefighting personnel. I intend to explain the bill's provisions during general debate on the bill and I am confident that my colleagues will agree that it merits prompt enactment. Mr. Speaker, I urge a vote for the rule in order that H.R. 4634 may be considered by the House.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution makes in order the consideration of H.R. 4634, legislation designed to improve the basic workweek of Federal firefighting personnel, under a 1-hour, open rule. The resolution further makes it in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purposes of amendment.

H.R. 4634 primarily does two things:

First. It provides that the basic administrative workweek of each Federal firefighter shall be reduced from 72 to 54 hours per week beginning the first pay period in January 1977.

Second. It authorizes payment of 25 percent premium pay in lieu of all other premium pay, except for irregular, unscheduled overtime work, to firefighters who have a basic workweek averaging 54 hours.

No additional costs are reported to be associated with the passage of a 54-hour workweek, in and of itself.

I am advised that the administration strongly opposes this legislation as do some members of the committee reporting it.

Since we have a 1-hour, open rule allowing full discussion of the bill, I urge its adoption.

Mr. Speaker, I have no further requests for time.

Mr. MATSUNAGA. Mr. Speaker, I have no further requests for time.

I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 380, nays 4, answered "present" 1, not voting 46, as follows:

[Roll No. 602]

YEAS—380

Abdnor	Downing, Va.	Kindness
Adams	Drinan	Koch
Addabbo	Duncan, Oreg.	Krebs
Alexander	Duncan, Tenn.	Krueger
Allen	du Pont	LaFalce
Ambro	Early	Lagomarsino
Anderson, Calif.	Eckhardt	Landrum
	Edgar	Latta
Anderson, Ill.	Edwards, Ala.	Leggett
Andrews, N.C.	Edwards, Calif.	Lehman
Andrews, N. Dak.	Eilberg	Lent
	Emery	Levitas
Annunzio	English	Lloyd, Calif.
Archer	Erlenborn	Lloyd, Tenn.
Armstrong	Eshleman	Long, La.
Ashbrook	Evans, Colo.	Long, Md.
Ashley	Evans, Ind.	Lott
Aspin	Fary	Lujan
AuCoin	Fascell	Lundine
Bafalis	Fenwick	McClory
Baldus	Fish	McCloskey
Baucus	Fisher	McCollister
Bauman	Flood	McCormack
Beard, R.I.	Florio	McDade
Beard, Tenn.	Flowers	McDonald
Bedell	Foley	McEwen
Bell	Forsythe	McFall
Bennett	Fraser	McHugh
Bergland	Frenzel	McKay
Bevill	Frey	McKinney
Biester	Fuqua	Madden
Bingham	Gaydos	Madigan
Blanchard	Giaimo	Maguire
Blouin	Gibbons	Mahon
Boggs	Gilman	Mann
Boland	Ginn	Martin
Bolling	Goldwater	Mathis
Bonker	Gonzalez	Matsunaga
Bowen	Goodling	Mazzoli
Brademas	Gradison	Meeds
Breaux	Grassley	Metcalfe
Breckinridge	Green	Meyner
Brodhead	Gude	Mezvinsky
Brooks	Guyer	Michel
Broomfield	Hagedorn	Mikva
Brown, Calif.	Haley	Milford
Brown, Mich.	Hall, Ill.	Miller, Calif.
Brown, Ohio	Hall, Tex.	Miller, Ohio
Broyhill	Hamilton	Mineta
Buchanan	Hammer-schmidt	Minish
Burgener		Mink
Burke, Calif.	Hanley	Mitchell, Md.
Burke, Fla.	Hannaford	Mitchell, N.Y.
Burke, Mass.	Harkin	Moakley
Burton, John	Harrington	Moffett
Burton, Phillip	Harris	Mollohan
Butler	Harsha	Montgomery
Byron	Hawkins	Moore
Carney	Hébert	Moorhead, Calif.
Carr	Hechler, W. Va.	
Cederberg	Heckler, Mass.	Moorhead, Pa.
Chappell	Heinz	Morgan
Chisholm	Helstoski	Mosher
Clancy	Henderson	Moss
Clausen, Don H.	Hicks	Mottl
	Hightower	Murphy, Ill.
Clawson, Del	Hillis	Murphy, N.Y.
Cleveland	Holland	Murtha
Cochran	Holt	Myers, Ind.
Cohen	Holtzman	Myers, Pa.
Collins, Tex.	Horton	Natcher
Conable	Howard	Neal
Conte	Hubbard	Nedzi
Corman	Hughes	Nichols
Cornell	Hungate	Nix
Cotter	Hutchinson	Nowak
Coughlin	Hyde	Oberstar
Crane	Ichord	Obey
D'Amours	Jacobs	O'Brien
Daniel, Dan	Jarman	O'Neill
Daniel, R. W.	Jeffords	Ottinger
Daniels, N.J.	Jenrette	Patten, N.J.
Danielson	Johnson, Calif.	Patterson, Calif.
Davis	Johnson, Colo.	
de la Garza	Johnson, Pa.	Pattison, N.Y.
Delaney	Jones, Ala.	Paul
Dellums	Jones, Okla.	Pepper
Dent	Jordan	Perkins
Derrick	Kasten	Pettis
Derwinski	Kastenmeier	Peyser
Devine	Kazen	Pickle
Dickinson	Kelly	Pike
Dingell	Kemp	Pressler
Dodd	Ketchum	Preyer
Downey, N.Y.	Keys	Price

Pritchard	Seiberling	Tsongas
Quie	Sharp	Udall
Quillen	Shipley	Ullman
Railsback	Shriver	Van Deerlin
Rangel	Shuster	Vander Jagt
Regula	Sikes	Vander Veen
Reuss	Simon	Vanik
Rhodes	Skubitz	Vigorito
Richmond	Slack	Walsh
Rinaldo	Smith, Iowa	Wampler
Roberts	Smith, Nebr.	Waxman
Robinson	Snyder	Weaver
Rodino	Solarz	Whalen
Roe	Spellman	White
Rogers	Spence	Whitehurst
Roncalio	Staggers	Whitten
Rooney	Stanton,	Wiggins
Rose	J. William	Wilson, Bob
Rosenthal	Stanton,	Wilson, C. H.
Rostenkowski	James V.	Wilson, Tex.
Roush	Stark	Winn
Rousselot	Steed	Wirth
Roybal	Steiger, Wis.	Wolff
Runnels	Stokes	Wright
Ruppe	Studds	Wylie
Russo	Symms	Yates
Ryan	Talcott	Yatron
St Germain	Taylor, Mo.	Young, Alaska
Sarasin	Taylor, N.C.	Young, Fla.
Sarbanes	Teague	Young, Ga.
Satterfield	Thompson	Young, Tex.
Scheuer	Thone	Zablocki
Schneebeli	Thornton	Zeferetti
Schroeder	Traxler	
Schulze	Treen	

NAYS—4

Burleson, Tex.	Poage	Stratton
Carter		

ANSWERED "PRESENT"—1

Wydler

NOT VOTING—46

Abzug	Ford, Tenn.	Randall
Badillo	Fountain	Rees
Biaggi	Hansen	Riegle
Brinkley	Hayes, Ind.	Risenhoover
Burlison, Mo.	Hays, Ohio	Santini
Clay	Hefner	Sebelius
Collins, Ill.	Hinshaw	Sisk
Conlan	Howe	Steelman
Conyers	Jones, N.C.	Steiger, Ariz.
Diggs	Jones, Tenn.	Stephens
Esch	Karth	Stuckey
Evins, Tenn.	Melcher	Sullivan
Findley	Mills	Symington
Fithian	Nolan	Waggonner
Flynt	O'Hara	
Ford, Mich.	Passman	

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Howe.
Mr. Biaggi with Mr. Conlan.
Mrs. Collins of Illinois with Mr. Steiger of Arizona.
Mr. Diggs with Mr. Sebelius.
Mr. Evins of Tennessee with Mr. Waggonner.
Mr. Hefner with Mr. O'Hara.
Mr. Nolan with Mr. Findley.
Mr. Conyers with Mr. Steelman.
Mr. Clay with Mr. Flynt.
Mr. Ford of Tennessee with Mr. Hayes of Indiana.
Mr. Brinkley with Mr. Sisk.
Mr. Ford of Michigan with Mr. Riegle.
Mr. Santini with Mr. Stuckey.
Mr. Fountain with Mr. Symington.
Mrs. Sullivan with Mr. Randall.
Mr. Burlison of Missouri with Mr. Hansen.
Mr. Badillo with Mr. Stephen.
Mr. Passman with Mr. Hays of Ohio.
Ms. Abzug with Mr. Jones of North Carolina.
Mr. Fithian with Mr. Karth.
Mr. Melcher with Mr. Mills.
Mr. Risenhoover with Mr. Rees.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE TODAY

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Activities and Transportation of the Committee on Government Operations be permitted to sit today while the House is proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 10498, CLEAN AIR ACT AMENDMENTS OF 1976

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1430 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 1430

Resolved, That upon the adoption of this resolution, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes. After general debate which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committe amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1430 provides for the consideration of H.R. 10498, a bill reported by the Committee on Interstate and Foreign Commerce, the Clean Air Act Amendments of 1976, which makes major modifications in air pollution and prevention programs, and authorizes $200 million for each of the next 3 fiscal years through fiscal year 1979.

House Resolution 1430 provides for an open rule with 3 hours of general debate to be divided and controlled in the customary manner. When general debate has been completed, the bill will be considered for amendment under the 5-minute rule. Under the rule it will be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce which is printed in the bill as an original bill for the purpose of amendment and said substitute shall be read for amendment by titles instead of by sections.

Mr. Speaker, the goal of the 1970 Clean Air Act was to reduce pollution by May 1975 to a level which would not pose a danger to human health. That act was passed in the House by a vote of 374 ayes to 1 nay, and in the Senate by 73 ayes with none voting nay. Since that time, energy, economic and technological factors, in combination with pleas from key industries for delays in implementation of the standards, have interceded and prevented the attainment of the original purpose.

I commend my able and distinguished colleague from Florida, Representative PAUL G. ROGERS, chairman of the Commerce Subcommittee on Health and the Environment, for his leadership in bringing out this legislation. This bill is designed to insure the protection of the public health and the environment, for this generation and future generations, while at the same time providing for new timetables and the resolution of several disputatious issues which have arisen since enactment of the original legislation.

One of the most controversial issues since the enactment of the Clean Air Act was the failure to give local governments any role in its implementation. H.R. 10498 remedies this deficiency and changes the current EPA regulations to insure that local governments will have the major role in planning programs to clean up the air consistent with the economic, social, and environmental conditions which prevail within local jurisdictions. This should eliminate the serious intergovernmental conflicts which have diminished the act's effectiveness.

Mr. Speaker, I just want to add this observation. There is one great need, in my opinion, for those who have responsibilities for the structure of the environmental protection legislation of this country and that is to provide methods and procedures by which decisions respecting the environment, EPA decisions, and other decisions of the Federal, State, and local governments, may be more expeditiously made. There are a great many people in this country who are strongly for proper environmental protection for our people, but they do want to get a decision on an application to build something or dig a canal or to do something else that will affect the environment, within a reasonable time.

Mr. Speaker, I commend to the committees that have jurisdiction of this subject an examination of the procedures at the Federal, State, and local level, to see if we cannot devise procedural tech-

niques and a procedural structure under which it would be possible to get reasonably expeditious decisions in these environmental matters when they are duly presented.

Mr. Speaker, this legislation offers the Congress a compromise proposal that will establish a national policy to protect air quality.

Mr. Speaker, I urge adoption of House Resolution 1430, so that this very important environmental legislation may be considered and, I hope, adopted in the House.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1430, which was adopted by a vote of 10 to 3 in the Committee on Rules, would permit the House to consider the so-called Clean Air Act Amendments of 1976 under an open rule with 3 hours of general debate. The rule makes the committee substitute in order as an original bill for the purpose of amendment and further provides for the reading of the bill by title instead of by section for amendment.

Mr. Speaker, while the bill which this rule makes in order does involve considerable controversy and will be the subject of extended debate and numerous amendments, so far as I know there is no objection to this rule and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding time to me. If I may take just a moment, I would like to point out that there are a number of amendments which will be offered to this bill. It is my understanding that over 50 amendments have been printed in the RECORD, pursuant to clause 6 of rule XXIII. If all these amendments are offered and fully considered by the House, we could be here for many hours—in fact, for many days—in consideration of this bill.

I think there are a number of changes that should be made in the bill before the House adopts the bill on final passage.

Mr. Speaker, it is imperative that the Congress act upon the Clean Air Act Amendments of 1976 so that our Nation may progress further on the road to cleaner air and increased economic stability. Further procrastination regarding this matter would be a gross injustice not only to those industries which will be most directly affected, but to the American people and to Congress as well. However, I would call to your attention those sections of this bill which are particularly objectionable to those of us who would legislate prudently and equitably in this matter.

I must initially dissent with that portion of the bill dealing with automobile emission standards. The debate thus far seems to have been concerned more with argument than with fact, but Government experts provided Congress with an objective analysis of the effects on health, employment, costs to consumers, and fuel efficiency of several levels of automobile emission control. That analysis clearly demonstrates that the Committee on Commerce bill with its auto air emission standards would: First, waste energy; second, produce negligible air quality benefits; third, increase consumer costs; and fourth, severely limit technological development.

ENERGY WASTE

The Commerce Committee standards would waste great quantities of petroleum products, particularly gasoline, which would further drain domestic energy resources. This in turn would result in more dependence upon uncertain foreign sources for oil, higher prices, aggravated shortages, and more environmental damage.

NEGLIGIBLE AIR QUALITY BENEFITS

The air quality impact of the Commerce Committee standards is negligible by comparison to the Dingell-Broyhill-Train amendment and the health benefits are almost imperceptible. Studies have not proven that such stringent standards are necessary to protect health and to meet national ambient air quality standards. Negligible benefits, if any, will be offset by corresponding increases in emissions of other harmful pollutants, such as sulfuric acid. Finally, the technology does not yet exist which can guarantee continued pollution reduction at these levels without sacrificing pollution equipment efficiency.

INCREASE CONSUMER COSTS

The Commerce Committee standards would unnecessarily and unreasonably increase the costs to be paid by consumers.

The Commerce Committee standards—by providing for frequently shifting targets and year-to-year waivers—create consumer uncertainty, reluctance to buy, and further decline in production and employment. Since such stringent standards would severely limit the availability of some automobile models and prohibit others, the Nation would experience a ripple effect of productive stagnation which would affect a multitude of industries.

Together, the problems specified in my objections would sorely aggravate the Nation's economic recovery with higher inflation rates, reduced purchasing power, reduced consumption of new cars, unemployment in the auto industry, unemployment in related supplier industries—steel, rubber, glass, et cetera—and a return to the inflationary spiral.

Additionally, if by reason of fuel inefficiencies and excessive costs, consumer confidence is undermined, the purchase of new cars may be delayed and retirement of older, dirtier cars may be postponed.

LIMITS ON TECHNOLOGICAL DEVELOPMENT

Untimely standards lock in catalyst technologies and place a "straightjacket" on industry development. Extreme standards rule out other technologies—diesel, lean burn, et cetera—which show promise of achieving the objectives of both air quality improvement and fuel economy. Congress would be making a risky sole source technology selection which may present its own air quality problem for the future and which may preclude other, more suitable methods.

Commonsense and a concern for balancing economy, energy, and environment require moderation in the rate of progress towards the single goal of emission control. The goal of protection of public health must include adequate employment to feed families and enough energy to heat homes, as well as clean air to breathe. We can have clean air without risking the others if we are willing to amend this legislation.

OTHER ASPECTS OF THE CLEAN AIR ACT

SIGNIFICANT DETERIORATION

No section in this bill is more controversial than section 108, the new provision to prevent significant deterioration. This provision would impose land use zones upon States and localities across the Nation without regard to their prerogatives or desires. It would do so on the single criterion of air quality, to the detriment of other environmental considerations, and to the exclusion of pertinent social and energy factors.

The inescapable effect of this section is that it would lock existing industrial and nonindustrial sources which qualify as major sources in areas of highest pollution, where there is little or no margin for expansion, and where the pollution would steadily worsen. At the same time, these sources would have severe difficulties in locating in areas with low pollution concentrations and greater margins for growth, the only areas in which substantial major growth could occur.

INTERSTATE POLLUTION ABATEMENT

Section 309 of the bill would add a new mechanism to the Clean Air Act which would allow the Administrator to shutdown a major source even though it be in compliance with the plan of the State in which it is situated. Any State or political subdivision would be empowered to file a petition against an alleged offending source, even though the petitioner is neither situated within a zone of interest nor even injured by the offense. For example, a county in Florida could petition the Administrator with respect to a major source in New Jersey which allegedly may be impacting adversely upon Pennsylvania or New York.

UNREGULATED POLLUTANTS

This section (101) would require the Administrator to promulgate final primary and secondary ambient air quality standards for presently unregulated substances within a specified period of time, even though he does not have available the data and facts which would enable him to determine at what level such substance would become a public health hazard or at what level such standards should be fixed in order to assure a reasonable margin of safety.

NITROGEN DIOXIDE STANDARDS—SECTION 101

This would mark the first time that Congress would have mandated the establishment of an ambient air quality standard for a specific increment of time. Under current law, that judgment has been left to the Administrator, who is

best able to make it on the basis of scientific information available. So definitive a mandate would be highly questionable, for it requires measurement in the absence of sufficient data.

BASIS FOR ADMINISTRATIVE STANDARDS—SECTION 102

Passage of this section would alter the fundamental standards which are the bases of past decisions respecting the Clean Air Act. There is little justification for this section, since it does not result from allegations that the current standards are inadequate. In fact, there was no testimony supportive of the substitute standards contained in this section of the bill during the course of hearings on the act.

COMPLIANCE DATE EXTENSIONS

Section 103 of this bill would repeal the Administrator's authority to issue a postponement of or permit a delay or violation of requirements of the act or an applicable implementation plan.

It would establish, in place of present options, six narrowly drawn grounds upon which a source might be granted a compliance date extension, even though it prevents timely attainment and maintenance by the State or air quality control region of their requirements.

BEST AVAILABLE CONTROL TECHNOLOGY—SECTION 111

Given the criteria which must be taken into consideration such as cost, environmental impact, and energy requirements, it would be difficult for the Administrator to determine that any scrubber technology has been adequately demonstrated. There is considerable evidence that their reliability should be subject to serious doubt. To compound that problem is the unfortunate situation which could result should a scrubber technology prove to be faulty. Since the use of clean fuels and intermittent controls as alternative means of meeting standards would also be prohibited by this bill, we will have painted ourselves into a corner with no means of escape.

Because of these and other problems, it is my opinion that H.R. 10498 does not provide the balanced approach which is needed for effective clean air legislation. It is my hope that action on the floor will remove the major defects in this bill so that it will warrant the support of Congress.

Mr. ANDERSON of Illinois. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the able gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I rise in support of the rule and the bill.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the able gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding to me. I also rise in strong support of the rule.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SHUSTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 2, not voting 47, as follows:

[Roll No. 603]

YEAS—382

Abdnor	Coughlin	Hays, Ohio
Adams	Crane	Hechler, W. Va.
Addabbo	D'Amours	Heckler, Mass.
Alexander	Daniel, Dan	Heinz
Allen	Daniel, R. W.	Helstoski
Ambro	Daniels, N.J.	Henderson
Anderson, Calif.	Danielson	Hicks
	Davis	Hightower
Anderson, Ill.	de la Garza	Hillis
Andrews, N.C.	Delaney	Holland
Andrews, N. Dak.	Dellums	Holt
	Dent	Holtzman
Annunzio	Derrick	Horton
Archer	Derwinski	Howard
Armstrong	Devine	Hubbard
Ashbrook	Dickinson	Hughes
Ashley	Dodd	Hungate
Aspin	Downey, N.Y.	Hutchinson
AuCoin	Downing, Va.	Hyde
Bafalis	Drinan	Ichord
Baldus	Duncan, Oreg.	Jacobs
Baucus	Duncan, Tenn.	Jarman
Bauman	du Pont	Jeffords
Beard, R.I.	Early	Jenrette
Beard, Tenn.	Eckhardt	Johnson, Calif.
Bedell	Edgar	Johnson, Colo.
Bell	Edwards, Ala.	Johnson, Pa.
Bennett	Edwards, Calif.	Jones, Ala.
Bergland	Eilberg	Jones, Okla.
Bevill	Emery	Jordan
Biester	English	Kasten
Bingham	Erlenborn	Kastenmeier
Blanchard	Eshleman	Kazen
Blouin	Evans, Colo.	Kelly
Boggs	Evans, Ind.	Kemp
Boland	Fary	Ketchum
Bolling	Fascell	Keys
Bonker	Fenwick	Kindness
Brademas	Fish	Koch
Breaux	Fisher	Krebs
Breckinridge	Fithian	Krueger
Brodhead	Flood	LaFalce
Brooks	Florio	Lagomarsino
Broomfield	Flowers	Landrum
Brown, Calif.	Foley	Latta
Brown, Mich.	Forsythe	Leggett
Brown, Ohio	Fraser	Lent
Broyhill	Frenzel	Levitas
Buchanan	Frey	Lloyd, Calif.
Burgener	Fuqua	Lloyd, Tenn.
Burke, Calif.	Gaydos	Long, La.
Burke, Fla.	Giaimo	Long, Md.
Burke, Mass.	Gibbons	Lott
Burleson, Tex.	Gilman	Lujan
Burton, John	Ginn	Lundine
Burton, Phillip	Goldwater	McClory
Butler	Gonzalez	McCloskey
Byron	Goodling	McCollister
Carney	Gradison	McCormack
Carr	Grassley	McDade
Carter	Green	McEwen
Cederberg	Gude	McFall
Chappell	Guyer	McKay
Chisholm	Hagedorn	McKinney
Clancy	Haley	Madden
Clausen, Don H.	Hall, Ill.	Madigan
	Hall, Tex.	Maguire
Clawson, Del	Hamilton	Mahon
Cleveland	Hammer-schmidt	Mann
Cochran		Martin
Cohen	Hanley	Mathis
Collins, Tex.	Hannaford	Matsunaga
Conable	Harkin	Mazzoli
Conte	Harrington	Meeds
Corman	Harris	Melcher
Cornell	Harsha	Metcalfe
Cotter	Hawkins	Meyner
Mezvinsky	Preyer	Stanton, J. William
Michel	Price	
Mikva	Pritchard	Stanton, James V.
Milford	Quie	
Miller, Calif.	Quillen	Stark
Miller, Ohio	Railsback	Steed
Mineta	Rangel	Steiger, Wis.
Minish	Regula	Stokes
Mink	Reuss	Stratton
Mitchell, Md.	Rhodes	Studds
Mitchell, N.Y.	Richmond	Talcott
Moakley	Rinaldo	Taylor, Mo.
Moffett	Roberts	Taylor, N.C.
Mollohan	Robinson	Teague
Montgomery	Rodino	Thompson
Moore	Roe	Thone
Moorhead, Calif.	Rogers	Thornton
	Roncalio	Traxler
Moorhead, Pa.	Rooney	Treen
Morgan	Rose	Tsongas
Mosher	Rosenthal	Udall
Moss	Rostenkowski	Ullman
Motti	Roush	Van Deerlin
Murphy, Ill.	Rousselot	Vander Jagt
Murphy, N.Y.	Roybal	Vander Veen
Murtha	Runnels	Vanik
Myers, Ind.	Ruppe	Vigorito
Myers, Pa.	Russo	Walsh
Natcher	Ryan	Wampler
Neal	St Germain	Waxman
Nedzi	Sarasin	Weaver
Nichols	Sarbanes	Whalen
Nix	Satterfield	White
Nolan	Scheuer	Whitehurst
Nowak	Schneebeli	Whitten
Oberstar	Schroeder	Wiggins
Obey	Schulze	Wilson, Bob
O'Brien	Seiberling	Wilson, C. H.
O'Neill	Sharp	Wilson, Tex.
Ottinger	Shipley	Winn
Patten, N.J.	Shriver	Wirth
Patterson, Calif.	Shuster	Wolff
	Sikes	Wright
Pattison, N.Y.	Simon	Wydler
Paul	Skubitz	Wylie
Pepper	Slack	Yates
Perkins	Smith, Iowa	Yatron
Pettis	Smith, Nebr.	Young, Alaska
Peyser	Snyder	Young, Fla.
Pickle	Solarz	Young, Ga.
Pike	Spellman	Young, Tex.
Poage	Spence	Zablocki
Pressler	Staggers	Zeferetti

NAYS—2

McDonald	Risenhoover

NOT VOTING—47

Abzug	Ford, Mich.	Passman
Badillo	Ford, Tenn.	Randall
Biaggi	Fountain	Rees
Bowen	Hansen	Riegle
Brinkley	Hayes, Ind.	Santini
Burlison, Mo.	Hébert	Sebelius
Clay	Hefner	Sisk
Collins, Ill.	Hinshaw	Steelman
Conlan	Howe	Steiger, Ariz.
Conyers	Jones, N.C.	Stephens
Diggs	Jones, Tenn.	Stuckey
Dingell	Karth	Sullivan
Esch	Lehman	Symington
Evins, Tenn.	McHugh	Symms
Findley	Mills	Waggonner
Flynt	O'Hara	

The Clerk announced the following pairs:

Mr. Jones of Tennessee with Mr. Conlan.
Mr. Biaggi with Mr. Steiger of Arizona.
Mrs. Collins of Illinois with Mr. Sebelius.
Mr. Diggs with Mr. O'Hara.
Mr. Evins of Tennessee with Mr. Findley.
Mr. Hefner with Mr. Steelman.
Mr. Clay with Mr. Flynt.
Mr. Ford of Tennessee with Mr. Hayes of Indiana.
Mr. Brinkley with Mr. Sisk.
Mr. Santini with Mr. Riegle.
Mr. Fountain with Mr. Stuckey.
Mr. Ford of Michigan with Mr. Symington.
Mrs. Sullivan with Mr. Randall.
Mr. Burlison of Missouri with Mr. Hansen.
Mr. Badillo with Mr. Stephens.
Mr. Passman with Mr. Mills.
Mr. Howe with Mr. Rees.
Ms. Abzug with Mr. Bowen.
Mr. Conyers with Mr. Dingell.
Mr. Hébert with Mr. Esch.

Mr. Jones of North Carolina with Mr. Karth.
Mr. McHugh with Mr. Lehman.
Mr. Waggonner with Mr. Symms.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BASIC WORKWEEK OF FEDERAL FIREFIGHTING PERSONNEL

Mr. HENDERSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4634) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. HENDERSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4634, with Mr. LEVITAS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from North Carolina (Mr. HENDERSON) will be recognized for 30 minutes and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of H.R. 4634 is to establish an average workweek of 54 hours for Federal firefighters and authorize payment of 25 percent premium pay to firefighters having a 54-hour workweek.

Under existing law, the authority to fix the hours of work of Federal employees, including firefighters, rests with the heads of the agencies. The typical workweek for the Federal firefighter now is 72 hours which consists of three 24-hour shifts.

Each shift generally is divided into 8 hours of actual work and 16 hours in a standby status, including a designated sleeping period.

The authority to fix the rates of premium pay on an annual basis for longer than ordinary tours of duty involving substantial amounts of standby duty rests with the Civil Service Commission.

At present, most Federal firefighters qualify for the maximum percentage allowable by law—25 percent—based on their present 72-hour per week tour of duty. The annual premium pay is paid in lieu of overtime, night differential, Sunday, and holiday pay.

For irregular, unscheduled hours of work in excess of 72 hours per week, firefighters are paid overtime compensation in accordance with the provisions of title 5 of the United States Code.

Additionally, Federal firefighters are subject to the overtime provisions of the Fair Labor Standards Amendments of 1974 (29 U.S.C. 207(k)). For calendar year 1976, the FLSA requires payment of overtime for all hours in excess of 58 per week. Thus, most Federal firefighters receive premium pay under title 5, United States Code, and overtime pay for 14 hours per week under the FLSA. Effective January 1, 1977, the FLSA overtime standard drops to 54 hours per week.

H.R. 4634, as amended by the committee, would amend existing law to provide that the basic administrative workweek of each Federal firefighter shall average 54 hours per week and to authorize payment of 25 percent premium pay in lieu of all other premium pay—except for irregular unscheduled overtime work—to firefighters who have such a basic workweek.

Though the pay of the Federal firefighter is not being changed by this legislation, it is obvious that the firefighters who have their hours reduced from 72 to 54, with no corresponding reduction in annual premium pay, will receive the same pay—exclusive of overtime—for less hours of work.

There are approximately 12,500 firefighters employed by the Federal Government. The Department of Defense is by far the largest employer with 10,500 firefighters. The Department of Transportation, the Nuclear Regulatory Commission, and other smaller agencies employ the balance.

The primary objective of this legislation is to regulate the hours of employment for firefighters to conform their hours of work to the practices generally found throughout the country.

There are few major municipal fire departments which work more than 56 hours per week. Of the 50 largest cities in the United States, only one has an established workweek in excess of 56 hours for firefighters, and many have workweeks of less than 54 hours.

The requirement of a 54-hour workweek, by itself, will not result in any additional cost to the Government. Additional cost will arise, however, if administrative action is taken to require an administrative workweek longer than 54 hours at overtime rates of pay, or to hire additional employees.

In May of this year, the Congressional Budget Office provided the committee with a cost estimate of H.R. 4634 based on the assumption that the Federal agencies will retain the present level of fire protection and the existing 72-hour shift schedule. That cost estimate appears on pages 7 and 8 of the committee report.

Yesterday the committee received a revised cost estimate from the Congressional Budget Office.

The revised cost estimate for fiscal year 1977 is $34.3 million, and the total additional costs for fiscal years 1977 through 1981 is $246.5 million.

Again, I hasten to point out that such costs would be incurred only if the affected agencies decide to retain the present 72-hour tour of duty.

Mr. Chairman, I reserve the remainder of my time.

Mr. DERWINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 4634 because very simply there is no justifiable reason for its enactment.

As we Republican Members pointed out in our minority views on this legislation and the "Dear Colleague" letter we circulated yesterday, this legislation flies in the face of overwhelming public opinion against concessions to unrealistic union demands.

The ostensible reason for enactment of this legislation is to reduce the workweek of Federal firefighters to conform with the work practices of non-Federal firefighters. However, it is obvious at this juncture that the committee majority wishes to stop drawing comparisons between Federal firefighters and their counterparts in the public sector.

Consider for example that according to the CSC, experienced Federal firefighters now are paid approximately 15 percent higher minimum salaries and approximately 25 percent higher maximum salaries than are paid to municipal firefighters, on a national average.

Therefore, it is illogical and unjustified to reduce the regular workweek of firefighters. They already enjoy a considerable pay advantage over their counterparts in the public sector, and this legislation simply reinforces that advantage.

Presently firefighters perform a 72-hour workweek which consists of three 24-hour shifts. Normally, each shift includes 8 hours of actual work and 16 hours in standby status, including a designated sleep period of 8 hours. The DOD, the largest employer of firefighters, testified that on the average only about 2 of the 72 hours are actually spent answering and returning from firecalls.

Department of Defense witnesses also testified that fires tend to be less ardous and less frequent at its facilities than in urban areas. Because of the controlled conditions at military installations, there is a low incidence of fires and few severe fires.

We think the facts are indisputable that in view of the nature of the job, firefighters' pay and hours of work are reasonable and much more than fair.

Plain and simple, this legislation is a pay bonanza for firefighters.

Mr. Chairman, the CBO may have understated the situation when it stated in its report to the committee:

> This would establish firefighters as a favored class of employees as compared to other standby employees in the Federal Government.

This is preferential legislation of the worst order. It is unjustified, too costly, and it should be rejected.

Mr. Chairman, at this point I would like to sum in this fashion: This bill, H.R. 4634, is innocently entitled "a bill to improve the basic work week of Federal firefighters."

I happen to think that it is one of the worst bills to come up on the House floor in this session. From speaking to Mem-

bers I find a great deal of misconception in their minds as to what we are doing. First of all, we are speaking of Federal firefighters, not civilian firefighters. Speaking of these Federal firefighters, we are speaking of people who are now paid substantially higher than their counterparts in civilian service and, frankly, with a lot less work to do in their capacities.

The Department of Defense pointed out that the duties of these firefighters are less arduous and far less frequent than those at facilities in urban areas. The reason for it is because of the controlled nature of military installations, the security and safety precautions in force, there is a very low incidence of fires and few severe fires.

If the Members are wondering about the cost figures in this bill, I will take the figures supplied by Alice Rivlin, Director of the Congressional Budget Office. In an official communication with the committee we are advised that between fiscal years 1977 and 1981 the estimated cost of this bill would add $246 million to the Department of Defense budget. This is based on the assumption that when we set this 54-hour week, what will happen is they will continue working 72 hours but be paid overtime. So what this really amounts to, then, is more pay for no additional work.

The only other course that could be taken was if they worked just 54 hours and that could really mean an additional work force of one-third. The Department of Defense is working under a personnel ceiling so they cannot go that route, so it is logical to assume that what will happen will be an increase in overtime. The budget estimates for 5 years will run about $246 million additional. The present overtime payment of the Federal firefighter based on present law is $1,395 a year. Under H.R. 4634, the overtime payment would come to approximately $5,578, which would be $4,183 a year increase. This is based again on the assumption that there will not be additional personnel, that they will continue to work 7½ hours, and the effect of this bill will mean they will be paid $4,833 additional per year without performing any additional duties.

At the present time the average starting salary of a Federal firefighter is approximately 15 percent higher than the national average for municipal firefighters. The maximum Federal salary for Federal firefighters is 25 percent above that of the municipal firefighters.

If Members are wondering if this bill might be needed to attract personnel to the assignment, the latest figures we have from the Civil Service Commission register show that for 2,433 projected vacancies in Federal firefighting positions, they listed over 8,100 applicants. This is a ratio of better than 3 to 1 applicants to projected vacancies, so it shows even at the present rates this is a position that is in demand.

But if I may voice what I think is the major objection to the bill, Mr. Chairman, it is in the precedent set, because what we are doing here is providing for very special benefits for a select group of Federal employees. We will be then swamped with requests from other Federal employees in comparable positions who will say: "Look. You set the precedent. We want to be treated in the same way." Our estimates are there are approximately 23,000 Federal employees in comparable positions with the Federal firefighters who will come to this benevolent Congress and say: "You took care of the firefighters. Now take care of us."

To sum it up, this is bad legislation. It is costly legislation. It is brought up supposedly at a time when we have a budget-conscious Congress. I am amazed our committee would bring to the floor a bill that adds to the compensation of an already overpaid group of employees a substantial increase without requiring any additional service. This flies in the face of the public demand to cut the cost of government. It flies in the face of the public demand to reduce the deficit and the unwieldly structure of our Government. It flies in the face of the demand that there be equity between Federal employees and civilian employees. This bill performs a disservice to the taxpayers and to the other Federal employees. It creates a Pandora's box that will haunt this Congress and future Congresses.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the very distinguished gentleman—I was going to say very distinguished candidate for the Senate, but I will say I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. I thank the gentleman from Illinois for yielding.

I might say to the gentleman I met some of his constituents on my latest trip to Hawaii. They spoke very highly of the gentleman, and I agreed with them and I spoke even more highly of the gentleman in the well, so I am somewhat surprised that the gentleman is opposing this bill on the floor here today, inasmuch as I revealed that to the gentleman earlier.

Mr. DERWINSKI. I escaped the rigors of the Democratic Convention by traveling to Hawaii for my vacation, and if I was as popular in my district as the gentleman is in his, I would be even more relaxed than I normally am.

Mr. MATSUNAGA. Mr. Chairman, if the gentleman will yield further, and with the kidding aside and in all seriousness, the gentleman knows, of course, that in his own city of Chicago the workweek of the municipal firefighter there is only 47½ hours, as compared to 72 hours for the Federal firefighter and that the Chicago firefighter earns as much as $12,686 per annum to begin with and reaches a maximum of $16,764 within a period of 5 years.

Now, on the other hand, a Federal firefighter begins with a lowly salary of $9,970 and works up to a maximum of only $12,963. He needs to work 19 years to obtain the maximum.

Now, the bill would merely provide that the number of work hours per week be reduced from 72 hours to 54 hours, still in excess of what the Chicago firefighter works per week and still is making less than what a Chicago firefighter would make.

So in all equity, and while the gentleman has testified or has alleged that the Federal firefighter works less and has less hazardous duties, I know for a fact that Federal firefighters in Hawaii engage in even more hazardous duty, because they have to put out fires down at the airport where the military planes land.

So I would say this is a very reasonable bill, one that has been long overdue. I ask the gentleman, be reasonable and come to our side.

Mr. DERWINSKI. Mr. Chairman, I just wish to tell my friend from Hawaii that we have an honest difference of opinion here. I know the gentleman from Hawaii has long championed this bill. I recall the gentleman as a member of our committee. The gentleman has made his mark as a committee member of the Committee on Rules. I respect the gentleman's dedication to this cause, but I do not agree with the gentleman's logic.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, if we are going to compare and talk about equity, we have to look at the overall thrust of the bill. We might want to decrease the pay of the firefighter's salary, if we want to start comparing municipal firefighters on the Federal payroll versus municipal firefighters from Dickson, Tenn., or from Franklin, Tenn., or let us say the majority of other areas; so I am sure we could look at firefighters in the city of New York and it would make a very favorable comparison to the point the gentleman is trying to make; so I think we have to look at the overall thrust throughout the country.

Mr. DERWINSKI. Mr. Chairman, I think that is a valid point.

Let me point out to my good friend, the gentleman from Hawaii, the figures we have, and these have been supplied by the Civil Service Commission. They indicate that the maximum salary of Federal firefighters when it reaches the figure the gentleman quoted, at that point it is 125 percent of the national average. That obviously takes into account the scale of firefighters across the country, not just in highly paid areas such as New York and Chicago.

However, to correct the record, the gentleman from Hawaii put me on the defensive when he referred to figures in Chicago. I think the proper rebuttal is that the mayor of Chicago, Mayor Daley, is such a fine administrator that he is able to avoid the chaos that faces the municipal fathers in New York City. He allocates his resources in such a way to be very generous to the firefighters who, by the way, because of his generosity do not strike and are for the most part loyal members of the Daley team and part of the reason for the efficiency of the city of Chicago, which I grudgingly admit is a fact of life.

I think the gentleman from Hawaii

should really commend Mayor Daley for his expert administration of the city of Chicago, rather than using those figures as an argument for the bill.

Mr. HENDERSON. Mr. Chairman, I yield 10 minutes to the gentleman from Hawaii (Mr. MATSUNAGA), the author of the bill.

Mr. MATSUNAGA. Mr. Chairman, as the author of H.R. 4634, I am pleased to rise in support of this long-overdue legislation.

Its only intention is to bring the workweek of federally employed firefighters more closely into line with today's world. It would reduce the current 72-hour basic workweek to 54 hours per week, and assure that firefighters would suffer no reduction in pay as a result.

Over the last few years, Mr. Chairman, there has been much discussion about experiments with 35-hour weeks, even 32-hour weeks. It seems almost incredible that the House is considering today a bill to permit Federal firemen to work a reduced 54-hour week—but that is the situation.

Almost 11,000 of the 13,000 Federal firefighters are now working 72 hours a week, most of them in the Department of Defense.

They stand guard at air bases, veterans' hospitals, some civilian airports, and other Federal installations.

They face the same, and sometimes even greater, dangers than their municipal fire department counterparts. Yet for the past 20 years the Federal firefighter has been working a 72-hour week, about 1½ times as long as the week worked by his municipal counterpart. The average workweek in the 50 largest municipal departments, for example, is approximately 48.7 hours.

Furthermore, the Federal firefighter is not compensated for his longer hours by higher pay. Despite the figures submitted by the Civil Service Commission, all the data I have seen show that salaries in the two firefighting situations are comparable.

As of July 1, 1975, the total compensation for a federally employed senior engineer at Hickam Air Force Base in Honolulu could reach a maximum, including premium pay and noncontiguous cost-of-living allowance, of $16,341. It takes 18 years to reach that maximum.

His municipal counterpart in the Honolulu Fire Department, on the other hand, received $17,666—and could reach that grade in only 5 years. Comparable figures for hosemen showed the two employees within $100 of each other.

Yet the Honolulu firefighter works only 56 hours each week and is paid 1½ times his normal salary for any overtime he may put in, as well as special holiday pay.

Ironically, since Hickam is close to Honolulu International Airport, the two forces often find themselves fighting the same fire side by side.

Nor is Hawaii the only place where the inequity shows up. One firefighter who wrote to congratulate me on introducing H.R. 4634 had this to say:

When I first began working, Federal firefighters worked a 60-hour week, and our neighbors, the Pennsylvania State police, were working an 84-hour week.

Today, Pennsylvania State police are working a 40-hour week. Federal firefighters are working a 72-hour week. To add insult to injury, our brother firefighters in the city of Harrisburg are working a 56-hour workweek, and Capital City Airport is working a 48-hour workweek.

One further example: In New York State, with some 10 percent of the country's professional firefighters, the standard workweek is 40 hours.

For the convenience and information of the Members of the House, I have prepared and reproduced a chart showing the workweeks and pay scales for the 50 largest cities in the country.

For the Members who have not yet seen this chart, I would suggest that they get a copy from the desk and look at it. It compares the number of hours worked a week, the annual starting salary, the maximum annual salary, and the time required to reach the maximum, in each city. It lists, for example, New York City, with a 40-hour workweek, Buffalo, with a 40-hour workweek, and Rochester, with a 40-hour workweek. When we look at the salaries in the case of Buffalo, for example, by working 32 hours less a week the Buffalo firefighter makes $10,880 as a beginning salary and a maximum salary of $13,000. It takes him only 1 year to reach the maximum. The Federal firefighter, by working 72 hours a week, makes only $9,970, and a maximum of $12,963. It takes him, as I said earlier, 19 years to reach that maximum.

Mr. PATTERSON of California. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentleman from California.

Mr. PATTERSON of California. I thank the gentleman for yielding.

I am looking at the statistics, and I will ask the gentleman, concerning these hours, particularly a 40-hour workweek, which includes an 8-hour workday, 5-day week, or a 4-day week at 10 hours a day, if it is not true that the fighters under the Federal service are working a 24-hour duty day rather than a workday?

Mr. MATSUNAGA. That is correct. As a matter of fact, most of the fire units still continue that practice.

Mr. PATTERSON of California. It seems to me, if the gentleman will yield further, that we might be comparing apples to oranges when we set a 72-hour workweek. It seems to me that is a duty week, because they sleep one-third of the time unless there is a fire, and they are working a period of time perhaps, and they have meals and perhaps other duties to attend to. I wonder if we are talking about a shorter workweek if we are going to compare an 8-hour day today in other fields.

Mr. MATSUNAGA. I am not that well versed with all of the cities named here, but I know for a fact that most of the cities still maintain the 24-hour tour of duty work schedule.

Mr. PATTERSON of California. I thank the gentleman.

Mr. MATSUNAGA. Mr. Chairman, I have with me a more complete survey compiled by the International Association of Firefighters, which has the same information for almost every city in the country, and I invite my colleagues to peruse it.

Mr. Chairman, in view of these facts, is it any wonder that good, young Federal firefighters are leaving the Federal service to work for municipal departments?

Is it any wonder that officials are finding it difficult to adhere to existing Federal personnel standards or to attract high quality firefighters to the Federal force?

Actually, I was hopeful that this problem had been resolved 2 years ago, when Congress enacted the Fair Labor Standards Act Amendments of 1974. That legislation extended several overtime provisions to all police and fire personnel, including Federal. Overtime was to be paid for all hours in excess of 60 as of January 1, 1975, with further phased reductions over the next several years.

The goal was to acquire overtime pay, commonly referred to as "time and a half," for hours worked in excess of 60. Two facts quickly became clear, however.

First, the Defense Department, which employs most of the Federal firefighters, had no intention of reducing the actual number of hours an individual firefighter would work. It would remain 72 hours a week, but DOD would pay each of them "overtime" for the extra 12 hours.

Second, the Civil Service Commission interpreted the law in such a way that paying 11,000 or more firefighters time and a half for 12 hours each week would not cost the Defense Department very much, only $1.25 or $1.30 an hour extra—a real bargain.

And how was this accounting magic accomplished? It centered around the receipt by firefighters of premium pay which amounts to either 22½ percent or 25 percent of their base pay.

The Civil Service Commission asserted that firefighters were already getting the equivalent of "straight time" for the 12 hours between 60 and 72 in the form of their premium pay. Therefore, the Commission argued, all that the Department of Defense needed to pay these employees was the extra "half" to make up the time and a half.

Incredible, but that is the reasoning the Civil Service Commission arrived at. Then they calculated the hourly rate in such a way that it barely exceeds the Federal minimum wage.

To make matters worse, since most installations schedule firefighters in 2-week cycles, 144 hours in 2 weeks rather than 72 hours in 1, taking a single 24-hour day off would cost the average firefighter 2 weeks of the meager overtime payments he could otherwise receive.

One 24-hour shift not worked would reduce the 2-week total from 144 to 120 hours or 60 per week and no overtime. Such fiscal slight of hand convinced me that the 1974 amendments were not a sufficient remedy for Federal firefighters.

That is why I reintroduced H.R. 4634, a bill which would reduce the firefighter workweek to 54 hours. Just as important,

it would require that the base pay on which the time-and-a-half for overtime is calculated include premium pay.

I know this is a complicated issue, Mr. Chairman, but grasping the intricacies of the matter of premium pay is central to the merits of H.R. 4634, and I would like to explain briefly the concept of premium pay.

Premium pay is at the heart of the controversy. In addition to his base pay—usually GS–4, by the way, or GS–5 at the most for most firefighters—the firefighter receives a "premium pay" bonus of 22½ percent or 25 percent. H.R. 4634 would reduce the number of hours worked by Federal firefighters, and opponents of the bill do not really object to that. No, the core of their objection is that H.R. 4634 would retain present levels of premium pay for those reduced hours.

So the question arises: What is the purpose of paying premium pay to Federal firefighters?

Is it because they work 72 hours a week instead of 40, like other Federal employees?

In my judgment the fair answer to that question is "yes," but only partly. Premium pay compensates for long hours, to be sure, but it also compensates for shift work, for holiday overtime and, most importantly, for the hazardous nature of a firefighter's duties. It also compensates for the fact that firefighters must often work on Sundays; indeed, the amount of the differential is adjusted according to the number of Sundays a firefighter agrees to work.

Clearly, Mr. Chairman, Congress intended in the 1974 Fair Labor Standards Act Amendments that Federal firefighters be required to work fewer hours per week, and I cannot believe that Congress intended for that reduction in hours to be accompanied by a reduction in pay.

Passage of H.R. 4634 would simply correct an obvious misapplication of the 1974 law and put Federal firefighters more nearly on an equal footing with their municipal counterparts.

Mr. Chairman, this is a matter of equity, to correct a situation that has persisted too long. I urge the approval of H.R. 4634.

Mr. DERWINSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. TAYLOR).

Mr. TAYLOR of Missouri. Mr. Chairman, this legislation is unnecessary, and should be rejected outright.

H.R. 4634 would statutorily set a 54-hour weekly tour of duty for Federal firefighters and would establish their legal entitlement to premium pay for standby duty at the maximum percentage allowed by law, 25 percent.

This would be inconsistent with the existing practices of agencies administratively determining the hours of work of their employees and of the Civil Service Commission establishing by regulation the rates of premium pay for varying tours of duty.

This would establish the Federal firefighters as a favored class of employees separate from other Federal employees who perform standby duty. Reducing their tour of duty from 72 hours to 54 hours without reducing their pay would amount to a 33⅓-percent increase in the rate of pay for Federal firefighters.

There is no basis for maintaining the higher rate of premium pay if the tours of duty are reduced. Rather, the percentage rate of premium pay should also be reduced to new percentage rates in which firefighters would qualify under Commission regulations.

This would be no different than a night shift employee being reassigned to the day shift and losing the night shift differential or an employee returning from a foreign area where a cost-of-living allowance was authorized.

Federal firefighters presently receive adequate compensation for the duties they perform. Section 5303 of title 5, United States Code, provides for the payment of special rates higher than those provided under the general schedule when the Civil Service Commission finds that pay rates for an occupation in a particular area are so substantially above the Federal pay rates as to handicap significantly the Government's recruitment and retention of well-qualified personnel in this occupation.

The necessity to establish special rates is thus a good indicator of whether or not Federal compensation practices—pay and hours—compete favorably with those of other employers at any given time.

I believe that the fact that no area within the contiguous 48 States currently warrants special rates for firefighters is persuasive evidence that the current combination of base pay and annual premium pay for standby duty is adequate compensation for their present 72-hour weekly tour of duty.

A recent review of the classification and pay practices in the Federal and non-Federal sectors conducted by the Civil Service Commission indicates that firefighters' duties in Federal and non-Federal activities are similar and that Federal firefighters are paid at higher rates than their non-Federal counterparts.

A comparison of salaries paid to municipal firefighters in cities of 10,000 or more as reported in the Municipal Yearbook of 1975, salary data as of January 1, 1974, with the salary levels—including the 25-percent differential for a 72-hour tour of duty—for Federal firefighters in effect in January 1974, reveals that the average minimum and maximum pay levels for Federal firefighters was somewhat higher than the national average of minimum and maximum pay levels for municipal firefighters. The rate for GS–4, step 1—the entry level for experienced firefighters—was 7 percent higher than the average entrance salary for municipal firefighters and the average of step 10 rates for GS–4 and GS–5 was 15 percent higher than the average maximum municipal salary.

This comparison of salaries as of January 1974 does not, however, include the effect of the additional overtime pay due Federal firefighters as of January 1975 under the Fair Labor Standards Act.

Adding this approximately 8-percent increase in total salary to the salaries of Federal firefighters and assuming the same relative differences in salaries from January 1974 to January 1975 indicates that experienced Federal firefighters now are paid approximately 15 percent higher minimum salaries and approximately 25 percent higher maximum salaries than are paid to municipal firefighters.

Mr. Chairman, the facts strongly argue against enactment of this unjustified legislation.

Mr. HENDERSON. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Maryland (Mrs. SPELLMAN), a member of our committee.

Mrs. SPELLMAN. Mr. Chairman, I, too, rise in support of this legislation, H.R. 4634, which will improve the basic workweek of our Federal firefighters. At present, the more than 12,500 firefighting personnel who are employed by the Federal Government work on the average 72-hours each week, consisting of three 24-hour shifts. In reducing their workweek to an average of 54 hours per week, this legislation makes the schedules of firefighters consistent with the nonovertime tour of duty established for them under the Fair Labor Standards Amendments of 1974 and consistent with the tours of duty established for most municipal firefighters throughout the country.

Under current law, most Federal firefighters qualify for the maximum percentage allowable by law—25 percent—based on their present 72-hour per week tour of duty. The annual premium pay is paid in lieu of overtime, night differential, Sunday, and holiday pay. For irregular, unscheduled hours in excess of 72-hours per week, firefighters are paid overtime compensation in accordance with the provisions of title 5, United States Code.

According to the committee's findings, Federal firefighters are subject to the overtime provisions of the Fair Labor Standards Amendments of 1976. As such, overtime payment for all hours in excess of 58 per week is required and most firefighters did receive some overtime during 1976.

H.R. 4634 in prescribing an average 54-hours workweek continues to authorize the payment of 25 percent of annual premium pay and also provides that for irregular, unscheduled hours of duty in excess of the average 54-hours per week, firefighters will be entitled to overtime pay.

Although the pay of the Federal firefighter is not being changed by this legislation, the requirement of a 54-hour workweek, by itself, will have no inflationary impact on the national economy.

As a member of the Post Office and Civil Service Committee which favorably reported this legislation to the floor of the House of Representatives by a recorded vote of 16 yeas—1 nay and 1 present on April 29, 1976, I ask my distinguished colleagues to join in correcting this inequity by reducing the workweek of our invaluable Federal firefighters and permitting them to continue their fine service.

Mr. DERWINSKI. Mr. Chairman, I

yield 5 minutes to the gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. Mr. Chairman, I oppose this bill because it reduces the workweek of Federal firefighters from 72 hours to 54 hours without a reduction in premium pay. It thus grants them—and I think this is a key figure—an approximately 33⅓ percentage raise in annual pay.

Mr. Chairman, this raise is an outright gift to Federal firefighters which justifies similar demands by Federal employees everywhere.

The generosity of Congress is being requested through statistics which do not reflect the real working conditions or the present benefits enjoyed by these employees. The workweek which the bill proposes to shorten is indeed 72 hours, but the three 24-hour shifts each include an 8-hour sleeping period and an 8-hour standby period, in addition to 8 more hours of light work such as manning alarm rooms and doing firehouse chores.

Furthermore, Mr. Chairman, Federal firefighters enjoy preferential treatment with respect to retirement benefits. Retirement is allowed at age 50 with 20 years of service on an annuity equal to 50 percent of their high 3-year salary. This is nearly as generous as any Federal retirement formula.

Mr. Chairman, Congress would be rash in burdening the taxpayer with an estimated 5-year cost of over $246 million to make Federal firefighters still a more favored class of employees.

Mr. Chairman, I think the two important points are that no moneys at all are provided in the congressional budget resolution for this legislation, and also, in response to the fact that we are losing our Federal firefighters all too consistently to municipalities.

Mr. Chairman, I think that if the Members look at the register that is provided in the different areas by the Civil Service Commission, it will show that the availability is excellent or good to excellent in every major area of our country.

I just do not believe at this time, in view of the feelings of our constituents, considering the heavy burden of the economy these days, that the taxpayers are willing to grant a 33⅓ percent increase at this particular time. So. Mr. Chairman, I hope that the bill H.R. 4634 will be rejected.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. Mr. Chairman, I am sure the gentleman from Tennessee knows that in Nashville the firefighters work only 56 hours a week and receive $9,072 a year to begin with and reach a maximum of $12,168 within 6 years. Does the gentleman from Tennessee believe that the firefighters in Nashville are being overpaid?

Mr. BEARD of Tennessee. I would have to contact my colleague, the gentleman from Tennessee (Mr. ALLEN) from Nashville, to get his opinion on that. Dickson, Tenn., I can talk to you all day about.

Mr. MATSUNAGA. What does a firefighter in Dickson average, I might ask?

Mr. BEARD of Tennessee. It is much lower.

Mr. MATSUNAGA. How much lower? Does the gentleman know?

Mr. BEARD of Tennessee. I cannot tell the gentleman specifically but it is nowhere close to this. There are many men in Dickson and the Clarksville area on the municipal forces that would give their eyeteeth to be on the Federal firefighting force at Fort Campbell.

Mr. MATSUNAGA. Perhaps the firefighters in Dickson are being sorely underpaid.

Mr. BEARD of Tennessee. I think the point made by my colleague, the gentleman from Texas, is very appropriate in that we have been comparing apples and oranges. I think that point was well taken. As well as working with a different type schedule that we are talking about. I do not feel that at this particular time a 33⅓ percent increase should be permitted. Also, when we cut back on the manpower, will we hire more men? When we cut back on the hours, are we going to hire more men?

Mr. MATSUNAGA. Initially they will continue to work the 72 hours and merely draw overtime pay which the Civil Service Commission had denied them. Any overtime payment ought to be paid at 1½ times the usual. Does the gentleman from Tennessee not agree with that?

Mr. BEARD of Tennessee. That is the way they have it set up.

Mr. MATSUNAGA. The Federal firefighters are getting only one-half time for overtime pay.

Mr. BEARD of Tennessee. I would ask the gentleman from Hawaii, has the gentleman projected how much money for overtime that will be?

Mr. MATSUNAGA. The overtime would cost about $30 million a year.

The CHAIRMAN. The time of the gentleman has expired.

Mrs. SPELLMAN. Mr. Chairman, we have no further requests for time.

Mr. DERWINSKI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I have taken this time merely to support two points made by the gentleman from Tennessee (Mr. BEARD). The gentleman reminded the House that although they do work a 72-hour week, it is really in shifts of 24 hours. Of the 72 hours, 24 are allocated for sleeping time, 24 hours allocated for light work and only 24 hours are they actually on the line.

They put in only 2 hours a week in fighting fires or returning from fires, according to our records.

The other point I believe we should keep in mind is whether or not these jobs are going begging because the compensation is too low. But the answer to that is there are over three times as many applicants for projected vacancies. So obviously these positions are much sought after.

To sum it all up, I would refer the Members not to my own views, which the Members may find suspect, but the views of the Congressional Budget Office, which states this would treat Federal firefighters as a favored class of employees.

That is the comment from the Congressional Budget Office based on their analysis. I commend that statement to the Members.

Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 4634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting after section 6101 the following new section:

§ 6102. Basic workweek of firefighters

"(a) The basic administrative workweek of each firefighter shall be an average of 54 hours per week, computed on the basis of a period of 3 consecutive biweekly pay periods. The duration and frequency of workshifts occurring within such period shall be determined under regulations prescribed by the Civil Service Commission.

"(b) For the purpose of this section, 'firefighter' means an employee in an Executive agency, the duties of whose position are primarily to perform or to supervise work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Such term does not include any employee who has an administrative workweek of 40 hours which is established under section 6101(a)(2)(A) of this title.".

(b) Effective with respect to pay periods beginning after December 31, 1977, section, 6102(a) of title 5, United States Code, as added by subsection (a), is amended—

(1) by striking out "54 hours" and inserting in lieu thereof "the lesser of the prevailing number of hours or 54 hours"; and

(2) by inserting at the end thereof the following new sentence: "For the purpose of this subsection, 'prevailing number of hours' means one-quarter of the number of hours determined by the Secretary of Labor pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974 (29 U.S.C. 213 note) for tours of duty of 28 consecutive days.".

(c)(1) Section 5545 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Except for irregular unscheduled overtime work, each firefighter with an administrative workweek established under section 6102(a) of this title shall be entitled, in lieu of premium pay provided by other provisions of this subchapter, to premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS–10. For the purpose of the preceding sentence, 'firefighter' has the meaning given it in section 6102(b) of this title.".

(2) Section 5545(c)(1) of title 5, United States Code, is amended by inserting ", unless subject to subsection (e) of this section," after "shall receive".

(3) Section 5547 of title 5, United States Code, is amended by striking out "5545(a)–(c)" and inserting in lieu thereof "5545 (a)–(c) and (e)".

(4) Section 8331(3)(C) of title 5, United

States Code, is amended by striking out "section 5545(c)(1)" and inserting in lieu thereof "sections 5545 (c)(1) and (e)".

(d) The analysis of chapter 61 of title 5, United States Code, is amended by inserting after the item relating to section 6101 the following new item:

"6102. Basic workweek of firefighters.".

SEC. 2. The first section of this Act shall take effect at the beginning of the first applicable pay period which begins after December 31, 1976.

Mr. HENDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to remind the House that there are two reasons why we find a bill brought to the floor without amendments. One reason would be that the bill is a perfect measure and does not require amendments; the other would be the bill is such a bad bill that it cannot be amended. That is why we do not have amendments to offer.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to my distinguished colleague, the gentleman from Hawaii (Mr. MATSUNAGA).

Mr. MATSUNAGA. I thank the gentleman for yielding.

The gentleman is inferring that there are no amendments because it is the former reason, I am sure? We are referring to the bill as a perfect bill?

Mr. DERWINSKI. I will say to the gentleman no, to the contrary.

The CHAIRMAN. There being no further amendments, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. LEVITAS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 4634) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes, pursuant to House Resolution 1340, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 184, nays 204, not voting 43, as follows:

[Roll No. 604]

YEAS—184

Addabbo	Harris	Price
Alexander	Hawkins	Quillen
Allen	Hays, Ohio	Rangel
Anderson, Calif.	Heinz	Richmond
Annunzio	Helstoski	Risenhoover
AuCoin	Henderson	Rodino
Baucus	Hicks	Roe
Bauman	Hightower	Rogers
Beard, R.I.	Holt	Roncalio
Bennett	Holtzman	Rooney
Bevill	Howard	Rose
Biaggi	Hungate	Rosenthal
Blanchard	Jenrette	Rostenkowski
Boland	Johnson, Calif.	Roybal
Bolling	Jordan	Runnels
Bowen	Kazen	Ruppe
Brodhead	Koch	St Germain
Brown, Calif.	Krebs	Santini
Burke, Calif.	Krueger	Sarbanes
Burke, Fla.	Leggett	Schroeder
Burke, Mass.	Lloyd, Tenn.	Seiberling
Burton, John	Long, La.	Sikes
Burton, Phillip	Lott	Simon
Byron	Lundine	Skubitz
Carney	McCloskey	Solarz
Carter	McCormack	Spellman
Chappell	McFall	Spence
Chisholm	Madden	Staggers
Conte	Mathis	Stanton, James V.
Corman	Matsunaga	Stark
D'Amours	Meeds	Steed
Daniels, N.J.	Melcher	Stokes
Davis	Metcalfe	Studds
de la Garza	Meyner	Symms
Delaney	Mezvinsky	Teague
Dellums	Mikva	Thompson
Dent	Mineta	Thornton
Drinan	Minish	Traxler
Duncan, Tenn.	Mink	Tsongas
Eckhardt	Mitchell, Md.	Udall
Edgar	Mitchell, N.Y.	Ullman
Edwards, Calif.	Moakley	Van Deerlin
Eilberg	Moffett	Vanik
Fary	Mollohan	Vigorito
Fithian	Morgan	Walsh
Flood	Moss	Wampler
Florio	Mottl	Waxman
Foley	Murphy, Ill.	Weaver
Fraser	Murphy, N.Y.	Whalen
Frey	Natcher	White
Fuqua	Nedzi	Whitehurst
Gaydos	Nichols	Wilson, Bob
Giaimo	Nix	Wilson, C. H.
Gilman	Nolan	Wolff
Ginn	Nowak	Wright
Gonzalez	Oberstar	Yatron
Green	O'Neill	Young, Alaska
Gude	Patten, N.J.	Young, Ga.
Hanley	Pepper	Young, Tex.
Hannaford	Perkins	Zablocki
Harrington	Pickle	Zeferetti
	Pressler	

NAYS—204

Adams	Baldus	Brooks
Ambro	Beard, Tenn.	Broomfield
Anderson, Ill.	Bedell	Brown, Mich.
Andrews, N.C.	Bell	Brown, Ohio
Andrews, N. Dak.	Bergland	Broyhill
Archer	Biester	Buchanan
Armstrong	Blouin	Burgener
Ashbrook	Boggs	Burleson, Tex.
Ashley	Bonker	Burlison, Mo.
Aspin	Brademas	Butler
Bafalis	Breaux	Carr
Barrett	Breckinridge	Cederberg
Bauman	Brinkley	Chisholm
Beard, R.I.	Brodhead	Clancy
Bennett	Brooks	Clausen, Don H.
Bevill	Broomfield	Clawson, Del
Biaggi	Brown, Mich.	Cleveland
Blanchard	Brown, Ohio	Cochran
Boland	Broyhill	Cohen
Bolling	Buchanan	Collins, Tex.
Bowen	Burgener	Conable
Brodhead	Burleson, Tex.	Cornell
Brown, Calif.	Burlison, Mo.	Cotter
Burke, Calif.	Butler	Coughlin
Burke, Fla.	Carr	Crane
Burke, Mass.	Cederberg	Daniel, Dan
Burton, John	Chisholm	Daniel, R. W.
Burton, Phillip	Clancy	Danielson
Byron	Clausen, Don H.	Derrick
Carney	Clawson, Del	Derwinski
Carter	Cleveland	Devine
Chappell	Cochran	Dickinson
Chisholm	Cohen	Dodd
Conte	Collins, Tex.	Downey, N.Y.
Corman	Conable	Downing, Va.
D'Amours	Cornell	Duncan, Oreg.
Daniels, N.J.	Cotter	du Pont
Davis	Coughlin	Early
de la Garza	Crane	Edwards, Ala.
Delaney	Daniel, Dan	Emery
Dellums	Daniel, R. W.	English
Dent	Danielson	Erlenborn
Drinan	Derrick	Eshleman
Duncan, Tenn.	Derwinski	Evans, Colo.
Eckhardt	Devine	Evans, Ind.
Edgar	Dickinson	Fascell
Edwards, Calif.	Dodd	Fenwick
Eilberg	Downey, N.Y.	Fish
Fary	Downing, Va.	Fisher
Fithian	Duncan, Oreg.	Flowers
Flood	du Pont	Forsythe
Florio	Early	Frenzel
Foley	Edwards, Ala.	Gibbons
Fraser	Emery	Goldwater
Frey	English	Goodling
Fuqua	Erlenborn	Gradison
Gaydos	Eshleman	Grassley
Giaimo	Evans, Colo.	Guyer
Gilman	Evans, Ind.	Hagedorn
Ginn	Fascell	Haley
Gonzalez	Fenwick	Hall, Ill.
Green	Fish	Hall, Tex.
Gude	Fisher	Hamilton
Hanley	Flowers	Hammer-schmidt
Hannaford	Forsythe	Harkin
Harrington	Frenzel	Harsha
Harris	Gibbons	Hechler, W. Va.
Hawkins	Goldwater	Heckler, Mass.
Hays, Ohio	Goodling	Hillis
Heinz	Gradison	Holland
Helstoski	Grassley	Horton
Henderson	Guyer	Hubbard
Hicks	Hagedorn	Hughes
Hightower	Haley	Hutchinson
Holt	Hall, Ill.	Hyde
Holtzman	Hall, Tex.	Ichord
Howard	Hamilton	Jacobs
Hungate	Hammer-schmidt	Jarman
Jenrette	Harkin	Jeffords
Johnson, Calif.	Harsha	Johnson, Colo.
Jordan	Hechler, W. Va.	Johnson, Pa.
Kazen	Heckler, Mass.	Jones, Okla.
Koch	Hillis	Kasten
Krebs	Holland	Kastenmeier
Krueger	Horton	Kelly
Leggett	Hubbard	Kemp
Lloyd, Tenn.	Hughes	Ketchum
Long, La.	Hutchinson	Keys
Lott	Hyde	Kindness
Lundine	Ichord	LaFalce
McCloskey	Jacobs	Lagomarsino
McCormack	Jarman	Landrum
McFall	Jeffords	Latta
Madden	Johnson, Colo.	Lehman
Mathis	Johnson, Pa.	Lent
Matsunaga	Jones, Okla.	Levitas
Meeds	Kasten	Lloyd, Calif.
Melcher	Kastenmeier	Long, Md.
Metcalfe	Kelly	Lujan
Meyner	Kemp	McClory
Mezvinsky	Ketchum	McCollister
Mikva	Keys	McDade
Mineta	Kindness	McDonald
Minish	LaFalce	McEwen
Mink	Lagomarsino	McHugh
Mitchell, Md.	Landrum	McKay
Mitchell, N.Y.	Latta	McKinney
Moakley	Lehman	Madigan
Moffett	Lent	Maguire
Mollohan	Levitas	Mahon
Morgan	Lloyd, Calif.	Mann
Moss	Long, Md.	Martin
Mottl	Lujan	Mazzoli
Murphy, Ill.	McClory	Michel
Murphy, N.Y.	McCollister	Milford
Natcher	McDade	Miller, Calif.
Nedzi	McDonald	Miller, Ohio
Nichols	McEwen	Mills
Nix	McHugh	Montgomery
Nolan	McKay	Moore
Nowak	McKinney	Moorhead, Calif.
Oberstar	Madigan	Moorhead, Pa.
O'Neill	Maguire	Mosher
Patten, N.J.	Mahon	Murtha
Pepper	Mann	Myers, Ind.
Perkins	Martin	Myers, Pa.
Pickle	Mazzoli	Neal
Pressler	Michel	Obey
Price	Milford	O'Brien
Quillen	Miller, Calif.	Ottinger
Rangel	Miller, Ohio	Patterson, Calif.
Richmond	Mills	Pattison, N.Y.
Risenhoover	Montgomery	Paul
Rodino	Moore	Pettis
Roe	Moorhead, Calif.	Peyser
Rogers	Moorhead, Pa.	Pike
Roncalio	Mosher	Poage
Rooney	Murtha	Preyer
Rose	Myers, Ind.	Pritchard
Rosenthal	Myers, Pa.	Quie
Rostenkowski	Neal	Railsback
Roybal	Obey	Regula
Runnels	O'Brien	Reuss
Ruppe	Ottinger	Rhodes
St Germain	Patterson, Calif.	Rinaldo
Santini	Pattison, N.Y.	Roberts
Sarbanes	Paul	Robinson
Schroeder	Pettis	Roush
Seiberling	Peyser	Russo
Sikes	Pike	Ryan
Simon	Poage	Sarasin
Skubitz	Preyer	Satterfield
Solarz	Pritchard	Scheuer
Spellman	Quie	Schneebeli
Spence	Railsback	Schulze
Staggers	Regula	Sharp
Stanton, James V.	Reuss	Shipley
Stark	Rhodes	Shriver
Steed	Rinaldo	Shuster
Stokes	Roberts	Slack
Studds	Robinson	Smith, Iowa
Symms	Roush	Smith, Nebr.
Teague	Russo	Snyder
Thompson	Ryan	Stanton, J. William
Thornton	Sarasin	Steiger, Wis.
Traxler	Satterfield	Stratton
Tsongas	Scheuer	Talcott
Udall	Schneebeli	Taylor, Mo.
Ullman	Schulze	Taylor, N.C.
Van Deerlin	Sharp	Thone
Vanik	Shipley	Treen
Vigorito	Shriver	Vander Veen
Walsh	Shuster	Waggonner
Wampler	Slack	Whitten
Waxman	Smith, Iowa	Wiggins
Weaver	Smith, Nebr.	Wilson, Tex.
Whalen	Snyder	Winn
White	Stanton, J. William	Wirth
Whitehurst	Steiger, Wis.	Wydler
Wilson, Bob	Stratton	Wylie
Wilson, C. H.	Talcott	Yates
Wolff	Taylor, Mo.	Young, Fla.
Wright	Taylor, N.C.	
Yatron	Thone	
Young, Alaska	Treen	
Young, Ga.	Vander Veen	
Young, Tex.	Waggonner	
Zablocki	Whitten	
Zeferetti	Wiggins	
	Wilson, Tex.	
	Winn	
	Wirth	
	Wydler	
	Wylie	
	Yates	
	Young, Fla.	

NOT VOTING—43

Abdnor	Ford, Mich.	Randall
Abzug	Ford, Tenn.	Rees
Badillo	Fountain	Riegle
Bingham	Hansen	Rousselot
Brinkley	Hayes, Ind.	Sebelius
Clay	Hébert	Sisk
Collins, Ill.	Hefner	Steelman
Conlan	Hinshaw	Steiger, Ariz.
Conyers	Howe	Stephens
Diggs	Jones, Ala.	Stuckey
Dingell	Jones, N.C.	Sullivan
Esch	Jones, Tenn.	Symington
Evins, Tenn.	Karth	Vander Jagt
Findley	O'Hara	
Flynt	Passman	

The Clerk announced the following pairs:

On this vote:

Ms. Abzug for, with Mr. Howe against.

Mr. Badillo for, with Mr. Hébert against.

Mrs. Collins of Illinois for, with Mr. Passman against.

Until further notice:

Mr. Bingham with Mr. Abdnor.

Mr. Jones of Tennessee with Mr. Conlan.

Mr. Stuckey with Mr. Hansen.

Mr. Sisk with Mr. Jones of North Carolina.

Mr. Hayes of Indiana with Mr. O'Hara.

Mr. Fountain with Mr. Rees.

Mr. Ford of Tennessee with Mr. Rousselot.

Mr. Clay with Mr. Steelman.

Mr. Diggs with Mrs. Sullivan.

Mr. Ford of Michigan with Mr. Esch.

Mr. Dingell with Mr. Sebelius.

Mr. Evins of Tennessee with Mr. Steiger of Arizona.

Mr. Jones of Alabama with Mr. Symington.
Mr. Randall with Mr. Findey.
Mr. Brinkley with Mr. Vander Jagt.
Mr. Conyers with Mr. Karth.
Mr. Flynt with Mr. Riegle.
Mr. Stephens with Mr. Hefner.

Mrs. BOGGS, Mr. RAILSBACK and Mr. RUSSO changed their vote from "yea" to "nay."

Mr. SYMMS changed his vote from "nay" to "yea."

So the bill was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HENDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CLEAN AIR ACT AMENDMENT OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10498, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Florida (Mr. ROGERS) will be recognized for 1½ hours, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present to this body H.R. 10498, the Clean Air Act Amendments of 1976. This measure is the product of nearly 18 months of careful subcommittee and committee deliberations and study. More than 60 subcommittee markups were held on this bill, and the full committee met 20 times to consider it.

As the Members recall, it has been more than 6 years since Congress enacted the Clean Air Act of 1970, a truly landmark piece of legislation. The act was designed as a Federal-State partnership to protect the public from dangerous air pollution. The clean air bill employs federally set national air quality standards with emission standards being developed and enforced by the State governments.

Events of the past 6 years have confirmed the importance of reducing air pollution where it exists and preventing it where it does not. Emergencies such as in Pittsburgh in 1975 or in Birmingham in 1970 seized our attention. But there are fewer headlines alerting us to the serious health and welfare effects of everyday levels of industrial pollution. Increasingly, evidence compiled by the National Academy of Sciences, as well as other organizations, demonstrates that there are potential serious health dangers from air pollutants at levels at and far below the supposedly safe standards set by the EPA. Similarly, there are perhaps 200 to 300 harmful substances in the air for which sufficient data are not yet available on which to base firm health standards. We do know, however, that proven cancer-causing agents now have been reported in the ambient air. These include arsenic, polyvinyl chloride, organics, and nitrosamines, the latter perhaps the most deadly carcinogen known to man.

Clearly, continued strong action is needed to protect the public health and welfare, and that is the basis of the legislation we present to the Members today—the protection of the public health and welfare.

It is equally clear that over the past few years our Nation has been beset by serious economic and energy problems, these factors have presented a new challenge requiring midcourse adjustments in the 1970 Clean Air Act, adjustments which will help assure our Nation's continued economic growth and vitality.

During the committee's lengthy deliberations on these amendments we heard widely divergent demands for changes in the law. There were those on one hand who argued for air pollution cleanup without concern for cost. Opposing them, of course, were those who, disregarding health and environmental concerns, would roll back the progress we have won over the past 6 years.

The committee bill rejects the arguments of both these extremes. Under the committee bill public health protections are not abandoned. The committee bill recognizes that we must continue to move forward to clean up existing air pollution and to minimize significant, new air pollution problems.

But the committee recognizes that our Nation's economic, industrial, and energy resources are limited. Therefore, meeting our necessary clean air goals will take longer than we had originally planned and required under the 1970 act.

Here are just a few examples of provisions balancing environmental goals with other social needs of the Nation:

Sections 103, 106, and 112 authorize extensions and variances for industrial polluters where necessary, including where technology is not available, to allow a plant to develop and use new technology or to convert to burning coal;

Section 203 defers until 1980—potentially as late as 1985 in the case of nitrogen oxides—final, new-car emission standards. Even though we should have them in 1975, this gives them an extension;

Section 202 authorizes, where necessary, extensions of currently unfeasible transportation controls for States and localities;

The Administrator's authority to require State and local governments to control parking lots, shopping centers; and

Section 108, prevention of significant deterioration, restores broad authority to the States, and this is a very important point. We take authority away from EPA and give it to the States for determining the future air quality in presently clean-air regions.

It, in effect, repeals EPA's authority to veto on substantive grounds the States' classification decisions, and I think Members will welcome that approach.

Section 115, authorizes State variances to permit continued industrial development in presently polluted areas, while simultaneously continuing progress toward meeting health and welfare standards.

Other important sections include:

Section 102, which assures a precautionary, preventive approach to standard setting under the act, but requires the Administrator to have a reasonable basis for his standards.

Section 107, which provides for a comprehensive study of the stratosphere, including the ozone layer which shields the Earth from excess cancer-causing radiation, and which authorizes regulatory action, if it is needed, to protect the public health and to preserve a safe, productive natural environment.

Section 111, requiring the Administrator to revise the current lax new source performance standards so those performance standards actually reflect the pollution reductions that can be achieved by the best technological systems of continuous emission reduction. In determining which are the best systems of control—and I think Members will be interested in this—the Administrator is directed to consider costs, energy requirements, and other nonair environmental impacts. The present act does not require consideration of energy impacts, and this is a change which I think Members will agree to.

Section 204, establishes long-range emission standards for new heavy duty trucks in 1985 and beyond.

So the committee bill retains and strengthens the primacy of the commitment of the act to public health protection and to preservation of the environment. But within that basic commitment the committee bill emphasizes these significant concerns:

The need for greater State and local authority over clean air programs; and I think that is a most significant part of this bill giving greater authority to State and local authorities.

The need to assure proper consideration of the costs of cleaning the air in a reasonable and balanced approach.

The need to give greater recognition to energy needs of the Nation.

As you know, public attention has

focused primarily on two sections: Section 203—auto emission standards—and section 108—prevention of significant deterioration of clean air.

First, let me discuss the automobile standards. The administration proposed a 5-year freeze of current hydrocarbon and carbon monoxide standards, and the complete abolition of the congressionally established nitrogen oxide standard in favor of a presently undetermined standard to be set by administrative action set not by the Congress, but by the bureaucracy. These proposed delays would be in addition to 3 years of delay which have already been granted under existing law.

The auto companies have had 3 years of delay now, so that the actual proposal of the administration would result in 8 years of delay.

Opposition to any further delay was heard from the National Association of Counties. The counties said, "We do not want them to continue to pollute our areas from Detroit."

The National League of Cities said, "We do not want these relaxations either, and we want you to hold the emission standards firm and tight."

Opposition to the 5-year delay of auto standards was also heard from the U.S. Conference of Mayors, numerous State Governors, and air pollution control administrators.

The American Medical Association said that it would have an adverse effect on health.

Likewise, opposition was heard from the American Lung Association, the American Public Health Association, and a large variety of commercial interests.

Mr. CARTER. Mr. Chairman, will the gnetleman yield?

Mr. ROGERS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would ask the gentleman from Florida if it is not true that the letter the gentleman received from the American Medical Association was written by his assistant and sent to the representative of the AMA and then signed by the president of the AMA and sent back? Is that correct?

Mr. ROGERS. I am certainly not aware of it and I do not know of anyone who is going around writing the AMA's letters.

Mr. CARTER. The gentleman did not have that letter written?

Mr. ROGERS. I did not have that letter written.

Mr. CARTER. I want to thank the gentleman for his information.

Mr. ROGERS. I never heard of that.

Mr. CARTER. I thank the gentleman.

In evaluating the present new car standards the committee balanced public health, technological feasibility, consumer cost, fuel economy impacts and the extent to which further delay would necessitate more transportation controls and more control of shipping centers and parking lots. Not surprisingly, the committee recommendation falls between those who would retain present standards and those who would delay those standards for 5 more years or longer or abolish those standards. The committee proposal would freeze for 3 years the standards for hydrocarbons and carbon monoxide. Nitrogen oxide standards would be frozen for at least 4 years, with final control of NO_x being delayed—a total of 8 years—until as late as 1985 if necessary because of fuel economy problems or technological infeasibility.

Since the remaining questions about fuel economy and emission standards relate primarily to NO_x control, this waiver provision will assure that the congressionally mandated fuel economy standards will not be compromised by emission standards. In fact, a joint FEA–DOT–EPA study confirms that the emission standards in the committee bill can be met while achieving national fuel economy goals. The validity of this projection was underlined by the recent announcement that Volvo will sell in California in 1977, a 3,500-pound car using an American-built three-way catalyst to meet the full 90-percent reduction standards for all three pollutants for 50,000 miles. This 90-percent reduction was achieved with a 10-percent improvement in fuel economy.

Mr. DINGELL. Mr. Chairman, would the gentleman yield?

Mr. ROGERS. Mr. Chairman, I would prefer if the gentleman from Michigan would permit me to finish my statement because I know we will get into a discussion on this later. However, I will be glad to yield to the gentleman from Michigan if the gentleman would prefer, at this time? Or would the gentleman prefer me to complete my statement? I would be glad to yield to the gentleman at this time if the gentleman would prefer.

Mr. DINGELL. No; Mr. Chairman, I would defer to the gentleman from Florida in order to complete his statement. I just wanted the gentleman from Florida to know I strongly disagree with him.

Mr. ROGERS. I thought the gentleman might.

Mr. DINGELL. The gentleman does disagree with him.

Mr. ROGERS. Mr. Chairman, let me emphasize NO_x control is a pressing public health need—from automobiles as well as from powerplants and other stationary sources. NO_x emissions contribute to the formation of NO_2, oxidants, nitrates, nitrites, nitric acid and nitrosamines.

Of course, despite the balance and flexibility of the committee compromise, amendments will be offered to this section. One would tighten the standards. This is the Waxman/Maguire amendment. The other, the Dingell amendment, would grant further delays and abolish the nitrogen oxide standard. I think this only demonstrates that the committee proposal is a balanced, reasonable approach. Let me point out that Leonard Woodcock of the United Auto Workers has denied industry's charge that the committee standards and deadlines are unreasonable. In fact, Woodcock has stated that the bill is "feasible from an engineering standpoint in the time frame specified."

I would like to focus on section 108, "prevention of significant deterioration," the other provision that I think is probably the most controversial along with the auto section. This issue is how much dirtier should we allow our air in clean air areas to become, and who should make the decision? The committee recognized that section 101(b) of the Clean Air Act which was enacted as part of the 1967 act requires that air quality which is superior to national primary and secondary ambient standards be protected and prevented from significant deterioration. That was the holding of the courts in 1972, and that decision, as I am sure the Members saw in the paper yesterday, was affirmed by the U.S. Court of Appeals for the District of Columbia; but that act does not clearly spell out a nationally uniform process by which the air quality of clean air regions will be preserved.

Section 108 of the committee bill spells out such a process and seeks to advance several underlying purposes.

These purposes include: Protecting the public from harmful increases in pollution;

Providing adequate air resources for long-term industrial and energy development in all regions while minimizing increased health risks;

Maximizing States' rights and responsibilities while minimizing Federal agencies' involvement;

Protecting air quality over certain national lands, particularly national treasures such as the Grand Canyon, and Yellowstone;

Insuring informed public participation in State and local decisions on how to balance health, welfare, economic, and energy needs; and

Quickly settling by congressional action current uncertainties surrounding this issue.

In other words, instead of allowing the issue of significant deterioration to be in limbo and allowing uncertainty in the court process, we set here in the law the congressional intent on how significant deterioration is to be prevented. This sets the issue at rest, so people will know with certainty what can be done.

The committee considered several options, including simply leaving the act and current EPA regulations unchanged. But the committee firmly believes that Congress must settle these disputes now. Prolonged litigation must be ended, and Congress—not EPA and the courts—must bring it to an end now. This will be done in the bill.

The administration originally proposed abolishing completely the current act's policy of preventing significant deterioration. The committee soundly rejected this proposal. While this approach would end the uncertainty surrounding this issue, it completely fails to recognize the other national policy considerations—health, welfare, and economics—which I previously outlined. This "head in the sand" approach would convert the national ambient standards, which the 1970 act intended as a ceiling to be achieved by dirty areas, into a floor for the entire Nation. It would mean that before long, the entire country—from coast to coast, even the national parks—would be as

polluted as some major urban, industrial areas.

Abolishing the policy of prevention of significant deterioration would ignore the commonsense that in the long run it is cheaper and more effective to prevent a problem before it arises than to cure the problem later. Abolishing that policy would also lead to long-term growth curtailment as limited air resources are quickly used up by a few large polluters who fail to use the best technology available on their new plants.

The committee rejected the administration's proposed repeal, just as it turned away from other unreasonable extremes, which would lock up clean air areas and ban further industrial and economic growth. We do not think that should be done.

The committee chose a middle ground to encourage clean growth. The proposal protects public health and welfare, and assures availability of future air resources for continuing industrial and energy development. It does so by establishing a process in which State and local governments are authorized to make the classification decisions—not EPA.

The committee bill permits and encourages continued economic growth for the Nation. Studies by both FEA and EPA demonstrate that under the significant deterioration provisions of H.R. 10498 even class II pollution limits would provide for substantial heavy industrial and energy development.

There are 3 classes, I, II, and III, but even class II would provide for substantial heavy industrial development. Twice as much development would be allowed in a class III area. In fact, studies spanning more than 9 months and costing more than $1 million have led EPA to conclude:

> The House significant deterioration proposal will not prevent the construction of major industrial facilities . . . under a three-class increment plan (. . . as provided for in the House bill . . .), all planned new sources would be able to build if desired by the States, provided that they do not violate the existing national ambient air quality standards.

This analysis included electric utilities, pulp and papermills, oil refineries, synthetic fuel plants, and copper smelters. Furthermore, the cost of the proposal is quite modest. EPA has concluded that—

> The major economic impact of the House proposal will be on the electric utility industry . . . (T)he House proposal would increase the industry's capital requirements over the next fifteen years by a maximum of $11.6 billion . . . A maximum increase of 2.7% . . . (T)he consumers' average annual electricity bill in 1990 would increase by a maximum of about 2.3%.

FEA projects the average consumer electric bill will increase by 0.6 percent to 1 percent by 1990.

Someone on the Rules Committee said: "I would settle for that if we could do it right now and hold inflation at that point."

So you can see that the committee provision is balanced and reasonable. Let me cite one further example of this balance and reason.

Under current EPA regulations, an ambient standard is considered to be exceeded only if the second highest measurement during a year exceeds that standard. In other words, the highest reading is disregarded. Under the committee's provision on prevention of significant deterioration, the highest actual measurement or computer model calculation also would be disallowed.

There is widespread public recognition of the careful balancing contained in this section. Here are just some of the endorsements that the committee's proposal has received:

First, the National Governors' Conference—the Governors themselves; the State and territorial air pollution program administrators, those who administer the State programs; the National League of Cities, the cities are in accord with this approach; the U.S. Conference of Mayors, and the National Council of State Legislatures, where we have the people who represent those areas.

The National Association of Counties, the county governments; the National Association of Home Builders, the people who have to go out and build the homes; they say this is a good position and support it.

Then we have the National Association of Realtors, the people whose livelihood depends on being able to sell houses and have growth, they support the committee position; the industrial parks and shopping center developers, who build new industrial parks and shopping centers, they support the committee bill; the United Steel Workers do not want to have to do without a job. They support the bill, including significant deterioration, and they would not support it if it would put people out of work.

Other supporters of the committee position include the United Mine Workers; the American Retail Federation, these are the retail stores of America with some 12 million employees; the National Parking Association; and the American Lung Association. These are just a few examples of some of the people in strong support of the committee bill.

Now, I am sure, despite this broad support, amendments likely will be offered to section 108. This is to be expected. Some wish to strengthen the section by sharply reducing the amount of pollution allowed and by restricting State discretion over these decisions. Others will propose, probably, to strike the section in favor of yet another study, in spite of the fact we have had between $1 million and $2 million worth of studies already.

I believe that each of those approaches would be unwise, because the committee bill is balanced. It provides for fair and open State and local decisionmaking. It would be unwise to increase Federal controls and restrict State authority.

Similarly, calls for further delays and study while maintaining in force current EPA regulations, which is proposed by the Chappell amendment, are merely a smokescreen, because since 1972 more than 44 separate studies from government and industry have been conducted on this issue, various policy approaches to it, and present congressional proposals. Over $1.5 million to $2 million has already been spent by EPA and FEA studies in studying this issue. Further delay will only result in continued uncertainty as to congressional intent, and further time-consuming litigation will result.

Now, by leaving the EPA regulations in force, the Chappell amendment would leave to the courts and to the EPA the job of fashioning ultimate policy, without further congressional guidance. The committee rejects such an approach as both unnecessary and unwise, and unfair to both industry and the States.

In fact, last week the chairman of the National Governors' Conference, Governor Cecil Andrus, informed me of the Governors' support for the committee's proposal for preventing significant deterioration, without amendments.

Further, on July 5, 1976, the Governors' conference overwhelmingly adopted a resolution opposing any further delays in congressional action, such as proposed by the Chappell amendment.

Mr. Chairman, I might add that the other body rejected such delays and such further studies by an overwhelming vote in that body, as of yesterday.

So, Mr. Chairman, the committee has produced a balanced bill. We have permitted waivers. We have allowed extensions. We have written in flexibility to consider the economy and energy and the technological knowledge available to meet goals and standards. We take into account the resources that are available. We even allow for delays caused by strikes.

Some people have said that the 1970 act asked too much, but I do not think it asked too much. Perhaps we asked for healthier, cleaner air, too soon.

But I make no mistake about this legislation. Its main thrust is clear, to clean up the pollution in the air, to restore healthy air and protect clean air where it still exists. I think this is each American's birthright.

The primary objective, premise and foundation of the Clean Air Act remains under this bill the protection of the health of the American people. That we committed ourselves to in 1970, and we should retain that commitment today.

As we well know, the National Cancer Institute and, indeed, authorities around the world have estimated that as much as 80 to 90 percent of all cancers are environmentally related. I think we will see even more evidence of this in the coming years, as we more fully develop the ability to detect this.

When we speak of protecting the public, we are also talking about protecting ourselves, protecting the men and women who work with us and protecting the future generations.

Mr. Chairman, I believe this act, and these amendments, achieve two goals: We are progressing to clean the air and, thus, improve our environment, an environment which is vitally important to our productivity. Second, we are progressing along a course which is reasonable and which considers our other needs: economic, energy, and growth.

Mr. Chairman, I believe in this legisla-

tion we have reached a balance. I think we all have a responsibility to help, for protection of the public health and preservation of clean air are national goals to which we should all pledge our support. I would urge all my colleagues to help through their support of this bill.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I am delighted to yield to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, would the gentleman explain to the committee whether or not we have, at the present time, a policy with reference to nondegradation?

Mr. ROGERS. There is such a policy in the present law, that has just been upheld again by the courts saying, "You should not have significant deterioration of the air." The decision of how to implement this policy has been made by the EPA. In the committee bill we try to change EPA's regulations to let the States have a greater say-so.

Mr. CHAPPELL. But, is the gentleman saying then, "Yes, we do have a policy of nondeterioration?" By whatever method we obtained it, there is one today, is that not correct?

Mr. ROGERS. Yes, approved through the courts.

Mr. CHAPPELL. So, whatever method we have——

Mr. ROGERS. If the gentleman will let me, on my own time, explain things to him, I will be happy to do so.

Mr. CHAPPELL. I would be delighted.

Mr. ROGERS. We are having policy set by administrative agencies and courts. Industry has come in and said, "We need to know a definite policy." The committee has responded.

Mr. CHAPPELL. Would the gentleman tell the House whether or not, at the present time, the EPA has implemented that policy of nondegradation?

Mr. ROGERS. They are doing it, and court suits are coming about because there are no clear statutory guidelines.

Mr. CHAPPELL. The gentleman, I think, would agree that if we pass this bill, it is not going to guarantee any freedom from lawsuits. Would the gentleman agree?

Mr. ROGERS. No, I do not agree, because the bill lays out the process on how to prevent significant deterioration and turns the basic classification decision over to the State and local governments, where it ought to be.

Mr. CHAPPELL. Now, if section 108, even if it were completely deleted—which I certainly am not attempting to do—but if it were completely deleted from the bill, would not there remain in existence in our Nation a policy of nondegradation?

Mr. ROGERS. We do not know how the policy would be implemented because the regulations are subject to review by the courts. We do not want people who go in to build a factory or try to expand to be challenged in court every time they want to do something. In other words, we want to set a congressional policy that people can understand. State and local decisionmaking can implement the process and not just allow veto of substantive State decisions by the Federal Government. I think the gentleman would basically agree with that approach.

Mr. CHAPPELL. No, I would not.

Mr. ROGERS. I am sure the gentleman believes in State control.

Mr. CHAPPELL. I will wait for my own time to reply.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Would the gentleman not agree with me that the court case he referred to was by a split decision of the Supreme Court? And second, that another case is presently on its way to the Supreme Court to ask for a definitive decision, and that the courts have not made a definitive decision on this matter?

Mr. ROGERS. I would say that the Supreme Court's action is pretty definitive, even though it may have been a split decision. That is the law of the land which upheld a lower court.

We just had a unanimous decision by the court of appeals here 2 days ago, confirming what they did before. So I think it is without question that the present act requires the prevention of significant deterioration.

Mr. BROYHILL. Is it not a fact that that case is on the way to the Supreme Court?

Mr. ROGERS. I do not know that as a fact.

Mr. BROYHILL. I know they have had a unanimous decision.

Mr. ROGERS. I would think it would be a rather useless waste of time, perhaps, to take a unanimous court of appeals decision that has gone up once before and has been upheld.

Mr. BROYHILL. Can the gentleman in the well point to anywhere in the present Clean Air Act where it gives the power to the administrator to promulgate regulations calling for a classification system imposed on the States for air quality?

Mr. ROGERS. Yes. It is stated in the court decision.

Mr. BROYHILL. Can the gentleman point to the specific authority in the bill?

Mr. ROGERS. Yes. Section 101(b) of the act would prevent significant deterioration.

Mr. BROYHILL. The specific authority granted to the administrator I can find nowhere in this act.

Mr. ROGERS. I can refer the gentleman to the court decision.

Mr. SATTERFIELD. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Virginia.

Mr. SATTERFIELD. I thank the gentleman for yielding.

I want to pick up on that point, because I read that decision and I am interested in the gentleman's statement that the problem we have today is that the courts are establishing policy.

Is it not a fact that the District Court for the District of Columbia, the court which rendered the decision, created this policy and in this bill we would be confirming a policy which the court has made out of whole cloth?

Mr. ROGERS. No. What we are doing is we are setting congressional intent, clearing up the matter, and giving the classification decisions to the State. I would hope the gentleman would support that, because I know he is a good States righter.

Mr. SATTERFIELD. Is it not a fact that the District Court for the District of Columbia predicated its entire decision on only three words in a finding and purpose paragraph of the 1970 amendment?

Mr. ROGERS. I think that is correct. The complete basis is stated in the court decision.

Mr. SATTERFIELD. Those words were "to protect and enhance," and the court ignored the remaining part of that paragraph which is to protect and enhance the quality of the Nation's air resources so as to protect the public health and welfare and the productive capacity of the Nation.

Mr. ROGERS. That is right. And the Supreme Court agreed that these words required prevention of significant deterioration.

Mr. SATTERFIELD. If the gentleman will yield further, the Supreme Court neither confirmed nor denied it, because it was a tie decision, which means no decision.

Mr. ROGERS. We have just had it reconfirmed here by a unanimous decision of the Court of Appeals the day before yesterday.

Mr. SATTERFIELD. If the gentleman will yield further, would the gentleman really expect the court which made the decision in the first place, and the Circuit Court of Appeals for the District of Columbia which confirmed the original decision, would reverse themselves now? I would not.

Mr. ROGERS. I know that the gentleman, being the particularly fine lawyer he is, supports the law of the land until it is overturned by the Court.

Mr. SATTERFIELD. Of course, I support the law of the land. And the best way to support the law of the land is to reject the significant deterioration provision in this bill.

Mr. ROGERS. What we are saying is we should establish clear congressional intent that EPA is not going to be primarily responsible. We should let the States do more.

Mr. SATTERFIELD. I do not know how the gentleman can say we "let the States do more" when this bill, so far as sulfur dioxide and particulates are concerned, would tell the States what they must do, and which would also require significant deterioration standards as to all other pollutants at least as stringent.

Mr. ROGERS. All we are saying is that we must look at these pollutants that are cancer-causing and set the standards, and the States can set the classification one or two or three. It is their judgment.

Mr. SATTERFIELD. I trust we will get into this later.

I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

I offer this amendment as a third alternative to the arbitrary reduction of primary standards as provided in section 108.

Primary standards are to protect the Nation's health. According to section 109 of the 1970 act, this standard is to reflect an adequate margin of safety. Should there be a need for reduction of this standard, section 110 of these amendments provides for a review of standards every 2 years. In other words, every 2 years, the Administrator is to review all relevant scientific data and testimony to determine whether the standards do reflect that adequate margin of safety. This authority should take care of any fears my colleagues might have concerning the accuracy of the primary standards in question.

Mr. BROWN of California. I thank the gentleman for yielding.

I personally feel that the gentleman has brought to the floor one of the finest bills that could be brought to the floor at this time. I have my own differences with it, but the very point that is being criticized I think is part of the strength of the bill. The fact that the State and local governments will now have a much higher input into this process is of a particular importance to the State of California. We are a State which is heavily polluted, and we look forward to exercising the discretion granted in this bill.

If I have any dissatisfaction with the bill, it is that it has not been significantly strengthened, contrary to the position expressed by the gentlemen who spoke before me. But on balance, I think that the chairman of the subcommittee is to be thoroughly complimented for his great work and the statesman-like way in which the subcommittee and the chairman have handled the many problems raised by the legislation.

Mr. ROGERS. Mr. Chairman, I thank the gentleman from California (Mr. BROWN) for his kind remarks. We all know of the gentleman's dedication to trying to clean up the air for the health of the American people.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I will yield only briefly to the gentleman from Florida.

Mr. CHAPPELL. Mr. Chairman, will the gentleman tell us whether or not the EPA has promulgated rules and regulations which do the very same thing with reference to classification as has been done in this bill?

Mr. ROGERS. No, there are significant differences.

Mr. CHAPPELL. Will the gentleman tell us what those differences are?

Mr. ROGERS. Yes. Mr. Chairman, if the gentleman will permit me to say this, I have other Members who have asked for time to speak. We will get into this discussion when the amendments are offered, and at that time I will be glad to point those differences out.

Mr. CHAPPELL. Mr. Chairman, I want to thank the gentleman for yielding, and I will say that while I disagree with portions of the bill, the gentleman from Florida (Mr. ROGERS) is to be commended and his committee is to be commended for their work. I join with the gentleman from California (Mr. BROWN) in commending the gentleman and the committee for the fine work that was done. I do happen to disagree with some of the provisions, and I think the debate will bring out some of the discrepancies and some of the weaknesses that we find in the bill.

Mr. ROGERS. I thank the gentleman for his remarks, and I respect his position.

Mr. Chairman, I wish to bring specific attention of the Members of the House to three important endorsements of the committee bill from both labor and industry.

First, this afternoon the American Federation of Labor-Congress of Industrial Organizations strongly endorsed the Commerce Committee's clean air amendments, H.R. 10498. The AFL–CIO urged "that you resist all crippling amendments to this legislation now before the House of Representatives." Mr. Biemiller went on to say:

I wish to inform you of our strong support for H.R. 10498—the 1976 amendments to the Clean Air Act.

Previously, H.R. 10498, including the section on prevention of significant deterioration, was endorsed by the United Steelworkers of America. With specific regard to the committee's proposal on prevention of significant deterioration, the steelworkers stated:

We support the significant deterioration provision in the bill because it will not impede economic development.

Finally the National Association of Homebuilders—writing on behalf of the more than 76,000-member firms in 603 local associations—have endorsed the committee bill. Speaking of section 108—prevention of significant deterioration—the homebuilders stated:

The provisions of H.R. 10498 which deal with the subject are fair and reasonable in their content and scope. . . . (W)e feel that H.R. 10498 grants sufficient protection to areas of critical environmental concern while permitting adequate development in these areas which will be designated Class III.

I ask that the text of the AFL–CIO endorsement letter be printed in the RECORD at this point and that all Members follow these great organizations' leadership in supporting H.R. 10498 without amendment:

AFL–CIO,
Washington, D.C., August 4, 1976.

Hon. PAUL G. ROGERS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROGERS: On behalf of the American Federation of Labor and Congress of Industrial Organizations I wish to inform you of our strong support for H.R. 10498—the 1976 amendments to the Clean Air Act.

We urge that you resist all crippling amendments to this legislation now before the House of Representatives.

Sincerely yours,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

The CHAIRMAN. The gentleman from Florida (Mr. ROGERS) has consumed 43 minutes.

Mr. CARTER. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I believe that our Nation's environmental policy should be carefully balanced, keeping employment, economic, and energy considerations in mind. Of course, serving all these needs simultaneously is difficult, but it is necessary to do that.

It is my judgment that the committee has failed to walk this tightrope and has reported amendments to the Clean Air Act which will severely limit the economic development which is going to be required in this country in order to create new jobs in the years ahead. In my judgment, numerous amendments and changes are needed to adjust this measure so that its provisions will not threaten the other legitimate and important national concerns and social goals that all of us have.

In the first place, if I may enumerate some of the concerns I have with provisions in this bill, I will join with my colleague, the gentleman from Michigan (Mr. DINGELL), to offer an amendment to the auto emissions section which I feel will provide a more sensible and steady progress toward reduced automobile emissions without jeopardizing economic recovery. This approach the gentleman from Michigan (Mr. DINGELL) and I are taking reflects the positions that have been taken by the Administrator of the Environmental Protection Agency, Mr. Russell Train, and would replace what we feel are the more overly stringent standards and schedules that are imposed by the committee bill.

We have in the minority views on this section detailed scientific analyses which have been provided by several governmental agencies. These are analyses of the requirements of the committee bill which show that by the amendment that will be offered by the gentleman from Michigan (Mr. DINGELL) and myself, we will achieve virtually the same level of clean air down at the end of the road.

But in the meantime, if we retain the language which is in the committee bill, it will result in the wasting of billions of gallons of fuel. It will produce only a negligible improvement in air quality, and it would force the use of catalytic converters instead of possibly other measures which may be more economical and more efficient technologically.

I have joined with my distinguished colleague from Michigan in the Dingell-Broyhill—Train—amendment for quite a few reasons: energy savings, less cost to the consumer, equally clean air, freeing up of technical options such as the diesel, less risk of an economic setback—just to mention some. All of these are important reasons to support our amendment and all are well justified by the record.

I have yet another reason which may be even more basic than all the others. The Dingell amendment returns the final, tough technical decision to EPA, where it belongs, instead of forcing the Congress to decide a technical matter of this complexity. I believe most of you are as uncomfortable as I am with decisions on technical, scientific matters all outside

our education, experience, or—dare I say it—our competence. We created an EPA to gather the expertise to analyze just such questions. The Dingell amendment would let them do what it was we intended they should.

So far as the energy and cost savings involved, I don't believe I can add anything to what my esteemed colleague from Michigan has already said.

NEGLIGIBLE HEALTH BENEFITS

The health benefits certainly do not justify the costs which are associated. In HC and CO, there are no identifiable differences between the Brodhead and Dingell amendments. The NO_x differences between the two are less than a 10-percent improvement in ambient air quality, which may be a very different thing than a 10-percent improvement in health. Knowing as little as we know of the health effects of NO_x, the economics of the proposal argues strongly against premature establishment of anything like an 0.4 NO_x standard by the Congress for 1981. Under the Dingell amendment, I would note, if we should acquire the information we need for an informed decision, there is nothing to prevent EPA from establishing an 0.4 NO_x standard in 1982. Happily, under the Dingell amendment, if the health data so indicates, EPA could also establish a higher NO_x standard which would be more economical of energy without having to come back to the Congress.

ECONOMIC EFFECT

My ideas of the economics involved arise in part from the unpleasant experience of the recent recession, into which automobile unemployment led the entire country. We cannot afford a repetition of 1974 and 1975. It was not only Detroit that suffered but the rest of the country as well. Detroit, except for American Motors, has recovered pretty well. However, we must indeed be sensitive to what we may do to the economy with overly stringent standards. The study done by Chase Econometrics has suggested what the effects of more stringent standards may be on unemployment, predicting more than 300,000 jobs lost by 1985, even with the waivers granted on NO_x standards, as permitted by the House bill, and with optimistic technology.

I doubt that any econometrics study is accurate, but we should be alerted to any study that portends such ominous results, particularly if the benefits are as slim as they seem to be in this case.

We have heard many claims about clean air benefits, but it seems to me we have heard them chiefly from lobbyists for the catalyst industry. During markup of the bill, they raised the specter of carcinogenic nitrosamines in the air over two east coast cities. They failed to note that five other cities were also investigated. They have an equal density of auto traffic, but no nitrosamines.

The nitrosamines were traced to stationary sources, not autos. The catalyst lobbyists have alluded to statistical relationships between nitric oxides and cancer. Statisticians do not normally accept such relationships on the basis of the kind of data that presently exists. As I understand it, no recognized Federal health agency has ever claimed that a cause-and-effect relationship exists between NO_x and cancer. The same catalyst lobby handout suggests that Washington's smog episodes lead to headaches, nausea, dizziness, and so forth. A recent study in June reported to the American Pollution Control Association its conclusion that an analysis of health care utilization data, air pollution data, and weather data in the Washington area for 1973 and 1974 showed that there does not appear to be a significant relationship between photochemical oxidant readings on any given day and health effects. "It would seem reasonable to question allegations in the past that there have been significant increases in asthmatic and other respiratory complaints during the air pollution alert periods" in Washington.

In sum, if for no other reason than the energy wasted for negligible health benefits, one should vote for the Dingell amendment. When one adds in the economic risk involved, again for negligible benefits, then there is but one clear choice and that is to vote for the Dingell amendment.

It is our contention that the provisions of the committee bill would cost consumers billions of dollars in higher automobile purchase prices and maintenance costs and could even risk the dislocation of the automobile industry, which is only now recovering from the impact of the Arab oil embargo, and the possible loss of jobs, directly or indirectly, which are related to the automobile industry, with negligible gain in air quality.

Mr. Chairman, commonsense, it seems to me, indicates that if the same level of clean air can be obtained without risking these negative effects, that should be the approach the Nation should follow.

For that reason, Mr. Chairman, I would urge the adoption of what has come to be called the Dingell-Broyhill amendment.

Mr. Chairman, there are other concerns that I have with the way this bill is directed. The gentleman from Florida (Mr. CHAPPELL) has, in the few moments that he has already had in the debate, enumerated some of his concerns that he has with section 108, which has come to be called the "significant deterioration section."

The committee bill, as the gentleman from Florida (Mr. ROGERS), the chairman of the subcommittee, has stated, does confirm and write into law in a rigid way the Supreme Court confirmation of the lower court decision that there was an intention in the act to prevent significant deterioration of the air that was already cleaner than the national air-quality standards.

In my judgment, Mr. Chairman, and from my review of the act, I do not believe that this kind of policy was ever the intent of Congress. I just question and oppose ratifying such an unwise and unnecessary policy at this time of continuing economic uncertainty.

Mr. Chairman, implementation of this policy involving all sections of the country, is going to have, certainly, grave economic impact by restricting development in many, many areas, such as the development and mining of coal, which we are going to have to have in order to have the energy resources for the future.

Mr. Chairman, it will also restrict the development and the manufacture of synthetic fuels, the construction of all sorts of industry and plants, such as oil refineries, metal smelters, paper mills, powerplants, and so forth. It could also result in the limitation of utilities' use of abundant coal resources, and thus, this nondegradation policy in this bill could result in increased dependence on foreign oil.

Mr. Chairman, it is our contention that adoption of this policy will result in higher electric costs and that the policy in this bill amounts to a thinly disguised Federal land-use policy based on this one single criterion, that is, air quality.

It would trespass on the States' authority to plan for development within their boundaries, and it would saddle the States with excessively burdensome redtape in order to abide by the rules laid out in this section.

Furthermore, Mr. Chairman, if adopted, it would mean that there would be different air quality standards from area to area, from region to region, and from State to State.

Therefore, it is my judgment that until we have some better information, some better evidence, and some more facts on how this policy will impact on different areas of the country, I think we should postpone adoption of this nondegradation policy.

IMPACTS UPON LAND USE OF SIGNIFICANT DETERIORATION

I would like to speak on some disturbing land-use questions raised by the significant deterioration provisions in H.R. 10498. The class I, class II, and class III designations carry very restrictive allowable increments of deterioration that are, in effect, zoning regulations based not on all of our citizens' social and economic needs, but on only one standard—clean air. Given this single criterion, States and local communities would be deprived of at least some of their right to decide for themselves what use they want to make of their lands. In many cases, they would want to go the way of preservation. In others, they might well want to go the way of development—and, under these provisions, not be able to.

Certainly, class I areas should be kept "pristine," and they should be protected against intrusion by airborne pollutants. I refer now to class II and III areas, where industrial growth would be restricted by the allowable increments. The question that arises is what happens when one facility moves into a given area and "uses up" all or most of the allowable increments. Other industries which then might want to move into the same area would find it foreclosed to them. They would have to move to yet another zone where the increments still remained, even if the site might be ill-suited to a proposed plant's needs.

In the face of such discouraging pros-

pects, it is entirely conceivable that the plant would not be built at all, and jobs would be lost. Moreover, an area with all of its increments used up might well find itself condemned to more or less permanent economic stagnation.

Surely it is the right of the several States and their local governments, long recognized by Congress, to decide how they want to use their own lands. Think for a moment about all of the cities and towns across America which are trying to attract new industries to reverse economic declines and provide job opportunities for their young people. These communities are trying to plan their economic future in a rational way. They have decided, often at town meetings, what types of industry they wish to attract and in many cases have even acquired land at great expense for industrial parks. The nondeterioration provisions could well pull the rug from under many such plans.

The problem, of course, is magnified when one considers the Western United States, where so many energy resources like oil shale and coal are located. Surely, ways can be found to protect the environment and at the same time make these vast energy reserves available to Americans. We need to appreciate the fact that the present air quality standards are very restrictive. We need to ask: What will happen when industries must operate within fractions of these standards, as the proposed significant deterioration provisions call for?

Another thought disturbs me. Under these provisions, the drift toward centralization of government would continue as communities, lacking the power to change things for themselves, increasingly would look to Washington to solve their problems.

I feel very strongly that the implications of the significant deterioration provision deserve the most careful study which, I devoutly hope, will include the land use implications involved.

THE CLEAN AIR ACT WILL LIMIT GROWTH

The committee bill (H.R. 10498) appears to allow classified areas to have a pollution level which would allow further substantial growth. Proponents of the bill would have us believe that class I and class II rated areas would be able to have a pollution level equal to 90 percent of the national air quality standard, or that an area could develop up to the point that none of the six pollutants regulated by EPA exceeds 90 percent of the amount EPA thinks is safe. This would not be the case. In reality, only rarely could an area come close to a 90 percent concentration. A class II area is allowed to increase the concentration of pollutants by only 25 percent of the national standards. A class III area would be limited to 50 percent of the national standard.

EVEN NONINDUSTRIAL AREAS WILL BE AFFECTED

Because of high background levels of "pollutants" created by nature—usually oxidants emitted from pine forests; this is what makes the Smoky Mountains smoky—rural areas may already be at their mandated air quality limits. And this may be without any industry whatsoever. This affects a surprisingly large portion of our Nation.

Even dust and dirt in the air from farming activities or unpaved roads can prohibit a rural area from further development by violating "particulate" regulations. Mr. Rogers does not take this into account when he writes that the bill "does not discriminate against rural and other presently clean areas."

The distinguished Member also fails to address the fact that, while not specifically mandated, some type of "buffer zone" will, in fact, be necessary. Even EPA acknowledged that de facto exclusion zones, based on topography, meteorology, and other factors, will be necessary if emissions from a source in one class are not to exceed allowable increments in other areas. This would mean that a nearby city or industrial region might severely limit the growth potential for a rural area—even though the rural area was creating no pollutants of its own. It should be clear that this legislation goes far beyond both the scope and the direction originally intended by Congress.

THE NUMEROUS STANDARDS MANDATED BY THE CLEAN AIR ACT WILL CREATE MANY PROBLEMS

The committee bill would lead to a variety of different standards of air quality. Every region which has a different concentration of any of the six pollutants will have a different standard. This would happen within every one of the three classes of air quality control regions which would be created by the committee version of the Clean Air Act.

In addition to that, there is the possibility that every State will have a crazy quilt of class I, II, or III areas scattered across it.

It is left to the State to designate which locations within its boundaries will be class I, II, or III, but the State must have the consent of the majority of the political units—counties, towns, cities, et cetera—within the proposed area before the designation. It follows that the State would have to gerrymander each zone within which there were varying degrees of industrial development so that it would be sure that the majority within that zone were in favor of that particular classification.

It would seem that this bill would establish a nightmare of complicated formulas, tests, and zones few can comprehend—let alone administer—and do away with a system that allows each State the flexibility to achieve national standards as it sees fit. It would preclude a State from designing a method of compliance that best suits the economic, social, and environmental needs of its citizens and require the States to meet a mish-mash of regulations that are a bureaucrat's dream come true.

There are other concerns that we have with the provisions that are in this bill. One of these is the excess emission fee section, section 105. Section 105 really contains "catch 22." What it does is to authorize an extension of the date by which a stationary source must be in compliance with the clean air standards. Then it subjects that source to the possibility of being fined up to $5,000 a day while it is not in compliance. If there are certain reasons for extending the compliance date, then the operator should not be penalized. In the meanwhile, if there are sound reasons for not extending the compliance date then the date should not be extended.

Mr. Chairman, clean air is important to our Nation more than just from the standpoint of beauty. The health effects of it, of course, are broad. Air pollution economic costs are high. But since the adoption of the 1970 amendments to the Clean Air Act we have made tremendous progress in cleaning up the air of our Nation. Sulfur dioxide concentrations in the upper air have dropped 26 percent. The concentration of particulates are down 15 percent. Auto emissions are down 83 percent. We have been making progress toward our goal.

Mr. Chairman, I believe that H.R. 10498, the committee bill, does set schedules and requirements for continuation of this goal of cleaning up the air which will be expensive, which will be most difficult to meet in light of other social goals, in light of other recognized national priorities. We are all concerned about the problems of unemployment, of energy dependence, of the economic recession. The passage of this bill without some amendments could negate any progress that we are making on these problems in the 94th Congress.

EFFECTS OF SIGNIFICANT DETERIORATION UPON ENERGY DEVELOPMENT

I would remind my colleagues of an unfortunate fact which many Americans have lost sight of: We still face a serious energy crisis in this country.

I offer this reminder because section 108 of the bill dealing with significant deterioration, as written, would have a devastating impact on this country's ability to locate and develop many remaining energy reserves. I refer mainly to coal, oil—particularly shale oil—natural gas, and uranium ore reserves.

The few modest studies that have been undertaken on this subject indicate that our energy industries would be severely restricted in their ability to produce new energy supplies if significant deterioration legislation should be enacted.

As an example of the impact this legislation could have on energy supplies, I call attention to the situation respecting shale oil development. Several oil companies have leased considerable shale oil acreage in some of our Western States. Over and above this investment, they will have to expend major sums to process the shale. One study indicates that the development of much of the shale oil in the States of Colorado, Utah, and Wyoming would be effectively prohibited.

In other States the story is similar. Vast areas would be sealed off to intelligently planned energy resource development at a time when such development is crucial. The effects of these restrictions on our energy independence goals and on our national economy generally could be staggering.

We should bear in mind also that these provisions not only would bar the development of many oil, gas, coal, and ura-

nium reserves, but also would hamper the construction of refineries, electric generating plants, steel mills, and many other industrial facilities essential to our national growth and prosperity.

The U.S. Department of the Interior has expressed its conviction that, and I quote, "the benefits of nondeterioration would be more than offset by its costs"—a sentiment shared by many others who have examined the implications of this far-reaching legislation. The Department of Commerce has gone even farther. In a letter dated February 5 of this year, Acting General Counsel Ellert wrote—and again I quote:

The Department of Commerce finds that the economic consequences of nondeterioration proposals have not been fully appreciated. Our analysis and our review of other studies indicate that the significant deterioration proposals under consideration will force a change in the pattern of expansion of economic activity and will result ultimately in a cessation of industrial growth.

In short, the significant deterioration provisions, as written, appear to lack balance. They need to be studied further so as to take into account all of our country's needs—social and economic, as well as environmental. Congressman CHAPPEL's amendment would permit such an evaluation, and I urge my colleagues to adopt it.

Mr. Chairman, in my judgment, without modification, this bill will amount to a no-growth policy and could result in economic stagnation.

Mr. Chairman, I am also concerned about the statements that have been made by the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS) concerning the supporters of this bill. The gentleman has listed, for example, a number of supporters such as Sears, Roebuck and J. C. Penney, the Federated Department Stores, National Association of Retailers, National Home Builders, National Parking Association, National Retail Merchants Association. In reality all of these associations and retailers are interested in only one provision in this bill and that is section 201 which gives some very much needed relief from the Environmental Protection Agency regulation relating to indirect sources. This situation I think provides a good indication of the problems that are now arising with the present Clean Air Act. These retailer associations are in such dire need of relief in the area of indirect sources that they are willing to agree to support the entire bill in exchange for an agreement that they would be given the relief which they so badly need.

There is obviously a compelling need to make the changes and adjustments in the law in this area and it is our opinion that the Congress should grant this needed relief. But in reality, in my conversations with some of the representatives of these associations, they have been named, and others say that if that section of the bill were dropped, they would then reverse their position and would be probably issuing statements that they were in opposition to the bill as written.

The gentleman from Florida has mentioned the Governors' support for the bill, but I have been informed that the Governors conference adopted a resolution in respect to section 108 which reiterated the Governors' feeling that the significant deterioration issue should be clearly resolved by Congress in a manner which gives each State the flexibility to determine for itself what is meant by "significant" consistent with State values. I have a letter from my own Governor, the Governor of the State of North Carolina, Governor Holshouser, in which he states that:

We hope that the North Carolina congressional delegation will support an amendment which would refer the entire question of no significant deterioration to the proposed National Commission on Air Quality for not less than one year of study.

The amendment would necessarily have to provide that existing EPA regulations not be implemented until the Congress has had time to act on the question. So he is in effect supporting the amendment that will be offered by my colleague, the gentleman from Florida (Mr. CHAPPELL). I only take this time to point out that some of the supporters that the gentleman from Florida (Mr. ROGERS) is claiming, have concerns over several sections of the bill as written and they would be supportive of efforts to make these needed changes in the bill.

INDIVIDUALIZED EFFECTS OF THE CLEAN AIR ACT

Proposed clean air legislation will adversely affect our industrial sector as well as several States. Not only will growth be limited, but costs will escalate because of the restrictions which new proposals would impose.

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 effects upon individual sectors of our economy, portions of several studies are included below:

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 nonimpacted 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 power plant 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, and 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 S. 3219 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)

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

Will the gentleman state briefly the essential differences between the requirements of section 108 and the regulatory implementation of present law which already has been made by EPA and funds enforcement until the current litigation is final.

Mr. BROYHILL. If I could wait a few minutes, I would like to get some notes to refer to. Could I reserve that until a few minutes later in the debate?

Mr. CHAPPELL. I thank the gentle-

man. Will the gentleman yield on another point?

Mr. BROYHILL. I yield to the gentleman.

Mr. CHAPPELL. The gentleman from Florida (Mr. ROGERS) had made substantial comment about how much power, how much authority, we are handing back to the States. Does the gentleman have that same view with reference to the fact that, as the gentle- stated here, that we are really handing back to the States anything?

Mr. BROYHILL. I do not see, particularly in section 108, where we are handing back to the States any authority, because what we are doing is setting far more stringent standards—and they are differing standards, as I pointed out—for every region, for every section of every State, and State by State.

Every area is going to have a different standard. At the present time EPA sets national ambient air quality standards, and the States are free to make those standards stricter if they so desire. They have that freedom under the act as written and amended in 1970. I do not think that the amendments that we are proposing here today will give them any more freedom; in fact, they will be more restrictive.

Mr. CHAPPELL. As a matter of fact, is it not true that throughout this particular section it is repeated over and over that the final say really rests with the Administrator in the event he does not approve?

Mr. BROYHILL. The Administrator in many instances in this act was given more authority than he has had in the past.

Mr. CHAPPELL. I thank the gentleman.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Clean Air Act Amendments of 1976 (H.R. 10498) as reported by the Committee on Interstate and Foreign Commerce. I want to commend the gentleman from Florida (Mr. ROGERS), the chairman of the Health and Environment Subcommittee, for his willingness to work with all members of the committee to produce a fair and well-balanced bill.

This is a most difficult time to be considering clean air legislation, because of our need for continued economic growth and energy conservation. I believe H.R. 10498 strikes a reasonable balance between these needs and that of continued progress toward clean air. While the bill is complex, I want to address myself to two major parts of it—nondegradation and auto emissions.

Where nondegradation is concerned, I must speak parochially. This section has been called by its opponents a "no growth" provision. For my home State, failure to enact this provision will clearly mean no growth. Since 1964, industry in the State of New York has, rightfully so, been operating with a nondegradation law. Quite frankly, it has been convenient and profitable for businesses to leave New York State for areas where air quality standards are not so stringent. If Congress fails to provide a set of national guidelines on the prevention of significant deterioration, we can expect the exodus of industry from New York and other major industrial States to continue.

Further, and I am certain it will be pointed out in the debate, both private and Federal studies have indicated that no area will be precluded from a reasonable amount of industrial growth if this section is adopted. Most important, it will be the States, not the Federal Government, making decisions as to how 99 percent of the land in this country will be used. I therefore intend to oppose amendments to weaken the significant deterioration provisions of section 108 of H.R. 10498.

I also intend to support the committee language on auto emissions, because I feel it strikes a responsible balance between fuel conservation and environmental needs. It sets a date certain for strict emissions standards; while at the same time providing flexibility for the auto industry to help our Nation achieve its energy and economic goals. I fear that a long delay in new standards will eliminate whatever incentive the auto industry might now have to improve the environmental quality of its product.

My attention was recently drawn to a study on the effects of auto pollution on police officers in the metropolitan area of New York and New Jersey. This study has made it quite clear that the pollution from automobiles is harmful to health, causing and aggravating respiratory illness, high blood pressure, heart disease, and other cardiovascular abnormalities.

It is true that since the effort to reduce auto emissions began several years ago, we have been successful in reducing those emissions by 83 percent. Progress from this point to the final goal of 90 percent reduction will be most difficult, but I believe it must be made. The committee proposal is technologically feasible; it will not keep the auto industry from meeting congressionally mandated fuel economy standards and it will have only a minor impact on the cost of new automobiles.

I urge my colleagues to give careful attention to the debate on these two issues, and the others in the bill. I am certain that when consideration of H.R. 10498 is ended, most Members will see the importance of giving this bill final approval.

Mr. HEINZ. Mr. Chairman, I rise today in support of H.R. 10498, the Clean Air Act Amendments of 1976.

As many of my Republican colleagues know, I am a cosponsor of this bill and have been a strong supporter of it throughout its legislative history.

I have taken particular interest in the controversial section on significant deterioration—section 108—and would like now to attempt to clear up some of the mystery surrounding it.

First. Although the term "significant deterioration" may be relatively new—it relates back to a 1972 Supreme Court decision—the concept that the Federal Government is responsible for the enhancement as well as the protection of the national air quality dates back to the Air Quality Act of 1967.

Second. This bill does not create some new untested creature that will blanket the land with regulations. Significant deterioration is already part of the EPA regulations.

The EPA, in fact, was responding to a Federal court decision requiring the Federal Government to come up with a policy of prevention of significant deterioration. That decision was upheld by a divided Supreme Court in 1973. A divided court, as some of my colleagues failed to point out in their committee views means that the lower court is upheld. It does not mean no decision.

Third. The response of EPA to this directive was upheld just 2 days ago by a unanimous decision of the U.S. Court of Appeals for the District of Columbia.

Thus, the concept and active policy of significant deterioration, contrary to the position taken in the minority views, is on firm legal footing.

Now, having established this background, I point out to my colleagues one especially relevant fact:

These amendments, that incorporate the legally tested concept of significant deterioration—actually take away power from the Federal Government and give it back to the States and the local governments.

As we will doubtless hear many times today, the bill requires each State to classify all areas that are cleaner than the national ambient air quality standards—ambient simply means all air that is not indoors, or enclosed—into three classes for sulfur dioxides or particulates.

Then, within each area, air pollution would only be permitted to increase within certain limits. Class I areas include national parks and wilderness areas. Class II initially would be all other lands, with the States having the power to redesignate certain lands to a class III designation, meaning that the allowable amounts of pollution in that area could be greater than those under the initial designation as class II.

As I said earlier, this bill actually takes authority away from the Federal Government. It does this in four ways:

First, it prevents EPA from overruling a State classification on the grounds that the State had not properly weighed the critical factors that are required for land classification; second, it removes the Federal land manager's authority to classify Federal lands other than mandatory class I areas; third, it prohibits EPA from compelling "no growth" buffer zones around any area; and fourth, it prevents EPA from revising the levels of pollution that would be permitted within an area classification.

Mr. Chairman, when this bill was under consideration by the Health and Environment Subcommittee, the question of significant deterioration received extremely careful study by subcommittee members as well by the Environmental Protection Agency and the Federal En-

ergy Administration. The close attention we paid to this matter was motivated by a dual concern for the future of our environment and for the future of our economy. Both concerns are crucial ones, and we cannot afford to play one against the other. For that reason, the subcommittee carefully crafted a compromise that recognized the legitimate need for clean air as well as sustained economic growth.

I am proud as a member of the subcommittee to have played a contributing role in my subcommittee's work on the nondegradation issue. As my subcommittee colleagues know, I authored the amendment which provided for the "class III" designation in the subcommittee's approach to this problem. I did so because I believe we must insure that in our approach to environmental matters we allow for sustained economic growth. And under my amendment, which was adopted in subcommittee, we have done just that. We have found a method for allowing needed growth without blindly endangering the quality of the air we and our children must breathe.

This approach was partly rejected by the Senate Public Works Committee. The Senate version of the bill contains only two classes and "rejected a national policy that some clean air areas should be set aside for industrial development where deterioration of the national ambient standards would be allowed, as under EPA's class III areas." That quote is from the Senate committee's report on the bill. I hope, Mr. Chairman, that the House will be more realistic than the Senate and will support the committee bill provisions, including the retention of class III designations.

Regarding the section on significant deterioration as a whole, I think it is noteworthy that the Senate yesterday overwhelmingly approved its version and rejected a move to remove their significant deterioration section from the bill.

I would point out to my colleagues that the vote in the Senate on the question—on the Moss amendment to remove the significant deterioration section and substitute a study—was 63 to 31.

To those who claim that this vote or this policy is a purely partisan matter backed only by Democratic Party members, I would point out that 23 Senate Republicans voted to reject the Moss amendment, including such familiar names as BAKER, BUCKLEY, and TAFT.

I think the House approach is a better one simply because it provides more room for State discretion while preserving and enhancing the air.

I urge your support for the amendments as a whole and in particular for section 108 as it is written in the committee bill.

Mr. STAGGERS. Mr. Chairman, I yield myself 2 minutes.

Mr. STAGGERS. Mr. Chairman, I rise in support of H.R. 10498, the Clean Air Act Amendments of 1976.

H.R. 10498 provides a 3-year extension of authorizations for administration of the Clean Air Act. This bill covers fiscal years 1977, 1978, and 1979. The authorized levels are $200 million for each of the 3 fiscal years. None of this authorization is for research activities under the Clean Air Act. Authorizations for research are handled separately by the Committee on Science and Technology.

The bill also provides needed flexibility for States and the Administrator of EPA which is lacking in the current law. It would permit the States or the Administrator to grant delays for emission standard deadlines for stationary pollution sources, such as powerplants, steel mills, and copper smelters. It would enable States to grant further delays to assist the coal conversion program under the Oil Policy Act.

The bill also contains provisions authorizing variances to encourage use of new, less costly or less energy intensive technology. Variance authority is also authorized to permit continued economic growth while maintaining clean-up progress in dirty areas of the country.

The bill also contains provisions to relax transportation control measures, indirect source controls, parking management restrictions, new car emission standards, and provisions to assure the act will not harm competition by the automotive aftermarket parts and service industry and independent gasoline marketers.

While providing increased flexibility and greater State responsibility, the bill retains its primary commitment to protection of public health. This is critical. While we must take energy needs and technology into account, we must not sacrifice the public's health. Abandonment of this primary purpose is unnecessary and unwise.

The bill has been one of the most thoroughly studied pieces of legislation this Congress. In March 1975, 2 weeks of hearings were conducted by the subcommittee. After more than 60 subcommittee markup sessions, the bill was reported to the full committee. Over 20 markup sessions were held in the full committee.

During these deliberations studies were conducted on the effect of the bill by the EPA, the FEA, other government agencies, private contractors, regulated industries, and environmental groups. The results have been carefully considered. The committee's report is extremely comprehensive and accurately reflects the committee's intent and the considerations which led the committee to support the bill. The report contains certain typographical errors, however, and I would like to submit a list of corrections for inclusion in the RECORD at the end of my statement.

Because of the lengthy process of deliberation on this bill and the careful compromises reached by the committee, the bill has the support of the following groups among others:

The National Governor's Conference,
The National Council of State Legislatures,
The National League of Cities,
The National Association of Counties,
The National Realtors Association,
The National Homebuilders Association,
The International Council of Shopping Centers,
The American Retail Federation,
The Association of Industrial Parks,
The United Mine Workers of America,
The United Steel Workers,
The United Auto Workers,
The League of Women Voters,
The American Lung Association.

In light of these endorsements and the lengthy and balanced consideration given to the bill, I urge your support for the legislation—H.R. 10498.

COMMITTEE REPORT—CORRECTIONS

Due to the length of the House Commerce Committee Report on "the Clean Air Act Amendments of 1976" (H.R. 10498—H. Rep. No. 94-1175) and the press of business facing the Government Printing Office during the May 15, 1976, filing date of that report, numerous errors and omissions occurred in the report, as printed. In order to correct the record, the following changes should be noted:

1. Page III—Strike out "Section 104—Assembly of civil penalties" and insert in lieu thereof "Section 104—Assessment of civil penalties".

2. Page 49—The first three paragraphs is quoted material which should be indented.

3. Page 94—In the third line of the sixth paragraph, the word "CO_2" should be "SO_2".

4. Page 161—In the first full paragraph strike out the third sentence and insert in lieu thereof the following:

"This latter phrase would include two types of systems with respect to which the Administrator would be expected to give consideration in determining the "best technological system of continuous emission reduction": (1) treatment of emission products in the post-combustion or post-pollution generating stage (e.g. flue gas desulfurization, catalytic combustors, electrostatic precipitators) and (2) pre-combustion treatment of fuels (or other pre-process activities in non-combustion situations) so as to remove pollutants and thus reduce the pollution characteristics of the fuel (e.g. various coal-cleaning technologies such as solvent refining, oil desulfurization/denitrification at the refinery)."

5. Page 167—Strike out the paragraph beginning "To the extent that such national standards . . ." and insert in lieu thereof the following paragraph:

"To the extent that such national standards have not yet been promulgated for certain pollutants or categories of sources under section 111 or 112 of the Act, the purposes stated in the background discussion are not being served. Accordingly, section 111 of the Committee bill will require the Administrator to specify the categories of sources which may have emissions of one hundred tons or more per year of any criteria pollutant but which are not yet included on the list of categories for which new source performance requirements must be promulgated. This section will also require the Administrator to include all such categories on the list within four years (at least 25 per cent of such categories must be listed each year). The priority for listing is based on three independent criteria: (1) the quantity of pollutant emitted; (2) the risk of harm to public health or welfare; and (3) the mobility and competitive nature of the category of sources and consequent need for nationally applicable standards of performance requiring use of best technology."

6. Page 223—In the first sentence the word "cuch" should have been "much".

7. Page 226—In the first full paragraph, the date "1958" should be "1978".

8. Page 226—The last sentence of the second full paragraph should read: "To the extent possible production testing regulations should be compatible with and consider, among other things, the nature of heavy duty certification testing, the fact that engines may be produced prior to receipt of certification, and those instances where the

manufacturer of a heavy duty engine is not the manufacturer of the completed heavy duty vehicle."

9. Page 245—The second line of the first full paragraph on that page should be deleted.

10. Page 247—The word "Water" in the heading of Section 213 should be "Waiver".

11. Page 306—In the third line of new paragraph (7) of section 110(a) of the Act, the word "disportion" should be "dispersion".

Mr. CARTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, during the years I have served in the House I have cosponsored and supported clean air legislation. I want to see, as much as any man or woman here, continuation of responsible Federal efforts assisting in realizing our goal of a clean environment. I supported observance of the national primary and secondary air quality standards established by the Clean Air Act of 1970 as determined by the Environmental Protection Agency.

Primary standards, of course, protect the public health of the people of our Nation. The secondary standards protect the environment and certainly I want to have an adequate margin of protection there. My support of Federal and State efforts to see that the standards are attained and mainained is not changed by my objections to certain amendments in this bill.

I do not believe that H.R. 10498 reflects adequate consideration of the predicament in which many Americans find themselves today. Consumers are upset over the rising cost of their utility bills. My feeling is that I am not the only Member here who has heard these calls for help. In fact, the senior Senator from Pennsylvania (Mr. HUGH SCOTT), submitted a proposal not long ago for a passthrough for increases of power to be paid out of the Federal Treasury for those who were on fixed incomes. Many Members remember that. Many constituents throughout the area of some of the Members have complained of high utility bills and I wonder if there is a Member here who has not had that complaint from his constituents. If there is, I would like to see him.

The bills are going up and we know that. Just a few days ago one of my black friends showed me a bill for $104 a month. This happened to be a lady, with her husband, on a fixed income of $251.80. How can she live and pay that much?

This legislation, unless amended further, Mr. Chairman, will mean a 33⅓-percent increase in the cost of power to residents of my State. I have evidence here from the East Kentucky Power stating just that.

Also Mr. Aubrey J. Wagner, chairman of the board of TVA, has advised me on two separate occasions that this proposal will mean an expenditure by TVA—and I hope those who live in the Tennessee Valley hear this—and will cause an initial expenditure of $300 million and an expenditure of $200 million for every year in the foreseeable future.

The Environmental Protection Agency in its report of February 25 has concluded that the concept of "significant deterioration provision" together with a new set of standards in the bill will result in approximately $28 billion in additional costs to the electrical utility industry alone between now and 1990.

Now, this is a far cry from what we have been told of a 3-percent increase in cost. This not in accordance with the facts which I have received and which I have here now at this time.

Mr. Chairman, this legislation would divide our country into three different areas: Class 1: a pristine area. I certainly support that. This is our parks and wild river areas and such as that. I am very supportive of the cleanest air possible for such areas.

Class 2: Areas such as where I live at the present time, which is one which is relatively clean. The only pollution we get there is pollution blown over from the areas west of us to amount to anything; but this committee, in its wisdom, if we want to call it that, has reduced or made more stringent the pollution standards in class 2 areas by 10 percent; that is, in case of primary standards if we are permitted 100 milligrams of pollution per cubic meter, then in this area it is reduced to 90 milligrams, which would be 90 percent, an increased stringency in these regulations in an area which is already relatively clear.

Now, the purpose of this, Mr. Chairman, is to keep industry from coming into that area, not just to clean up the air. Cleaner air is not the first purpose at all.

Now, we have a class 3 area and here is where we deviate from the normal. We have made less stringent the regulations than in class 2 areas.

Now, in the dirty areas, in the manufacturing areas, we loosen the standards 15 percent; that is, if they are permitted 100 milligrams per cubic meter of pollution in a class 3 area, and my good friend, the gentleman from Indiana (Mr. MADDEN) lives in such an area, Hammond and Gary, Ind., and that area, the dirty air would be permitted to increase to 115 milligrams for every cubic meter. This is not cutting the scale across the board and acting fairly, as it should.

Mr. Chairman, this is not a good bill. It is not fair to the people of our country. Not only that, a class 3 area starts out here in Delaware and goes up the eastern coast to New York and there we have the nitrosamines that my good friend has talked about. In that area it would not diminish those nitrosamines one bit. This area, called "Cancer Alley" would still be able to exceed the levels permitted by 15 percent and would still retain the name of Cancer Alley and retain its high incidence of cancer. The only way to do this is for us to fix the primary and secondary standards as they should be; first, to protect the public health of this Nation, fix them as they should be fixed.

Second, to fix the secondary standards as they should be and that is to protect the environment. This, Mr. Chairman, I want to say, we are not doing.

As we get down to the cost of this legislation, as it was brought in, I want to read a letter from the State of Ohio. We are told that the Governors of the States opposed this, but I went to the utility commissions, the people who know the cost of the utility bills to our constituents and this is what they state in this instance:

I am of the belief that some environmental protection controls are a necessity, but the imposition of such rigid rules only tend to threaten the utilities' financial stability and to increase the monthly bill the consumer pays.

That is from C. Luther Heckman, chairman of the State of Ohio Public Utilities Commission.

All right, the State of South Carolina:

The average South Carolina residential electric bill for July, 1973, was $22.58, as compared to $33.12 for July, 1975. This shows an increase in two years of $12.00. The average kilowatt hour usage for July, 1973, was $10.59, as compared to $10.00 for July, 1975.

Of course, they expect a great increase when the new technology is in place. Now, from the State of Indiana, the average residential electric bills for the five investor-owned utilities in the State of Indiana for July 1973 was $18.76. In July 1975, this rate had gone up to $23.85. It is estimated that to obtain the best available technology, the cost to the State of Indiana will be $1 billion if scrubbers are required, and will cost an additional $350 million in operating costs. The figures available for scrubber technology were as of June 13, and it is estimated that there has been an increase of approximately $25 per kilowatt-hour for capital expenditures.

The Members can see that every State in the Union is going to be involved, and every one of the Members' constituents is going to be involved. We can maintain our primary and secondary standards for clean air, and yet if we amend this legislation to do away with these ridiculous amendments that are presently before us, we can save the consumers of our country a great deal.

Now, we get down to the good State of Florida and the Florida Public Service Commission. I do not know how the Governor feels about this, but the commissioner states:

Enclosed is an attachment containing the information you have requested, and if we can be of further assistance, don't hesitate to contact us.

All right, the Florida Power Co. in July 1973, the average bill for the month was $26.92. In 1975, it had gone up to $40.57—$15, over 50 percent in those 2 years. And, we are going to tack onto that 25 to 30 percent more at least per year. The distinguished commissioner says:

Tampa Electric Company has projected that the cost of scrubber technology in terms of 1975 dollars would be 92 cents per kilowatt hour. This would translate into an increase of $9.20 per month for the average residential consumer.

Nine dollars more a month for every resident in the Tampa area of Florida. Now, are we willing to increase those prices for all those constituents? This is going to go on through the United States, in every State, in every congressional district. I would hope that we would so amend this legislation as to not increase the price to each homeowner, each per-

son on a fixed income in this country who has difficulty in paying.

I want to show the Members, in a class 2 area, where we have old steamplants which will be required actually to install scrubbers as a result of certain provisions of this bill—in the district which I represent, the Cooper-Burnside steamplant cost originally $45 million. To install scrubbers, the cost will be $36 million—almost as much as the original cost. Dale steamplant in Winchester originally cost $25 million.

To reach the standards required by this legislation will cost, by the installation of scrubbers, $22 million. The Spurlock plant at Maysville, which cost $115 million for installation of scrubbers, will come to $34,200,000. This means that the people of Kentucky who use electricity will pay approximately 30 percent more for each consumer of electricity in that State, in the State of Kentucky.

I say that, since we are a class 2 area and we do not exceed the primary or secondary standards, these amendments should not go into effect.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Florida.

Mr. ROGERS. I thank the gentleman for yielding.

I presume the gentleman is talking about plants currently in being.

Mr. CARTER. Yes, sir. In most cases, that is true. In the law we have provided that new plants would come in with scrubber technology, yes. That was in the 1970 act.

Mr. ROGERS. But the existing plants do not have to use best technology so long as they meet applicable emission limits.

Mr. CARTER. They have to do that if they exceed the primary or secondary standards as we put forward in these amendments.

Mr. ROGERS. But that does not have anything to do with this bill, because if the national primary or secondary standards is exceeded, under present law, the existing plants must meet applicable emission limits. Existing plants do not necessarily have to put on scrubbers.

Mr CARTER If a new plant came in, it would have to install scrubbers.

Mr. ROGERS. If they are new they should use best technology. That was intended under the present law. Significant deterioration does not change that.

Mr. CARTER. Whenever we make the standard 10 percent more stringent, we are going to force our old plants to use this best available technology in order to reach the standards which we want. That is my understanding of the bill.

Mr. ROGERS. They could use low-sulfur coal.

Mr. CARTER. They can, in some instances. As the gentleman knows, low-sulfur coal is much more expensive than high-sulfur coal. In many cases that cannot be used with scrubber technology.

Mr. ROGERS. I thank the gentleman.

Mr. CARTER. Mr. Chairman, I respect the distinguished gentleman very much. But whenever any of the Members feel they have heat from their constituents within a year, whenever these prices go up—and they are going to go up—I will be there, and I will not say, "I told you so." I will say, "Well, I will shed a tear for you."

I certainly do not want to increase the price of electricity to our constituents.

Mr. PREYER. Mr. Chairman, I yied 10 minutes to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, I have generallly supported clean air legisolation and the long-range objectives sought by that legislation. In this regard I have recognized the need for a Federal effort if the objectives are to be achieved.

My position with regard to H.R. 10498, therefore, does not reflect a change in my general viewpoint. It does reflect, however, a grave concern about the thrust of this bill and the far-reaching substantive changes it would make in existing law without our having a reasonable opportunity to obtain and consider experience under the 1970 act.

After all the earliest date which any State impementation plan set for initial attainment of national air quality standards was not until May 31, 1975, and I understand that the attainment date for many plans has not arrived. It is interesting to note, I think, that our subcommittee held public hearings prior to May 31 of last year, before any satisfactory experience under existing law was available.

No doubt the current act and amendments adopted in 1970, might well require adjustment, but I firmly believe such corrections should be predicated upon actual experience under our last legislative action and not on the basis of supposition and conjecture.

I am concerned that the basic thrust of this bill would alter the basis upon which national primary and secondary air quality standards have been set and that as a prerequisite to future regulatory action it would require less information, less facts and little or no scientific data. I am further concerned that passage of H.R. 10498 would result in the loss of vital flexibility found in existing law which is essential to any measure which would alter so drastically the way in which citizens of the United States have conducted their everyday affairs and endeavors.

I am concerned that the bill lacks the balance needed to achieve the desired long-term results. In this regard I find it defective in its concentration upon the question of clean air to the exclusion of the other important factors which bear heavily upon the well-being of this Nation and its people.

I am concerned about the adverse effect the bill will have upon our economy and the tendency so apparent in it to limit and, in time no doubt, to prevent industrial growth which is essential to the good health of our economy and the creation of new jobs to support our people. I am especially concerned about the dampening effect which the provisions of this bill will have upon capital formation essential to our future economy and the continuation of our free enterprise system.

I am concerned about the undesirable effects which this measure would have upon our Nation's energy problems, especially upon our efforts to increase the domestic production of energy. That concern results, in part, from a realization that the long-range effect of this bill will be to create greater reliance upon foreign nations for the supply of our vital energy and mineral needs and vulnerability to those foreign nations which would naturally flow from that situation, to the detriment of national security.

I am concerned about the adverse effects of this measure upon our productive growth and capacity. I am concerned that it will increase consumer costs, especially in the area of utilities, and the resulting threat of accelerating inflation.

I am concerned about land use planning which several provisions of this bill would impose upon the States. These provisions would result in Federal control over the use of lands in the several States without regard to the desires or exclusive prerogatives of the States. What is worse, the land use control would be predicated upon clean air considerations only and not upon other pertinent, social, environmental, and economic factors.

I do not recall a measure which has raised as many valid questions as does H.R. 10498. Indeed there is scarcely a paragraph which does not raise doubt and inquiries, many of which cannot be satisfactorily answered. This is especially true of provisions which trespass upon the essential separation between the levels of State, local, and Federal Government which is inherent in our federal system and which, therefore, raise serious constitutional questions.

Mr. Chairman, perhaps some measure of the depth of the controversy involved in this bill is to be found in the fact that the Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee required 63 markup sessions and 22 markup sessions of the full committee to bring the bill this far.

Although two provisions of this bill have emerged as the primary focal points of public concern—the provision to prohibit significant deterioration and the section dealing with motor vehicle emission standards—they are by no means alone, for there are many other provisions which are objectionable and cause for deep concern. I have dealt with most of them in my separate views published in the committee report which accompanies this bill and I will not dwell upon them at length now in anticipation of further discussions under the 5-minute rule.

I wish to make some particular observations, however.

First, I invite your attention to the unusual circumstances which give rise to the significant deterioration question before us. I arose in the case of Sierra Club against Ruckelshaus, a unique aspect of which is the fact that the final decision of the District Court for the District of Columbia came a mere 6 days after the suit was instituted.

A chronology of that case follows:

May 24, 1972, Wednesday:

Morning: Sierra Club filed: motion for temporary restraining order; motion for preliminary injunction; complaint; memorandum of points and authorities.

Afternoon: District Court hearing on motion for temporary restraining order; court denied motion; Court scheduled hearing on motion for preliminary injunction for Tuesday, May 30; Court gave government two days to file its opposition to Sierra Club's papers.

May 26, Friday: Government filed memorandum in opposition to Sierra Club's papers. This was only paper filed by the government prior to the decision.

May 29, Monday: Memorial Day Holiday.

May 30, Tuesday: Oral arguments on the motion for preliminary injunction. No witnesses testified. At conclusion of arguments, Court read its prepared decision orally granting the injunction. The actual injunction order was prepared, signed and filed that day.

June 2, Friday: Court filed its written opinion with the Court—which had been read orally on May 30.

August: Government filed notice of appeal.

November 1, 1972: Court of Appeals affirmed the District Court opinion without writing an opinion.

June 11, 1973: Supreme Court affirmed the District Court decision without writing an opinion (4 to 4 decision).

What is even more remarkable is the fact that the District Court of the District of Columbia predicated its decision upon a mere portion of the findings and purposes section of the 1970 act which reads:

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.

Even though it is a settled legal principle that the findings and purposes section of legislation is in the nature of a preamble and neither broadens nor grants powers conferred elsewhere in the act—the court focused its attention narrowly upon the three words "protect and enhance" while ignoring the stated reason for that protection and enhancement contained in the remainder of that sentence. It is unfortunate that this highly questionable decision was permitted to stand as a result of a 4-to-4 tie vote in the U.S. Supreme Court.

And so this case is the basis for the principle even though it was not set out in the substantive provisions of the 1970 amendments. It is time, in fact past time, to make clear now that we did not intend to incorporate any provision dealing with significant deterioration in the 1970 amendments and that we do not intend to do so now.

Second, my good friend from Michigan, Congressman DINGELL will offer an amendment to the motor vehicles emissions section which I will support. I will not trespass upon his time in this regard except to make what I consider to be an important observation. I refer to statements about granting an extension of years, 2 or 3, with regard to motor vehicle emission limitations. This can be misleading. Normally the statement of a 3-year extension for example, relates to the model year of a motor vehicle and is thus geared to that year in which the effect of emission limitations can be expected. When used in this sense such a phrase does not mean that the manufacturer of a motor vehicle has 3 years in which to conduct research and development to meet that limitation. This is so because of a built in lead time in the manufacture of motor vehicles.

For example, 1977 model motor vehicles will arrive on the market in September of 1976. For all intent and purpose the manufacturer had to meet the limitation requirements for the 1977 model in his design on or before the end of December of 1974. Thus, a 3-year extension of the emissions limitations provides the manufacturer with but a 1½ year extension in terms of the design requirements and a 2-year extension provides 6 months only in which to design vehicles to meet the applicable emission standards. I think it is important to bear this fact in mind when we consider the motor vehicle emission section of the bill.

Now let me mention briefly some of the other controversial issues contained in this measure.

This bill would require the Administrator to list certain unregulated pollutants under one or more of three provisions of current law. This action will force him to promulgate specific standards for each pollutant so listed.

This would be required regardless of whether the Administrator has available the necessary data which would enable him to determine if the pollutants are a threat to health and if so at what level they become injurious to health. Thus he will be required to establish standards without having the information essential to his determination.

Another section would alter, liberalize, and standardize the prerequisite findings which the Administrator must make in order to promulgate primary and secondary air quality standards. This provision is lacking in rationality and could seriously undermine the validity of existing standards and case law based upon current regulations and other actions of the Administrator.

Another provision provides six narrow grounds upon which a compliance data extension may be provided. This provision does much to remove desired flexibility and would require lengthy administrative procedures.

I might mention, also, that the bill would provide an excess emission fee to be imposed upon major sources whose grounds for obtaining a compliance date extension are found not to be primarily beyond the control of the applicant. These penalties would result from highly questionable procedures in which the Administrator would act as accuser, judge, and jury and the money paid as a result would not be used to assist the source involved to achieve earlier compliance.

Another provision dealing with interstate pollution abatement constitutes a further land use infringement and would contribute to the establishment of de facto buffer zones in connection with the significant deterioration provision.

Another provision in the bill would require certain State motor vehicle inspections while imposing Federal mandates upon action within the exclusive jurisdiction of the several States.

Another section would take from the Attorney General of the United States his responsibility and authority to represent the EPA in civil matters and for the first time would provide a means whereby the Administrator of a Federal agency, in this case the Administrator of the EPA, could by-pass the Attorney General and the Solicitor General in handling appeals before the Supreme Court of the United States.

There is another section which would authorize the Administrator to delegate to a local unit of government the authority for the enforcement of an implementation plan, devised by him thus making a local unit of government an agent of the United States.

Another provision would provide the Administrator with extraordinary powers to issue his own orders in connection with emergencies rather than leave such orders with the courts as is now provided by law.

There are other matters of deep concern such as questions of regional limitation, coal conversion, the requirement of best available technology whether it be needed or not, which I hope will be discussed under the 5-minute rule.

In conclusion, let me reiterate, I am not opposed to a Federal effort to achieve clean air as soon as practicable. I believe that it must be done, however, in a measured, well-balanced, and carefully conceived Federal effort designed to produce long-term results. My great fear with respect to H.R. 10498 is that it fails to meet these standards and thus could precipitate adverse public reaction which might endanger and impede the progress in clean air which we all seek to achieve. By judiciously amending this bill this danger can be avoided and an acceptable measure perfected.

Mr. PREYER. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, Congressman BROYHILL and I will offer an amendment to H.R. 10498 which would substitute the schedule of auto emissions standards recommended by EPA Administrator Train for those proposed by the House Interstate and Foreign Commerce Committee.

Members of this House know, I am sure, that I have a multifaceted interest in this legislation. I am interested, first, because I am chairman of the Energy and Power Subcommittee of the House Interstate and Foreign Commerce Committee and had a significant role in the development of the Energy Conservation Act so recently adopted by this Congress. An overly restrictive schedule or level of emission standards, as I believe the committee bill is, will waste energy and retard our progress toward fuel conservation goals.

The committee bill is bad with respect to the auto emission standards. Those standards were adopted in committee without sound evidence.

In order to better focus the debate, Government experts in the Environmental Protection Agency, the Federal Energy Administration, and the Department of Transportation were requested by me to supply an objective analysis for

Congress of the effects on health, employment, costs to consumers, and fuel efficiency of several levels of automobile emission control. That analysis has been made available to each Member of the House. It is dated April 1976. It is the most recent official U.S. Government document addressing this issue.

That analysis clearly demonstrates that the Commerce Committee bill (H.R. 10498) with its auto air emission control standards would:

First. Waste energy;

Second. Produce negligible air quality benefits;

Third. Increase consumer costs; and

Fourth. Impose a technological strait jacket.

The Commerce Committee auto emission standards would waste energy, particularly petroleum. This waste of energy will require development of increased domestic energy resources. This in turn would result in more dependence on uncertain foreign sources for oil in more and more environmental damage.

According to the joint study by the Federal Energy Administration, the Environmental Protection Agency, and the Department of Transportation, the amendment Congressman BROYHILL and I offer would prevent a 5-percent loss in fuel economy that would result in 1980 under the committee bill. This amounts to a savings of 2.46 billion gallons of gasoline over the 10-year life of the 1980 fleet, and a savings of 16,000 barrels per day. The differences in 1981 and 1982 resulting from the NO_x standard differentials between the Dingell-Broyhill (Train) amendment and the committee bill could be as high as 20 percent, or four times higher.

In model years 1980–85, cumulative fuel consumption differences between the two standards amount to 9.27 billion gallons, or 67,000 barrells per day, of gasoline.

The Waxman standards would waste over 16.7 billion gallons in greater gasoline consumption than under the Dingell-Broyhill (Train) amendment. Historical data, based on EPA test of vehicles, the most reliable consistent data available today to the Congress, proves that California cars which meet more stringent—by comparison to 49 State cars—emissions standards, suffer a fuel economy penalty of about 10 percent. That fuel loss is proven.

The Commerce Committee auto emission standards would unnecessarily and unreasonably increase the costs to be paid by consumers. The Commerce Committee standards—by providing for frequently shifting targets and year-to-year waivers—creates consumer uncertainty, reluctance to buy, and further decline in production and employment.

The wasted fuel is not the only increased cost consumers would pay under the committee bill. Higher first purchaser costs and higher maintenance costs for new cars would also result. The additional purchase and operating costs of the committee bill in 1980 would be $1.47 billion. Total consumer costs between 1977 and 1985 would be $22.3 billion more under the committee bill than under the Dingell-Broyhill (Train) amendment. The Waxman proposal would cost consumers nearly $30 billion more than the Dingell-Broyhill (Train) standards. With inflation, the Committee bill would cost $30 billion, and Waxman $39 billion, more than the standards recommended by Administrator Train of EPA, which Congressman BROYHILL and I will offer.

Furthermore, and as most Members recognize, I represent a congressional district which encompasses possibly the most concentrated automobile manufacturing enterprise in the whole of the United States. It is part of a State that has just experienced a very high percentage of unemployment—an unemployment rate of 9.7 percent which remains well above the national average of 7.5 percent. To say that I am interested in the continued recovery of the automobile industry is to state the obvious—but I am interested in the recovery of the automobile industry primarily because of its employment effect not only in my district but in Detroit, the State of Michigan and throughout the Nation. Detroit today has an unemployment rate of 13.4 percent. Emissions standards which are too stringent and which are imposed at too early a date increase the cost of those products to consumers with a consequent depressing effect on sales, production and jobs. Any proposal which fails sufficiently to take these factors into account, as do the committee's proposal and that of Congressman WAXMAN and others, merit not only my opposition but that of anyone concerned with the all-too-high unemployment level in our country today.

Third, I am interested in this matter because for many years I have, as a member of the House Small Business Committee, vigorously opposed any efforts to create monopolies whether those efforts emanated from private industries—including the automobile industry—or the Government. I say to the Members of this House that both the committee proposal and the Waxman proposal have been justified by their sponsors largely on the basis of a single technology—a catalyst technology—yet, the adoption of these levels could at the same time prevent other noncatalyst technologies from developing beyond their current promising levels. Of course, this would be pleasing to the catalyst makers and many of them have extensively lobbied the Members of this House in support of the committee's proposal. The catalyst makers, under these proposals, would have an assured market probably for a decade and possibly more. But I see no national purpose to be achieved by affording them such a sheltered existence from competition. It makes far more sense to me, as one who has fought the creation and continuance of monopolies for years, not to bestow such a favor on the catalyst industry. The standards which Mr. BROYHILL and I are offering allow the utilization of the catalyst technology without impairing research and development and production of other technologies which may not require catalysts—technologies possessing significant fuel economy potential—at a negligible difference in air quality benefits from the levels provided in the committee and the Waxman proposals.

You have all heard a lot about the Volvo test—from Governor Brown of California and my distinguished colleagues Representatives WAXMAN and MAGUIRE. Let me deal with that test first—because it is important that we not legislate based on incomplete and some spurious information.

It is important to understand what has happened in the Volvo test and that is simply that one small engine, which has yet to be certified by EPA, achieved some low emissions levels during testing.

It is not true, as Mr. WAXMAN has asserted, that this is a car which will beat the full statutory standards established by the Congress in 1970. According to Volvo, the durability vehicle met the 1977 California requirement but clearly exceeded the hydrocarbon and oxides of nitrogen statutory standard. It could not have been certified at statutory levels.

Also, the fuel economy gain of 10 percent that my California colleagues tout is exaggerated in its inference. Actually, such a gain was in comparison to a 1976 Volvo without a catalyst of any kind. The addition of an oxygen catalyst in 1975 and 1976 brought even more dramatic fuel economies to domestic cars.

Further, as Volvo and others in the auto industry have stressed, obtaining low emission levels from relatively few test vehicles, even during certification testing, is a different matter than insuring that all vehicles from a particular year's production will achieve the same results. That is what current Federal requirements demand. A manufacturer must, in effect, guarantee that the emission performance of each and every vehicle will fall below the standards, and no manufacturer is likely to do so unless convinced that adequate margins exist between test results and the regulated emission levels. This is essential to insure that all production vehicles will comply. Volvo was testing for 1977 California standards and, although the test results were low, they were in no way indicative of a certainty by Volvo that their production could achieve those levels.

There are a number of problems which must be overcome in order to apply this technology to a wider range of engine configurations. According to Volvo, sensor positioning is critical in these larger engines and is likely to have a significant impact on the levels that could be achieved.

While development work in the industry, both by foreign and domestic companies, goes forward on other advanced systems which might provide the needed degree of control of air-fuel mixtures, the test Volvo used fuel injection, an admittedly expensive and highly sophisticated system. It is, in fact, a system that many automakers have not added to their engine fleets due to the extremely high cost which would have to be borne by the consumers. It is also a system upon which there has been only limited field testing and is not technically ready nor

practicable for mass production at this time. EPA has indicated that the feasibility of using three-way technology without fuel injection has not been demonstrated. It flies in the face of reason to assume that expensive hardware will not be required to make three-way catalyst systems work. Remember, Volvo's base price alone is $6,500.

Additionally, there continues to be serious questions as to the availability of rhodium. At present, three-way catalyst durability seems to be a function of the loading of rhodium, that is, only heavier loadings give adequate durability. More extensive application of three-way technology to larger engines may well be largely related to rhodium content. Rhodium supplies are very limited. One of the two principal rhodium suppliers has told CARB that they would be capable of supplying rhodium for heavier loadings during the initial stages of use, but thereafter "the ratio will have to revert to the mine ratio." Mine ratio of rhodium to platinum is approximately 1 to 18; the Volvo catalyst loading is 1 to 5, or almost four times heavier.

The most important reason not to legislate on the basis of this test is that Congress should not be in the position of locking in any particular technology. The three-way catalyst may prove to be the technology of the future—but there are options, many less costly. Should we take it upon ourselves to require a not yet field-tested system when the stakes are so high? Locking in the original catalyst prematurely led to the sulfate scare. That one proved not to be as serious as first feared, but I am not, as a representative of the people, going to vote to require any particular technology—which could result in a monopoly by any specific industry—over other options.

The Volvo test is an important step in field testing some new technology—not the tablets coming down from the mountain. Now let me get back to what the Dingell-Broyhill amendment would do for the Nation. The amendment that Mr. BROYHILL and I offer to H.R. 10498 would have two major advantages over the committee bill. First it would allow time to phase in new technology and second, it would take a sensible approach to the oxides of nitrogen standard.

EPA estimates that the absolute earliest date at which a new technology such as the three-way catalyst might be used on a widespread basis is 5 model years away. What this means is that if we require the industry to meet statutory standards earlier than the time in which new technology is available they'll have to modify present systems—and that is going to cost fuel.

Second, if we rush the process of phasing in new technology we impose on the consumer the burden of increased costs of compressed programs—and deprive him of the usual reductions in cost and improvements in operations that are always gained from field experience.

Third, EPA has not yet finished testing these new systems for unregulated pollutants. As I said before, let us not have a repeat of the sulfate scare.

The schedule of standards suggested by the technical arm of the Government with the most expertise in this area—which is the schedule contained in our amendment—will keep a firm, stringent target in front of the industry, but allow the orderly phasein of technology to meet these standards so that we do not waste energy, increase consumer purchase and operating costs, and end up with reduced sales impacting Michigan employment which will snowball throughout the United States through auto-related industries.

All of this can be obtained with almost no difference in air quality gains between my amendment and the committee bill. As I noted earlier in this statement, I asked the EPA, DOT, and FEA to analyze the various proposals under consideration at that time and they reported negligible differences in air quality gains between the schedule of emission standards in the Dingell-Broyhill amendment and that contained in the so-called Brodhead amendment.

The second clear advantage for the American public of our amendment is its approach to the final oxides of nitrogen standard. Under the Dingell-Broyhill amendment, the NO_x standard would be set for model year 1982 and forward by the EPA, the Government research and enforcement agency with the most expertise in the field of auto air emission control standards and clean air health requirements. They are to be set at a level determined to be technologically practicable, after taking into account the cost of compliance, the need for such standards to protect public health and the impact on motor vehicle fuel consumption. The amendment requires that any given standard must apply for at least two model years so that the consumer will not have to bear the expensive and unnecessary cost of annual equipment changes. It also provides that the NO_x standards be promulgated early to insure sufficient lead-time.

Some may consider the statutory standards set originally by the Congress in 1970 to be sacred. I do not. They were set with the knowledge that they could be revised if they proved to be too severe.

There have been some serious questions raised concerning the need for the statutory NO_x standard. The auto emission standards were set in 1970 on the basis of information then available on the relationship between auto emissions and air quality. Since that time, new information has come to light that casts doubt on the need for such stringent standards. First, the NO_2 ambient measurement techniques were found to be in error, and instead of 43 regions being in violation of the NO_2 ambient standards, less than 10 were found to be a problem. Second, a study by a panel of the Committee on Motor Vehicles of the National Academy of Sciences concluded:

> Present Federal emission requirements for 0.41 gm/mi (HC) and 0.4 gm/mi (NO_x) seems more restrictive than need be by a factor of about three. Based on the state of knowledge now available, the California 1975–76 standards . . . seem more nearly what is required.

Third, a 1975 Yale Medical School study concluded that the CO and NO_x standards were too stringent by a factor of four. Fourth, a study undertaken by Columbia University, MIT, and Harvard for the National Science Foundation concluded that—

> Recent corrections to measurements of ambient NO_2 levels indicate that the statutory NO_x emission standard may be more stringent that is necessary to achieve NO_2 ambient air quality standards nationwide in 1985.

Today the auto already contributes less NO_x than stationary sources in most major cities; and NO_x control of stationary sources is projected to be far more cost effective than further control of automobiles. So, obviously the question or need for the 0.4 gpm standard must be further examined.

Further, 0.4 gpm NO_x has not been demonstrated to be feasible on mass production. Inevitably requiring expensive, and perhaps unnecessary efforts to meet 0.4 NO_x will detract from available manpower and resources to meet the 1981–85 fuel economy requirements of the Energy Policy and Conservation Act.

Perhaps most important, a 1.0 or 0.4 NO_x standard locks in technologies and places a "straitjacket" on alternate developments. Such extreme NO_x standards rule out other technologies—such as diesel, CVCC, leanburn, turbine—which show promise of achieving the objectives of both air quality and fuel economy improvement. Again, Congress would be taking on itself the risks of choosing a particular technology.

We are all in favor of continued efforts to improve air quality. But the committee bill—much less the Waxman proposal—would accomplish this goal by an unreasonable sacrifice in fuel economy and consumer costs and possibly employment. It would lock in some technologies and preclude others by its unreasonable time schedule and NO_x requirement and it would provide only negligible benefits in air quality improvement in exchange for this cost. The Dingell-Broyhill (Train) amendment provides a much more realistic and sensible approach to the same goal and I urge its adoption by the House.

Mr. CARTER. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I rise today in strong opposition to the Clean Air Act amendments, as reported by the Interstate and Foreign Commerce Committee. This legislation may be one of the most seriously defective and misguided bills to come before this Congress. Many of the provisions of the bill have been crafted with little thought to the impacts they will have on our Nation's economy and the individual consumer. Let me outline for you some of the most onerous provisions.

The nondeterioration provisions of section 108 and the new source standards of performance provisions of section 111, if enacted, will result in significantly greater expenditures by industry in order to comply with the provisions, and these expenditures will, of course, be passed on to

the consumers. One industry that would be affected by this is the electric utility industry. Now I am sure that all of you have received many letters from constituents about increasing utility bills. Well, if you want those bills to further increase, vote for the nondeterioration and new source standards provisions as they are.

The State of Kentucky estimates that, as a result of the legislation reported by the Commerce Committee, an increase of 25 to 30 percent would occur in cost of electric bills in that State. The city of Los Angeles estimates electric rates to Los Angeles consumers could be raised as much as 60 percent if its generating facilities must be changed from coal fired to oil fired in order to comply with the nondeterioration and new source standard of performance provisions.

The cost of installation of the scrubber equipment to comply with this bill for the Cincinnati Gas & Electric Co. will result in additional company operating costs of $115 million per year. That money represents capital investment that could be made in additional plant and job expansion to meet the expanding demand for electricity. It was brought out time and again in hearings before the Energy and Power Subcommittee that the utility industry is one of the most capital intensive and capital strapped industries in the country. In 1973–74, plant expansion expenditures trimmed solely for financial reasons totaled $21 billion. There is a real danger of undercapacity, and yet here we are trying to increase operating expenditures. A February 1976 study by EPA estimates that these two provisions would result in $28 billion in additional costs to the electric utility industry between now and 1990, and if a high growth rate is assumed for that period, the National Economic Research Associates conclude that additional costs may exceed $50 billion.

But are we cleaning up the environment with these provisions? No, I think not. An EPA study concludes that the implementation of these policies will result in the generation of substantial amounts of new waste, and that by the year 1990, we will be producing 50 million tons of additional sludge per year. Just to dispose of this sludge, it will take 2,000 acres of land per year at a depth of 20 feet.

Now let us look at the consumer cost impact of another provision of H.R. 10498—the auto emissions standards provisions. The FEA estimates that if the provisions currently in the bill are enacted, the fuel penalty by 1981 would be as much as 300,000 barrels of oil per day. That would mean an additional $1.6 billion per year in payments to the OPEC cartel by U.S. consumers. Furthermore, the consumer cost of the new equipment necessary to meet statutory standards is estimated to be between $125 and $350 per vehicle. It should also be noted that no one, as yet, knows how to meet these statutory standards on most vehicles and that is why we are postponing them for the second time in 6 years. California, which has higher standards than the rest of the country, provides a good example of what will happen if these standards are not further relaxed. General Motors estimates that 70 of its models for 1977 cannot be sold in California in 1977; Chrysler estimates that 90 of its 1977 models will not be able to be sold; and American Motors says a full one-half of its models will not be able to be sold in California. This means reduced sales and a corresponding rise in unemployment in the auto industry.

H.R. 10498 AND THE OIL SHORTAGE

I would like to remind my colleagues of an unpleasant truth: Almost 3 years after the Arab oil embargo, we are steadily growing more—not less—dependent on foreign oil. The nondeterioration provisions of H.R. 10498 would make us even more dependent upon foreign oil by requiring many decisions regarding the development of such alternate domestic energy sources as coal, oil shale, and uranium to be based on only one criterion; namely, the quality of air.

The people of this country need and want the cleanest air they can get, and they are willing to pay for it. But certainly they need and want other things as well. And the economic consequences of such growing dependence on foreign sources of oil appear to be so potentially disastrous for this Nation that I feel compelled to present them to you. I do so in order that you may seriously consider whether it would not be prudent to have the nondeterioration provisions and their ramifications studied for 2 years before voting on them.

To enact these provisions hastily into law now might very well cause catastrophic and even irrevocable damage to our country's energy independence and economic well-being. Back in 1970, domestic crude oil production peaked at an average of 9.6 million barrels per day, and crude oil imports were a mere 9 percent of our total domestic supply. In each succeeding year, however, domestic production either declined or stagnated—as the natural consequence of oil field depletion—until by this year daily output averaged almost 15 percent less than in 1970. At the same time, demand kept increasing inexorably. The difference between supply and demand was made up by increasing imports of foreign oil—imports which have soared some 210 percent from 1970 to 1975.

During this same period, oil imports from friendly countries such as Canada drastically and ominously declined. In 1970, for example, imports from Canada were over half of all imports, but by 1975 they had fallen to less than 15 percent. It is forecast that by the early 1980's, Canada will not be sending us any oil at all. By contrast, the import share which came to us from the Arab countries increased from 14 percent in 1970 to almost 33 percent in 1975. It was these same Arab countries, remember, which initiated the oil embargo against us and other countries in 1973, an embargo which, according to FEA studies, set the economy back $10 to $20 billion and cost the country over one-half million jobs.

It is appalling to realize that the Arabs have increased their share of our import market from one-quarter at the time of the 1973 embargo to over one-third today and appear likely to increase it even more in the future to well over half by 1985, if present trends continue. If there is another flareup in the Middle East, and another oil embargo is put into effect, how much more will it cost us in lost jobs and production? No American wishes to see his country put into such an intolerable position of economic blackmail.

Our balance-of-payments outflow is another crucial factor that must be reckoned with. In 1970, payments for oil imports were $2.8 billion. Because of soaring demand and the fivefold rise in oil prices by OPEC since then, however, payments outflow in 1975 was over $25 billion, almost 10 times as much. Here is an enormous sum sent abroad which could otherwise have been invested in new plants and equipment at home to spur lagging economic growth and make American industry more competitive.

The solution of the problem of growing dependence on foreign oil has been obvious all along, and that is to develop alternate sources of domestic energy, such as coal, oil shale, and uranium. By developing such sources, not only will this country protect itself from the potentially disastrous effects of another Arab oil boycott, but also it will be able to keep tens of billions of dollars at home, where they can be put to work creating hundreds of thousands of new jobs for the unemployed and for young people coming into the job market.

The nondeterioration provisions, as presently written, appear to place insuperable obstacles in the path of energy development. They would, for example, severely inhibit the mining of coal in West Virginia and Kentucky. The energy resources of Wyoming, Montana, Colorado, and Utah, which comprise coal, oil shale, and uranium would be largely unavailable for mining, since all too often the required facilities to mine and process these resources, no matter how well controlled, could not be built where needed.

We must ask ourselves what would be the true energy and economic costs of enforcing the nondeterioration provisions. From the evidence to date, these potential costs appear to be staggering. Two independent FEA studies show that these provisions would force the electric utilities to increase their oil consumption by 1 million barrels a day by 1990. This amount equals all of the crude oil produced in the Gulf of Mexico last year, that is, almost 12 percent of the Nation's total output. FEA consultants also calculated that because of the nondeterioration provisions, coal production could be as much as 150 million tons lower than otherwise projected for 1990, an amount equal to almost one-quarter of all coal being mined at present. Then, too, the FEA estimates that electric utilities would have to pay an extra $6 to $16 billion during the 1980's for equipment to remove sulfur from coal in order to comply with the strict nondeterioration provisions. In consequence, the electric bill to consumers would skyrocket some $4 to $6 billion during the same period.

These crippling restrictions which the nondeterioration provisions would place on coal production and use would drastically affect energy independence be-

cause coal constitutes over 80 percent of our economically recoverable energy resources. It is the only major alternative to large-scale dependence on foreign oil. The truth is that we can double coal production by 1985 and thus take great strides toward energy independence if—and only if—we do not make unrealistic demands upon the coal producers and users.

The question before us is whether cleaning up the air is so urgent a matter as to take precedence over all other pressing concerns. Employment, economic growth, and protection against future oil embargoes, with such momentous issues at stake, it would seem wise to refer the nondeterioration provisions to a commission for 2 years of study. In this way, the potential social, economic, and energy consequences that would flow from such provisions could be studied and their true costs calculated.

Once armed with such knowledge, this body would be in a position to weigh possible tradeoffs between the nondeterioration of air quality and the other needs of this country. Without such knowledge, we would move ahead only at considerable peril, for from much of the evidence to date, the impact of the nondeterioration provisions upon the Nation's economy appear to be massive.

Adding up the combined impact of just these two provisions, passage of this legislation as it will result in your constituent's paying $350 for his new car, if he can afford it, and about $50 to $70 more per year in electric utility bills.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 391) entitled "An act to amend the Mineral Leasing Act of 1920, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was resolved, that the said bill pass, two-thirds of the Senators having voted in the affirmative.

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. 14234) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1977, and for other purposes," and that the Senate agreed to the House amendments to the Senate amendments numbered 3, 7, 12, 26, 27, and 61 to the foregoing bill.

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. 11481) entitled "An act to authorize appropriations for the fiscal year 1977 for certain maritime programs of the Department of Commerce, and for other purposes."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 134. Concurrent resolution directing the Clerk of the House to make a correction in the enrollment of H.R. 11481.

MESSAGE FROM THE SENATE

The SPEAKER laid before the House the following message from the Senate:

The Senate having proceeded to reconsider the bill (S. 391) entitled "An Act to amend the Mineral Leasing Act of 1920, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

CALL OF THE HOUSE

Mr. BURGENER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 605]

Abzug	Hays, Ohio	Risenhoover
Adams	Hébert	Roncalio
Archer	Hinshaw	Ruppe
Ashley	Howe	Spellman
Brinkley	Jarman	Stanton,
Cederberg	Jones, Ala.	James V.
Clay	Jones, Tenn.	Steelman
Collins, Ill.	Karth	Steiger, Ariz.
Conlan	Koch	Stuckey
Conyers	LaFalce	Sullivan
Dellums	Mathis	Symington
Esch	Miller, Calif.	Thornton
Eshleman	O'Hara	Udall
Evins, Tenn.	O'Neill	Vander Jagt
Findley	Passman	Waxman
Flynt	Peyser	Wilson, C. H.
Ford, Tenn.	Pressler	Wilson, Tex.
Fountain	Rees	Wright
Fraser	Richmond	Young, Ga.
Hansen	Riegle	

The SPEAKER. On this rollcall 373 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

FEDERAL COAL LEASING AMENDMENTS ACT OF 1975—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (S. DOC. NO. 94–229)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the Senate of the United States:

I am returning to the Congress today without my approval S. 391, the Federal Coal Leasing Amendments Act of 1975.

This bill addresses two essential issues: the form of Federal assistance for communities affected by development of Federally-owned minerals, and the way that Federal procedures for the leasing of coal should be modernized.

On the first of these issues, I am in total agreement with the Congress that the Federal Government should provide assistance, and I concur in the form of assistance adopted by the Congress in S. 391. Specifically, I pledge my support for increasing the State share of Federal leasing revenues from 37½ to 50 percent.

Last January I proposed to the Congress the Federal Energy Impact Assistance Act to meet the same assistance problem, but in a different way. My proposal called for a program of grants, loans and loan guarantees for communities in both coastal and inland States affected by development of Federal energy resources such as gas, oil and coal.

The Congress has agreed with me that impact assistance in the form I proposed should be provided for coastal States, and I hope to be able to sign appropriate legislation in the near future.

However, in the case of States affected by S. 391—most of which are inland, the Congress by overwhelming majority has voted to expand the more traditional sharing of Federal leasing revenues, raising the State share of those revenues by one third. If S. 391 were limited to that provision, I would sign it.

Unfortunately, however, S. 391 is also littered with many other provisions which would insert so many rigidities, complications, and burdensome regulations into Federal leasing procedures that it would inhibit coal production on Federal lands, probably raise prices for consumers, and ultimately delay our achievement of energy independence.

I object in particular to the way that S. 391 restricts the flexibility of the Secretary of the Interior in setting the terms of individual leases so that a variety of conditions—physical, environmental and economic—can be taken into account. S. 391 would require a minimum royalty of 12½ percent, more than is necessary in all cases. S. 391 would also defer bonus payments—payments by the lessee to the Government usually made at the front end of the lease—on 50 percent of the acreage, an unnecessarily stringent provision. This bill would also require production within 10 years, with no additional flexibility. Furthermore it would require approval of operating and reclamation plans within three years of lease issuance. While such terms may be appropriate in many lease transactions—or perhaps most of them—such rigid requirements will nevertheless serve to set back efforts to accelerate coal production.

Other provisions of S. 391 will unduly delay the development of our coal reserves by setting up new administrative roadblocks. In particular, S. 391 requires detailed antitrust review of all leases, no matter how small; it requires four sets of public hearings where one or two would suffice; and it authorizes States to delay the process where National forests—a Federal responsibility—are concerned.

Still other provisions of the bill are

simply unnecessary. For instance, one provision requires comprehensive Federal exploration of coal resources. This provision is not needed because the Secretary of the Interior already has—and is prepared to exercise—the authority to require prospective bidders to furnish the Department with all of their exploration data so that the Secretary, in dealing with them, will do so knowing as much about the coal resources covered as the prospective lessees.

For all of these reasons, I believe that S. 391 would have an adverse impact on our domestic coal production. On the other hand, I agree with the sponsors of this legislation that there are sound reasons for providing in Federal law—not simply in Federal regulations—a new Federal coal policy that will assure a fair and effective mechanism for future leasing.

Accordingly, I ask the Congress to work with me in developing legislation that would meet the objections I have outlined and would also increase the State share of Federal leasing revenues.

GERALD R. FORD.

THE WHITE HOUSE, *July 3, 1976.*

The SPEAKER. The objections of the President will be spread at large upon the Journal.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The Chair recognizes the gentlewoman from Hawaii, (Mrs. MINK) for 1 hour.

Mrs. MINK. Mr. Speaker, I yield 30 minutes to the gentleman from Michigan (Mr. RUPPE), pending which I yield myself 10 minutes.

Mr. Speaker, on July 3, the President vetoed S. 391, the Federal Coal Leasing Amendments Act of 1975. S. 391 is the very same bill which this House passed in January by the overwhelming vote of 344 to 51—a margin of almost 7 to 1. Our bill passed the other body by voice vote, and as you know the veto was overridden yesterday by a 76 to 17 vote in the Senate.

The real issue at hand today is whether we intend a fulfill our responsibilities to the public as trustee of the Federal coal lands.

Mr. Speaker, the President's veto message on S. 391 ends with an exhortation to the Congress to "work with me" in drafting suitable coal leasing legislation. This exhortation completely overlooks the fact that S. 391 is already the product of prolonged discussion and compromise with the administration.

During subcommittee and full committee markup of S. 391, we adopted 13 major, and numerous minor changes to accommodate Department of the Interior concerns with the bill as originally drafted. One of these changes inserted almost verbatim in the bill Department of the Interior language requiring submission of a mining and reclamation plan within 3 years of the issuance of a coal lease. Submission of such a plan within 3 years, initially characterized in a letter from the Department of the Interior as vitally necessary for the protection of the environment, is now attacked by the President as rigid and likely to hamper coal production. Likewise, the provision in S. 391 increasing the States' share of mineral leasing receipts from 37.5 percent to 50 percent, to which the Department of the Interior strongly objected in a letter dated January 19, 1976, is now one to which the President has promised to, and I quote, "pledge my support."

Such a pattern of contradictions and last minute changes of positions by the administration has become all too familiar—especially to those of us who worked long and hard on the twice vetoed strip mining bill. I submit to my colleagues that negotiation with this administration on coal development is a one-way street—the more we give, the more we are asked to give. The give by Congress comes into clearer focus if one appreciates that S. 391 in its present form would largely codify the major provisions of the administration's new coal leasing policy, which was finalized in June with the promulgation of numerous regulations. Specifically S. 391 would: Incorporate many of the key facets of Interior EMARS tract selection process; give Interior the requested authority to abolish preference right leasing; grant Interior the desired ability to readjust lease terms every 10, rather than every 20 years; legislate Interior's testing permit regulations published June 1; codify the U.S. Geological Survey's known coal leasing area drilling program; and enact Interior's regulatory provisions requiring production from coal leases within 10 years of lease issuance.

Mr. Speaker, from the above it should be obvious that S. 391 is the product of compromise, and represents a carefully reasoned, and reasonable, reform of the Mineral Leasing Act of 1920—a reform that accommodates the major administration concerns with the 1920 act, and enacts important aspects of their very own leasing program. And yet, we are told by the veto message that—

> S. 391 restricts the flexibility of the Secretary of the Interior in setting terms of individual leases so that a variety of conditions—physical, environmental and economic—can be taken into account.

This is totally unsupported by the facts, and which, when considered along with the numerous misleading statements and outright falsehoods in the veto message, leads one to the inescapable conclusion that the administration either totally misunderstands the provisions of S. 391, or simply wishes no coal legislation at all. Allow me to elaborate briefly on a point-by-point basis.

Coal production: The veto message states that S. 391 would "inhibit coal production." This assertion directly contradicts Secretary of Interior Kleppe's statement of July 1 that S. 391 would "not seriously hamper" the administration's schedule for coal development. Secretary Kleppe is of course correct. S. 391 will actually increase western coal production through provisions which will force production from leases within 10 years, improve the caliber of coal tracts offered for lease through sound land-use planning and data gathering, guarantee public bodies such as rural electric cooperative access to Federal coal leases on an equitable basis, and facilitate the competitive leasing of Federal coal to all those interested, whether they be large corporations or smaller ventures.

Increased prices: The veto message states that S. 391 would "probably raise prices for consumers."

On the contrary, S. 391 was carefully drawn to promote competition in the coal industry. Specifically, the bill will enable small corporations to bid on leases without necessitating a large front end capital outlay; prevent concentration or monopolization of coal leases by large corporations; stipulate that a reasonable number of leasing tracts be reserved for sale to public bodies; and provide the Attorney General with an opportunity to review proposed lease issuances. These competitive provisions should lower coal prices—not raise them.

A 12.5 percent minimum royalty: The veto message condemns the 12.5 percent minimum royalty of S. 391 as being "too high in all cases," although this royalty is required for surface-mined coal only. The veto message also fails to mention that under section 39 of the Mineral Leasing Act, a section unchanged by S. 391, the Secretary will be authorized to "waive, suspend, or reduce" the minimum royalty for production from both surface and underground mines "for the purpose of encouraging the greatest ultimate recovery of the coal—in the interest of conservation of natural resources." This will give the Secretary flexibility in setting royalty rates.

Production from lease within 10 years: The veto message claims S. 391's 10-year production requirement from leases would set back efforts to accelerate coal production, despite the fact that the Department of Interior's very own "diligent development" regulations contain a similar 10-year deadline. Further, the Department's regulations require production of a minimum of 2.5 percent of lease reserves within 10 years, a provision which is arguably more stringent than the production "in commercial quantities" standard of S. 391. This is but another example of the administration's condemning Congress for legislating that which it plans to do by regulation. In any event, it is totally illogical to assert that the 10-year development deadline will somehow "set back efforts to accelerate coal development"—it should do just the opposite.

Mining and reclamation plan: The veto message states that S. 391 would "require approval of operating and reclamation plans within 3 years of lease issuance." This is untrue. S. 391 only requires the submission of such plans within 3 years. As I have already noted, the mining and reclamation plan requirement was inserted in the bill at the request of the Department of Interior.

Antitrust review: The veto message states that S. 391 "requires detailed antitrust review of all leases, no matter how small"—yet another gross inaccuracy. Section 15 of S. 391 only requires the Secretary of Interior to notify the Attorney General of proposed leases, and submit accompanying information which will enable the Attorney General to review any possible antitrust implica-

tions of a proposed lease. Nothing in S. 391 requires the Attorney General to undertake a "detailed" antitrust review. Indeed, if the Attorney General takes no action on the information submitted, the Secretary of Interior is free to proceed with leasing after 30 days. Given the nature of the antitrust laws, and the previously mentioned acreage limitations and other antimonopolistic provisions of S. 391 it becomes clear that most proposed leases will, on their face, not require review by the Attorney General.

Public hearings: The veto message asserts that S. 391 "requires four sets of public hearings." This is completely misleading. Four hearings would be required only if a new lease is to be issued, and included in a logical mining unit, and if the Attorney General advises the Secretary of Interior that lease issuance might violate the antitrust laws—a combination of circumstances that may never occur. In the overwhelming majority of cases involving future leasing only two public hearings will be required—exactly the same number as will be required under newly published Department of Interior regulations.

Deferred bonus bidding: The veto message denounces S. 391's requirement that 50 percent of the lease acreage offered for sale in any given year be offered under a system of deferred bonus bidding, as stringent.

Mr. Speaker, I fail to see what is stringent about a provision that is designed to insure that small corporations, which may not have access to the enormous capital required to pay front end bonus bids, will be able to compete in bidding on at least 50 percent of leased acreage.

Comprehensive exploratory program: The veto message terms the comprehensive exploratory program of S. 391, which is designed to upgrade existing data on the Federal coal reserves, as "simply unnecessary." Let me state for the record, Mr. Speaker, that the administration is in the very process of doing exactly that which it terms unnecessary. To wit, U.S. Geological Survey is currently conducting exploratory drilling in 16 known coal leasing areas totalling over 9 million acres. Plans for drilling in another 17 proposed known coal leasing areas are in the works. Interior anticipates requesting $16.9 million for these activities through 1979, and openly admits that such a program is absolutely necessary to fill a large gap in existing Federal coal data.

This bill has the support of the United Mine Workers of America, the National Rural Electric Cooperative Association, the National Farmers Union, the Energy Task Force of the Consumer Federation of America, National Farmers Union, the American Farm Bureau Federation, the American Public Power Association, and the Union Pacific and Burlington Northern Corps., as well as the Friends of the Earth, National Associates of Counties, and the Western Conference of the Council of State Governments.

Finally, Mr. Speaker, let me state why S. 391 deserves our overwhelming support today. The Mineral Leasing Act of 1920 has permitted rampant speculation in Federal coal leases, a totally inadequate return to the public, the issuance of 239 leases in the Western States—more than half of existing leases in those States—which have no plans for production of a single ton of coal prior to 1990, and an incredibly low production of 32 million tons from Federal leases in 1975 from an estimated available 16 billion tons under lease. The country needs this bill if it is to effectively and reasonably meet its energy needs.

Clearly it is time for Congress to take the lead in establishing the new coal leasing policy and thereby fulfill our constitutional duty to the public as trustee of the Federal coal lands. We have the vehicle to accomplish such reform before us—I urge your vote to overide.

Mr. RUPPE. Mr. Speaker, I yield my-

Mr. Speaker, I would like to say first of all today that I am not out here to try to kill this legislation. I do support the President and I do not believe that his veto should be overridden, but I do think that we need a Federal leasing bill.

Let me say this: That if the President's veto is upheld, we can go back in committee and in one morning come up with a bill which would meet, I believe, all the criteria that the Members would accept for this House and at the same time that would meet the present objections of the President of the United States.

What we really do want frankly is not to kill the leasing bill. We certainly want a leasing bill that establishes a logical mining unit in combination with so many acres of Federal land and so many acres of privately held land. We certainly want to limit the number of acres that can be controlled by any one major corporation in the United States. That can be readily done.

We want comprehensive resource planning, which we might call land use planning on Federal coal lands. That can be readily done.

We also want to force production of coal within a given period of time when it is on Federal leased land. That can be done.

What I want to emphasize is the upholding of the President's veto today is not going to kill this legislation. We can go back in committee and make a decent bill out of this particular work of art in a morning.

There are none of us in the committee who want to kill the bill, and most of us are willing to go back to the drawing boards and make this a productive, adequate piece of legislation. What the present bill does, and it is important to know this, what the present bill does is simply two things. It makes the price of coal in this country higher than it is today and higher than it should be. It also makes the coal in the United States in the Western lands more difficult to mine. There is absolutely no excuse, either, for our raising the price of coal like we are doing in this bill. There is no excuse in this Congress, in my opinion, to come out with legislation that makes it so much more difficult to mine western coal than it has been in the past.

Let us take the first point, the increased cost of coal in the United States. Right now the Department of the Interior is charging a 5-percent minimum royalty on new coal mines in the West on Federal lands. The bill sets up an absolute minimum royalty on Federal lands of 12½ percent. That figure is too high. What I would suggest, and what we should have in the legislation, is a minimum royalty of 8 percent; 12½ percent merely means that the minimum royalty is going to increase the price of coal in the United States.

Let us take an example. I have been in communication with Detroit Edison. Detroit Edison says this single provision alone, increasing the minimum royalty to 12½ percent, will increase the cost of coal when they buy that coal from Federal lands by a full 10 percent. I do not know what it is going to cost the consumer in the city of New York, but I recently read in the Wall Street Journal that the Con Edison rates in New York were twice as high as any charged by any large utility in the United States. This bill would make the New York Con Edison rates increase by another significant factor.

Mr. Speaker, there is no excuse for the passage of this bill to make utilities pay an additional amount of money for their coal supplies.

It has been said that the Western States need more money for their coal, and I agree. The Western State now receive about $4 million each year for the mining of Federal coal; however, let us look a couple years ahead to 1985. At that time the production of coal on western lands will total 200 million tons a year. If that is sold at an avermillion tons production with an 8-percent royalty, the mineral revenue sharing to those Western States with 200 million tons production with an 8-percent royalty would amount to $42 million overall. It is a tremendous increase.

The States would get at least 37½ percent and maybe 50 percent of that money. It means in 1985 the States in the West will, under present legislation, get 10 times the money they are receiving now, $42 million, and if the BLM Organic Act is passed, they will get at least $56 million. In any event, under normal increases in production, the Western States under a mere 8 percent, not a 12½-percent royalty, will see their revenues increased tenfold.

Beyond that, Mr. Chairman, let me make a few additional points. How difficult it will be to mine Western coal in this particular legislation. First of all, we set, in my opinion, too low an acreage limitation for logical mining units. The present bill says there can only be 25,000 acres of combined Federal and private land in any particular lease. The fact of the matter is that there is already a mine in the West, the Rosebud Mine in Wyoming that combines Federal acreage of 20,000 with private acreage of 60,000 to form a logical mining unit of 80,000 acres; by limiting the size of the logical mining unit, we will make it more difficult to mine and leave an awful lot of coal in the ground.

Mr. Speaker, let us look for a moment at what is going to happen to a coal body, when we limit the mining body to 25,000 acres of land. What will hap-

pen, the mining company will come in and take only the best of the coal. If they can mine 50,000 combined Federal and private acres, they will mine the best of the coal and mine the marginal coal. By limiting the logical mining unit to 25,000 acres whenever Federal acreage is involved, we are simply going to tell the coal company to take the heart out of the coal deposit and leave the marginal areas unmined. As far as getting coal into production, there are going to be at least three or four public hearings required. I think one or two public hearings are necessary, but I would suggest that three or four public hearings are not necessary.

Let us look again at one objection to the bill that I personally have. This bill says that every time we issue a new lease, we turn that lease over to the Antitrust Department of the United States Justice Department for examination. I think that is all right. Let us put every new lease into the hands of the Justice Department and examine it. This legislation, however, says that anytime one renews a lease, one has to put that renewal into the Justice Department for examination. Any time one makes any adjustment to a lease; every time one changes a comma or a sentence or a paragraph of any lease in the United States that involves Federal coal, we have to turn that lease back to the Justice Department for review and inspection.

I am only going to say this: It is going to make it much more difficult, cumbersome and expensive to secure either a new lease or a change or modification of a lease.

The final thing I object to, and I think this is a provision that is almost even untenable and which does a great disservice to the United States, is that in this bill we now have a provision which requires every mine to be in production within 10 years. I think, generally speaking, mines on Federal property can get into production within the 10-year period. However, when it comes to the gasification or liquefaction of coal, I would suggest that there are times when it is simply impossible to get that mining operation into production within a 10-year period of time. Let us look at what happens if, indeed, we have a gasification or liquefaction plant as a prospective user of this Federal coal. Let us look at the procedures the operator has to go through. First, he has to define the reserves. Then, he must develop a mining and reclamation plan. He has got to arrange financing, order the equipment, much of which can have a lead time of up to 5 years. Transportation has to be taken into consideration. A railroad spur line may have to be built.

The operator has to find a market. In the case of fossil fuel utility plants or synthetic plants, there are going to have to be various Federal, State and local permits. The plant has to be financed; it has to be built; it has to be in operation between there is any need for the coal itself.

So, I simply say that this piece of legislation increases the cost of Western coal beyond what is necessary to satisfy the financial requirements of the Western States. It is going to increase this cost to Detroit Edison, to Con Edison of New York, to all of the Eastern users who are going to have to pay a substantially higher utility bill because of the passage of this legislation.

It is also going to make it much more difficult to mine coal in the West. That does not mean that we are not going to mine coal in the West. We certainly are going to increase that production, but there is no reason, in my opinion, for making that coal difficult to get at, for making it as cumbersome as possible and to impede production.

I would like to say this: In my opinion, this bill is not a proenvironmental bill; it is really an antienvironmental piece of legislation because it limits the size of a logical mining unit to 25,000 combined acres, Federal and private property. We are simply telling the operator to cut the heart out of the mining property and leave the marginal land aside, do not mine it, take the best. If we have a logical-sized mining unit, say 25,000 Federal acres along with any amount of private acres, then we have a situation wherein an operator would find it to his advantage not only to take the best deposits, but marginal acres as well.

Second, by raising the minimum royalty from 5 percent to 12.5 percent, a lot of areas that would be marginal in the United States, which would be strip mining operations, will not be mined. If the deposit is good, the Department can raise the minimum royalty well beyond 12.5 percent. If it is marginal, really not much to begin with, then I think we would be very wise to give the Department enough latitude so that they can establish a minimum royalty of 8 percent and encourage the mining of those deposits which are marginal. Without a certain amount of support on the part of the Interior Department, they simply will not be mined.

So, Mr. Speaker, I would say that this legislation can be changed within a single day's period to make it workable.

Unless we support the President's veto of this legislation, we are going to see western coal more expensive to use on the part of eastern utilities, more expensive to utility customers. We are going to see, procedurally, a bill come out of this Congress that is the type of nightmare that businessmen and consumers object to nationwide.

Third and finally, instead of being a proconsumer bill, this bill, in my opinion, is an antienvironmental piece of legislation because it actually discourages the fullest and wisest use of the coal deposits.

Mrs. MINK. Mr. Speaker, I yield 3 minutes to the gentleman from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. Speaker, this bill is part of a needed program for Federal coal development. It is only a part. But it is a significant part. About one-half of the Montana coal reserves are federally owned. Montana has high stakes in the Federal coal leases and subsequent mining of that coal.

In that development for Montana and our neighboring States of Wyoming and North Dakota, there are key parts of the strip mine bill that must be solved by Federal legislation. The strip mine bill is the other part of the needed legislation for proper and sound Federal coal development.

Of particular importance to us is the surface owners rights over federally-owned coal, water and land protection, and the prohibition of mining in areas where reclamation is doubtful. Those portions of needed legislation are contained in the strip mining bill and not in this bill. Although the Congress has twice passed the strip mine bill only to be vetoed by the President, we are ready to try again to pass that legislation and, hopefully, to receive the President's endorsement.

If the strip mine bill were passed first, before development, we would have the proper sequence. But neither this bill nor the Department of the Interior regulations will solve the problems that I mentioned. Yet this bill is a forward step. It is in the public interest. There will be greater competition. There are antitrust requirements, there are increased Federal revenues and requirements for sensible exploration and evaluation of the quantity and quality of federally owned coal. There are also provisions to recognize and help on local impact problems that go along with Federal coal development.

This bill as part of the package of needed legislation and it is deserving of our vote to override, enact it into law, and I urge the Members to vote emphatically to override the President's veto.

Mr. RUPPE. Mr. Speaker, I yield 3 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I will address myself to one specific provision of S. 391 and the absurdity and waste that it would create. The Federal exploratory drilling program mandated in the bill will launch a multibillion dollar Government search for coal that will almost certainly not be economically recoverable until well after our Nation celebrates its tricentennial.

Taxpayers would rise up in arms if they realized the future cost that Congress is committing them to pay—a cost conservatively estimated to be well over $16 billion. The first 5-year phase alone—before the massive drilling program could hardly begin—will run $1.2 billion.

It must be clearly recognized that this provision is not merely a codification of the existing drilling program. The bill requires "developmental drilling" to determine "commercial qualities" of coal for both surface and deep reserves. This would force expensive core sample drilling up to a depth of 3,000 feet for every 80 to 160 acres of Federal coal lands. Developmental drilling is presently done by industry after a lease is obtained, and the data is furnished at the industry's expense to the Government. Industry will continue to conduct its own drilling because the accuracy of drilling data can determine the profitability of a mining

operation. Mr. Speaker, the Federal exploration program created by this bill will add an unnecessary and astronomical burden on the taxpayer and the consumer. Such waste cannot be justified.

It is insanity for Congress to require a search for coal on western lands below 1,000 feet, if it will not be economical to recover that coal for many decades and possibly even centuries.

Our Nation is blessed with an incredible wealth of easily minable coal—let us not create a law which will bring extensive delay to its use or create wasteful Federal programs that duplicate work that private enterprise will be compelled to perform anyway.

Thank you.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

Mr. RUPPE. Mr. Speaker, I yield 2 additional minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I thank the gentleman from Alaska for yielding.

I had hoped so very, very much for the gentleman's support in this legislation. The program the gentleman referred to for exploratory treatment of coal lands has not been conducted solely by private industry, but work has also been done by the U.S. Geological Survey in known geological structures over the past decades. The U.S. Geological Survey has always cooperated very well with the private sector. For the program for the development of coal we have already appropriated $16 million; that is for the development of these materials.

So, Mr. Speaker, we are putting nothing in this bill except we are agreeing to a program that has worked well in the past.

Mr. YOUNG of Alaska. Mr. Speaker, any time we set up a Federal exploratory agency, any time we set up such an agency for coal or for offshore minerals, we are proceeding in the wrong way. If private industry can do it, that is the way it should be done. The Government has no business in the energy field; it has no business developing industries in this field. If private industry can do it, it should be allowed to do it.

I have no argument with the rest of the bill at all. I have no argument with any portion of the bill except this one which seeks to get the Federal Government into the field and create a Federal bureaucracy. That is not the right way to produce energy for this Nation.

Mr. RUPPE. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Michigan.

Mr. RUPPE. Mr. Speaker, I think it is fair to point out that at the present time the Federal Government spends a couple of million dollars annually in an exploratory program, but this bill would mandate a new Federal exploratory program that would cost $1.2 billion over 5 years. That is the figure given by our new Budget Office. The bill provides for a whole new $1.2 billion program over 5 years, and there is no need for the program.

The companies have done this work in the past, and they will continue to do it in the future. There is absolutely no logic to this except for the purpose of creating a new Federal bureaucracy at a cost of $1.2 billion over 5 years.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, I want to reply to the statement the gentleman made that the Government has no business in the energy field. I agree totally, but it happens that in this case the Government owns the source of energy.

Mr. YOUNG of Alaska. Yes, Mr. Speaker, the Government owns the source, but under our past practices the private sector has always produced the resource.

Mr. RONCALIO. Mr. Speaker, I believe nothing has worked more successfully than has the cooperation between the U.S. Geological Survey and the oil companies over the past 3 or 4 years.

The SPEAKER. The time of the gentleman from Alaska (Mr. YOUNG) has again expired.

Mrs. MINK. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I thank the gentlewoman from Hawaii for yielding me this time.

I would like to continue the colloquy, if I may, that was just begun with my colleague on the committee.

We have heard this issue raised before as one of the reasons for opposition to this legislation, and I think it is about as wrong and ill-advised as some of the other points of opposition that have come from the White House primarily.

Opposition has also come, unfortunately, from one or two excellent energy companies which have taken this position and have not joined some of their more enlightened corporate brethren who have accepted this legislation. Some of those companies say, "This in fact is not what we like particularly. We would like to have other provisions, but we recognize there has to be movement forward for the aid of some of the impacted Western States that are taking the brunt of the program." They say, "We recognize this bill ought to be passed, and we will not oppose its passage." That is the position of most of the better energy companies in America.

Mr. Speaker, I would only comment for the benefit of those who say this brings back revenue to the States only from those States endowed with Federal coal that they are in error. This legislation affects every dollar and every Federal acre owned by the Government, and we cannot take the Government out of the business. It was in fact George Washington who put the country into the business 200 years ago last month when we had a revolution against Great Britain.

The people of this country own the coal, nobody else. Nothing has given us the right to give away all the coal that the people own. There ought to be some healthful, respectable balance in the development sector.

Mr. Speaker, 12.5 percent has worked well for oil and gas companies for 70 years. I see no reason that it should not work well for coal development.

If 12.5 percent is too high for marginal or deep coal, as my good friend, the gentleman from Michigan (Mr. RUPPE), said, the Secretary of the Interior can reduce that 12.5 percent to 7 percent, 5 percent, or 3 percent. He has always had the right to do that. Nothing in this bill takes that highly discretionary right away from the Secretary. He can cut the royalty down to whatever he wishes.

Mr. Speaker, I beg my colleagues on the other side of the aisle not to sustain the veto. This is the most important legislation affecting mineral development in the past 12 years. We have attempted to do something about coal and the leasing of Federal coal. Sustaining this veto is not going to achieve effective production.

Mr. Speaker, may I remind the Members of this statement of Secretary Kleppe to the National Coal Association convention, July 1 in Colorado Springs. He said that if S. 391 becomes law, "our schedules for coal development will not be seriously hampered." He said that would be the case if President Ford signed this bill.

Mr. Speaker, I believe our debate now must make reference to the facts of life. The facts of life are that there has been an unfortunate exploitation of the obvious. There was an editorial appearing in the Washington Post on overriding the coal leasing veto. It said that this bill should have been signed into law 5 weeks ago.

Mr. Speaker, all the Members including myself know what has happened here, and we are faced with the political realities of life. We have had this veto, and we are going through this vain exercise.

The SPEAKER. The time of the gentleman from Wyoming (Mr. RONCALIO) has expired.

Mrs. MINK. Mr. Speaker, I yield 2 additional minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. To continue, Mr. Speaker, there is no basis whatever for sustaining this veto.

With respect to the very provision that the President objected to, his Interior Department asked the chairman of the Committee on Interior and Insular Affairs last March 13 about it, and the Interior Department Assistant Secretary Jack Horton said to the gentleman from Florida (Mr. HALEY)—

> Please put in the bill that there has to be operation and reclamation plans submitted within 3 years of lease issuance.

We put it in the bill, and now the President says that it is a reason for a veto.

Mr. Speaker, I submit that this is a good basis for proving that the veto message is not of sufficient importance to merit the vote of the Members to sustain it.

This veto, I believe, should be overridden.

Mr. TSONGAS. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Wyoming (Mr. RONCALIO).

I think it is a tragedy that we do not have a strip mining bill to go along with this bill. I think that the strip mining bill veto is likewise indefensible.

Mr. RONCALIO. Mr. Speaker, let me speak again in reference to this question of increases.

If this 12.5 percent that has been mentioned is going to raise anything, it will raise no more than 1 penny a day to the ultimate consumer, and $3.88 is the result of a 7-percent tax increase paid by the consumers of electricity.

The truth is that if this is going to go into effect, the raise will be just 1 penny a day for the consumer. That is little enough to pay to get the additional amount distributed to those who are feeling the tragic impact of this.

Mr. Speaker, we cannot help these communities without some assistance for acres and acres of mobile homes. They need assistance. They have the highest child-abuse rate in America, and instead of helping them, in years to come we are going to help good old Exxon and other oil companies and we are going to rip off the public itself.

Mr. Speaker, this is not justice. Therefore, I say to the Members, please join us in overriding the veto as the Senate did.

Mr. Speaker, I wish to commend the gentlewoman from Hawaii (Mrs. MINK) for the outstanding job she has done with this bill, and for her excellent remarks that accurately and thoroughly rebut the President's veto message.

This bill, S. 391, recognizes that the vast federally owned coal reserves must play a vitally important role if our Nation is to solve its energy problems and reduce its reliance on foreign oil. Coal makes up about 88 percent of America's total domestic recoverable fossil fuels. And half of it—closer to 60 percent of it in the Rocky Mountain States—is owned by the Federal Government.

The existing, badly outdated coal leasing law—written in 1920—and lax enforcement and regulation by the Interior Department have combined to assure that Federal coal played only a minor role in meeting our energy needs.

This bill updates that law and finally sets up guidelines for the orderly development of those billions of tons of Federal coal. It also provides several important safeguards. It will enhance competition, assuring that the field will not be taken over entirely by the multinational energy companies. It will end the speculative holding of Federal coal leases by requiring diligent development. It requires proper planning and environmental protection. It makes sure that the States and concerned public citizens will be heard. It provides a fairer return to the U.S. Treasury. And it sets up a program of assistance to the dozens of small communities that are already struggling to cope with the dramatic and traumatic impacts triggered by rapid coal development.

It is this impact aid provision I want to discuss. Yes, I know that the President, in his veto message, said he is "in total agreement with the Congress" that this assistance should be provided. Unfortunately, he also vetoed the bill, and with that veto would prevent the Congress from making the desperately-needed assistance available.

The small towns of Wyoming—and of our neighboring States as well—are just now in the beginning of an upheaval never before experienced. Development of the billions of tons of federally-owned coal will permanently change the character and environment of our region of the country.

Rapid coal development does not mean only intense strip mining. It also means coal-fired powerplants, coal gasification plants, coal slurry pipelines, new rail lines and heavy rail traffic, new dams and aqueducts, power transmission lines, and all the other construction and technology needed to support these and other developments.

Most of all it means a massive influx of people. People arriving every day, people who need homes and schools and health care, and roads and police and fire protection, people straining the ability of communities to provide even the most basic of services to their populations, old and new citizens alike.

What does living in such a "boom town" mean? What does it do to the individual—to the family—to the children growing up in such an environment? In Wyoming, the stress is begining to show—skyrocketing rates of crime, alcoholism, divorce, venereal disease, suicide, and child abuse.

Let me describe the situation in just one community—Gillette and the surrounding area of Campbell County, Wyo., a sparsely populated ranching area in the heart of the Powder River basin in the northeastern part of the State. The figures I use are all compiled from various Federal reports.

By way of background, production from Federal coal leases in the entire State of Wyoming last year, 1975, totaled 14 million tons.

But the U.S. Geological Survey estimates that within 9 short years, by 1985, coal production from Federal leases in Campbell County alone—not the entire State now, just the Federal leases in this one county—that production from 11 Federal leases in Campbell County by 1985 will total nearly 140 million tons a year.

For Gillette and Campbell County, such a phenomenal increase in coal production in such a short time will produce phenomenal problems.

Gillette had a population of about 7,000 in the 1970 census. That stands at about 12,000 today, is projected to rise to as much as 37,000 by 1985, and to as much as 58,000 by the year 2000. This is new population associated with coal development only. New population connected with other activities has not been estimated.

There were 3,897 students enrolled in Campbell County schools in 1970. School enrollment was well over 5,000 this past year, is projected to rise to more than 13,000 by 1985, and to more than 20,000 by the year 2000. Just to build the schools—to say nothing about teachers salaries and all the other operating expenses—just to construct the school buildings, Campbell County will have to spend more than $117 million between now and the year 2000.

The studies estimate that the town of Gillette will need an additional 197 miles of roads and streets over the next 15 years. The estimated cost, in 1974 prices, is $89 million.

Add to these figures the cost for all the other basic physical needs that any community requires—water and sewage systems, police and fire facilities, hospitals, and libraries. And then add to all that, the community's costs in working to deal with the myriad social problems so common in "boom town" environments.

That is the situation in just one community. But it is much the same story in dozens of other communities in Wyoming and our neighboring States. In Wyoming alone, of our 81 incorporated towns and cities, 26 of them are already severely impacted.

We in Wyoming and the West understand fully that this coal, these natural resources are indeed Federal resources, and that the revenues they generate are indeed Federal revenues. But, the problems I have discussed, the often traumatic problems associated with the rapid development of these resources, are problems of the State and local community.

The assistance provisions of S. 391 provide the only substantial Federal help to the coal-producing States to deal with those problems. The assistance provisions of S. 391 could spell the difference between, on one hand, a chaotic, disastrous disintegration of a stable small-town lifestyle dominated by agriculture, together with all the social ills connected with such a disintegration, or on the other hand, an orderly transition to an urban or semiurban environment.

I beseech you, my colleagues, to consider these problems, to realize that they are an extremely important and inseparable part of our overall energy problem, and that S. 391 provides the means to help solve them. I most strongly urge you to vote to override this most unfortunate veto of S. 391.

Mr. Speaker, I include with my remarks a table showing what the impact aid provision in this bill would mean for Wyoming and the other Western States:

EFFECT OF PROVISION IN S. 391 TO INCREASE MINERAL ROYALTY PAYMENTS TO STATES TO 50 PERCENT [1]

[Based on calendar year 1975 figures]

State	Total royalties paid to Federal Government	Royalties returned to State (37½ percent)	Royalties returned to State with 50 percent provision	Difference between 37½ and 50 percent
Alabama	$50,296	$18,861	$25,148	$6,287
Arizona	923,976	346,491	461,988	115,497
Arkansas	279,704	104,889	139,852	34,963
California	18,595,624	6,973,359	9,297,812	2,324,453
Colorado	92,249,754	34,593,658	46,124,877	11,531,219
Florida	47,410	17,779	23,705	5,926
Idaho	2,965,576	1,112,091	1,482,788	370,697
Kansas	658,266	246,850	329,133	82,283
Louisiana	494,554	185,458	247,277	61,819
Michigan	23,733	8,900	11,866	2,966
Mississippi	27,690	10,384	13,845	3,461
Montana	$12,345,394	$4,629,523	$6,172,697	$1,543,174
Nebraska	113,061	42,398	56,530	14,132
Nevada	2,540,280	952,605	1,270,140	317,535
North Dakota	1,545,037	579,389	772,518	193,129
New Mexico	68,903,026	25,838,635	34,451,513	8,612,878
Oklahoma	866,776	325,041	433,388	108,347
Oregon	879,978	329,992	439,989	109,997
South Dakota	916,034	343,614	458,152	114,538
Utah	15,269,261	5,725,973	7,634,630	1,908,657
Washington	45,682	17,131	22,841	5,710
Wyoming	92,715,391	34,768,271	46,357,695	11,589,424

[1] Note: S. 391 also contains a provision to increase the amount of the royalty paid to the Federal Government for coal to 12½ percent of the value of the coal. The figures above do not take into account this change, so the royalties in States with coal would be higher.

Mr. RUPPE. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, some of my colleagues have asked, "If we have 16 billion tons of Federal coal presently under lease, why do we need to lease additional coal?" They ask, will not the present coal tonnage under lease take care of our Nation's energy needs for the near future? The answer to this question is an unequivocal no. We urgently need additional Federal leases to reach projected development increases necessary to a timely achievement of energy independence.

To look only at the total tonnage of coal, under lease is a simplistic and misleading approach. This approach fails to consider how much of this tonnage is presently economically recoverable. As a matter of fact, the overwhelming majority of outstanding Federal coal leases which are presently not under production or plans for production need additional leases to form minable units. A lease alone does not comprise a unit from which coal can be economically recovered. Landownership patterns in the West make it necessary to combine Federal leases with other leases to put together a minable unit. Additional leases can include State, private, and Indian lands.

If additional Federal leases are not issued, many coal reserves will not be practical to mine. This will have the effect of either forcing mining of tracts that are uneconomical to mine alone and passing the increased cost to the consumer or of leaving valuable coal reserves undeveloped. Needless to say, this would insure our dependence on expensive imported foreign oil.

Passage of this bill will delay Federal coal leasing for at least 5 years and thereby prevent industry from obtaining the leases necessary to put together minable units. The delays built in this bill will thereby delay western coal production and devastate any hopes for achievement of energy independence in the near future. I urge you to vote to sustain the President's veto.

Mr. RUPPE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I would like to take just a couple of moments to respond to the remarks of my distinguished colleague, the gentleman from Wyoming (Mr. RONCALIO). My colleague has indicated that under this legislation, the minimum royalty goes to 12½ percent, but in the case of conservation purposes, the Secretary would have the option of cutting back that royalty to a lesser figure.

My understanding in talking to the Secretary's office is that the limitation of the 12½ percent will hold and that for conservation purposes the Secretary can cut the royalty from the figure, if it was above 12 percent, down to 12 percent, but does not mean, according to the Department of the Interior, that they can cut the minimum royalty down below the 12-percent figure.

I think we ought to comment on what Secretary Kleppe stated to the Western mining people, a few days before the President acted on his veto message; he said, when he was addressed on the subject, that it could well be the industry will have a piece of legislation that it will have to live with.

Maybe we will have it today and maybe we will not.

Raising the minimum royalty from 5 to 12½ percent is simply a ripoff of the consumers of this country. It means the people who are in Detroit and who are buying electricity from Detroit Edison, will have to pay substantially more in monthly fuel bills. And the same thing will occur on the east coast in New York and in numerous New England communities where the utility bills are already excessively high. Under the legislation as originally proposed by the administration, by 1985 the moneys flowing to the Western States would increase from the present $4 million to at least $42 million a year. However, with the basic BLM Organic Act, the States royalty will be increased from the present 37½ to 50 or 60 percent, so the royalties that are received by the Western States will total some $60 million or 15 times what they are today.

I am certainly in favor of the Western States having more money to alleviate the impacts in these areas, however, let us remember that a good part of the country is suffering from unemployment at a rate from 8 to 12 percent. There are people in this country who would be tickled to death to go West and have some of these strip mining jobs paying 5, 6, and 7 dollars an hour.

So I would like to say that the development of Western surface mining is not a total tragedy to the Western States; indeed it may be a blessing in that in those areas it will provide thousands of well-paying jobs, and it will improve property taxes and income taxes in many of the States and communities. However, I think there are limits to the benefits that we should pay Western States because of the utilization of our national Federal coal resources in these areas of the country.

Mr. Speaker, I urge a vote on the part of my colleagues to sustain the President's position.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Speaker, I rise simply for a point of information. I know that the gentleman in the well has national forest lands on which there are royalties going back to the States. I observe in the President's veto message that the President states that this will raise the share of the States from 37½ percent to 50 percent. That is one of the objections.

Is it not true, I would ask the gentleman from Michigan, that the State of Wyoming is now getting 25 percent?

Mr. RUPPE. Mr. Speaker, in response to the inquiry of my colleague, the gentleman from Missouri (Mr. ICHORD), let me state that the situation now, as I understand it, is that the States are getting 37½ percent. I have no argument about raising the percentage of the take. All I am saying under this or any other bill, the take will increase, on a percentage basis, from 37½ percent to 50 percent, and the State's portion, if the BLM Act is passed, will go to 60 percent to the State.

Mr. ICHORD. That was my point of inquiry. The States are now getting 37½ percent?

Mr. RUPPE. That is correct. And they are going either to 50 percent under this bill, or perhaps even 60 percent if the Senate position on the BLM Act is sustained. I have no objection to a higher percentage of the take going to the State; I simply have a personal objection to the fact that the minimum royalty is also substantially increased at the same time. That is just too much of a good thing on a given date.

The SPEAKER. The time of the gentleman has expired.

Mr. RUPPE. Mr. Speaker, I yield myself 5 additional minutes.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, our colleague, the gentleman from Alaska (Mr. YOUNG) raised the question about test borings and explorations. It was not clear to this Member what the purpose of those test borings are, if private industry is presently doing the present exploration without any cost to the Federal Government.

Mr. RUPPE. I am not certain what the desires of those sponsors of this particular amendment were. I do know that the industry is doing a lot of exploration and development work at the present time. I know further that with the passage of this legislation there would be a mandated $1.2 billion Federal exploration program over 5 years, and the $1.2 billion is not the Bureau of Mines' or the Department of the Interior's figure, but is our own Budget Office's in the Congress. That is the minimum program. If we want to have a drilling or exploration program nationwide, it means drilling a 3,000-foot hole in every 40-acre tract of land in the United States; we could then have a $60 billion drilling program. But presumably the Congress in its appropriation process will be more merciful than that.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

I cannot understand the motive behind it, but unless the coal sampling was done to the level of 3,000 feet, I doubt if the leases would be let. I doubt it in that case. If we pass this legislation, there would undoubtedly be lawsuits if the drilling has not been done on coal lands. My argument has always been that the Government has no business setting up any new agencies to develop any exploratory activities when private industry can do so at a better return to the taxpayer in the production of energy.

We talked extensively in the OCS bill about Federal exploration work, and it was decided at that time it would be a deterrent to the production of energy. I cannot understand why it was put in the bill, but I do know the end result would be an expense to the taxpayer, and I do not think there would be any matching benefit.

Mr. RUPPE. I do not think we had any testimony in support of the Federal exploration provision.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding.

The gentleman is correct. We do not want a Federal exploration program. This bill does not give us one. Every dollar that USGS spends for drilling is spent in the private sector. They contract out to the private drilling companies, and the private companies report back as to whether or not it is a known geologic structure.

Mr. RUPPE. That program sublet by USGS involves a few million dollars a year. But here we are talking about $1.2 billion over 5 years. That is $240 million a year. That is an infinitely greater resource study program than we have on the books at the present time, and there has been no testimony that would indicate that a Federal program of well over a billion dollars is really necessary.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. I thank the gentleman for yielding.

It would appear that what we are doing here would be repetitive. I do not think any coal industry would accept these borings or these drillings and build on land, according to what they are being told by this exploration. It seems to be a complete waste of money.

Mr. RUPPE. My guess is industry would go back and do its job anyway. The size of a mining project of several hundred million dollars would, undoubtedly warrant an affirmation, if not an initial test of the property itself.

Mr. MYERS of Indiana. If the gentleman will yield further, it appears by the language here that the Secretary is mandating to do this drilling, and it is not one of those discretionary items that he has in this act where he may or may not do it. He is mandated to do it before he can lease.

Mr. RUPPE. The program is mandated, and the figures given us by our own Budget Office indicate that that cost on a 5-year trial basis will be $1.2 billion.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. I thank the gentleman for yielding.

The truth is, Mr. Speaker, most energy companies do not care to have the drilling information from the USGS. They know where the coal is. They have been through these seams many years ago. They have tied up 80 to 90 percent of the best coal in Wyoming now. There are already 234 leases in existence now that are not going to be mined in the next 5 or 6 years.

Mr. RUPPE. The reason the leases are not being mined is because the Government was too dumb in the original drafting of the leases. It is the Government's own foolishness over two decades, that have the situation in the West today where many of these mining properties are not being mined. They could have put a due diligence requirement in the initial lease. The fact that they have not done so is no reason to make it tougher and tougher on the mine operators to mine in the future.

Let us remember we are limiting the amount of land available to all of the big guys, the Exxon's and the Texaco's, to 100,000 acres federally, nationwide.

That is all they can have in all of the Western States—100,000 acres under lease. So we are inviting competition by a myriad of new and hopefully smaller companies, but by making them go through all of these requirements, it is going to make it tougher and tougher on the small operators to get into operation and get a piece of the action. It is going to make it tougher and tougher for them to get financing. And it is going to make it tougher and tougher for them if the bill requires three or four hearings. It is going to make it tougher and tougher for them to get into business and stay in business if every time they get a new lease or change a dot or cross a "T" they have to come to Washington and fight it through with the Justice Department.

We do not hurt Exxon in this or the big companies. We hurt the small operators because if they do not have the money and the lawyers in Washington to fight every change in the lease with the Justice Department, they simply do not get into the business. The only guy who is going to get around to doing all this and who, despite all our protestations, is going finally to walk away with the leases, is the big company.

Mr. MYERS of Indiana. Will the gentleman yield?

Mr. RUPPE. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I agree with the remarks of the gentleman.

What purpose does this section serve? The industry knows where the coal is. They would not rely on Government information. Why was this section put in the bill? It looks like a waste of the taxpayers' money.

Mr. RONCALIO. Mr. Speaker, if the gentleman will yield, let me say there is no other way I know that one can plan and ascertain what is in his assets than by what is in this bill.

Mr. RUPPE. There is no evidence that it will do that.

The SPEAKER. All the time of the gentleman from Michigan (Mr. RUPPE) has expired.

Mrs. MINK. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, this is one of the key environmental and resources decisions this Congress will make. I would hope that the House would stand up today and look the administration in the eye and vote to override this veto, because this is a good bill. It ought to be law. There is an admonition in the Bible that says: "By their fruits ye shall know them." I would change that today to read: "By their vetoes ye shall know them." And you can tell a lot about the Ford administration by this and the strip-mine veto.

One of the great things about the conservation movement, one of the great things about our policy toward treatment of the land in the country and our resources has been that it has been a bipartisan movement. The Republicans and the Democrats are working together to save the land and make the decisions. I remember people such as John Saylor,

who was with us in the strip mining and other decisions, yet the President has been misled time after time after time. These coal barons will have an important place when the history of the robber barons in America is written. They now want to tear up the West like they did in West Virginia.

On this key piece of legislation. the key subject of coal and its use, the administration has not been with the people or with the land or with the environment on a single issue. Time after time after time, they have been for all practical purposes a wholly owned subsidiary of big coal interests and they are on this bill today. Big coal says "no", and Gerald Ford picks up the veto stamp.

There are good people on the Republican side of the aisle who know we need more coal but who hope to put the land back this time when we get the coal out.

We can do it and we can have more sensible policies, such as we have in this bill, and get more energy and free us from foreign oil and give us time to solve the tough questions about nuclear power.

I think the voters will pass judgment on November 2 on many things. This is going to be one of the key votes. In deciding it, the voters in the marginal districts will watch this vote to see who cares about natural resources and who wants to get coal out in a way so as to save the land. It is a good bill and it has my bipartisan support.

The gentlewoman from Hawaii and her committee have done a good job. It is vital to the West and to the country that this legislation be enacted and be enacted today.

I urge my colleagues to override this veto.

Mr. PICKLE. Mr. Speaker, I rise in support of the motion to override the presidential veto of S. 391, coal leasing amendments. While this bill does not pretend to be the total answer to the problems concerning Federal coal policy, and indeed, the wider question of energy problems our country faces, at least it is a good start toward facing these problems.

I am particularly interested in this bill, apart from the need for energy legislation, because it clears up an anomaly in the present law dating back to 1920 which affects Texas, and more specifically, my congressional district. Section 12 of this bill was added by the committee based on an amendment I had submitted. Under present law, coal under military land that is Federal public land can be leased; however, coal under military land that is federally acquired land cannot be leased.

In Texas, all Federal land is acquired land. In my 10th District of Texas there are sizeable lignite deposits under a military reserve used by the Texas National Guard. My amendment allows the Department of Interior to lease coal under acquired land, but only to State or municipal entities that generate electricity. This is important to the citizens of central Texas, whose publicly owned electric companies would thus have a source of lignite to fire new coal burning plants. And it is very important to my area because, believe it or not, because of an unreliable supplier utility costs of Austin, Tex., is equal if not higher than those of New York City. My amendment is approved by the Interior Department, Defense Department, and the Interior Committee—and nearly all groups. But that amendment will fail if this veto is not overridden. It would go down with the veto. So I ask your vote to override.

So the way for our people to lessen forthcoming utility bills is to override the veto of this year's bill.

In short, I think the industry should accept this reasonable leasing bill instead of trying to get the coal for nothing, or mighty little.

This is Federal coal. It is the people's coal. It makes sense to me that before private interests make more money from the coal the public should have some hearings and input on the mining plans.

As to the other provisions, I do not see how anyone can say a company should be allowed to sit on the coal. Although the royalty payments may be a bit high, in the opinion of some, I do not see why one can seriously object to giving a little more money to our sister States in the West, unless they are mad at them.

Objections to the bill are overblown. This bill is a basic approach to utilizing the vast coal reserves under Federal lands. The committee has labored long and hard to produce a reasonable bill. This bill is urgently needed to provide mineral impact assistance to the Western States, and to insure the public a fair return from the leasing of its coal mines, while helping all of us to solve our energy problems.

I urge your vote to override the veto of this bill. I know that the utilities and the administration are leaning on some of you. The utilities have termed this bill a bad bill. But I submit to you that this Congress can hardly pass any coal leasing bill that the private utilities would classify as a "good bill." That just will not happen. I think the utilities go too far in opposing this bill; and I hope our Members do not lay down and play dead just because of some utility opposition. As one Member, I want to get production of coal and lignite; I want to help both the private and publicly owned utilities to find and produce coal. But we have got to have the leases, and the mines first unless these are leasing regulation and other guidelines we cannot get there from here.

Mrs. MINK. Mr. Speaker, I yield 2 minutes to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Speaker, we have heard many reasons why we should vote to override the veto of S. 391 and several reasons why we should not. We should keep one thing in mind during this debate. This vote, this battle today, is an issue between the haves and the have-nots. It is a battle between the Western States, who enjoy the quiet beauty of the open spaces, who have the coal and produce the coal, and those States in the rest of the country who need the coal to fire their generators and have electric power.

Mr. Speaker, I would like to tell the Members here from those consuming States that we in the West, we in Montana and Wyoming, want to produce this coal. It is Federal coal. It belongs to all Americans. We in the West want, as a part of our national energy policy, to help those consuming States so they can light their homes and fire their industries, so they can produce the goods and services that they so desperately need.

Mr. Speaker, all we ask in the West is that the national coal policy be reasonable, that we produce the coal reasonably, that we have some kind of limit on the terms of coal leases. We ask for a moderate exploratory program, so that we know, apart from the word of the coal companies, exactly how much coal we do have. Because we in the West do want to help all America to produce the coal, that is all we ask.

Two other points: This leasing reform will not significantly increase the price of coal. Of all the coal that is used to fire generators, only 3 percent is from Federal lands. If there is any tendency to increase the price of coal, the competitive features in this bill should help to keep prices reasonable. The bill allows small companies to get a part of the action so they, too, can mine some of this coal.

Mr. Speaker, this bill is desperately needed by the West and Montana. I hope all the Members will join with us in a spirit of cooperation to override the veto.

Mr. Speaker, the real issue before us today is whether we are going to allow the administration's veto of S. 391 to take the third and final step in totally nullifying Congress will on national coal development policy. For if we vote to sustain the veto, the President will have succeeded in completely excluding Congress from having any voice in the management and development of the Federal coal lands—lands which, under the Constitution, are held in trust by the Congress for the American people.

While the President's veto message of S. 391 closes with a plea to "work with me" in developing legislation suitable to the administration, experience with the twice-vetoed strip mining bill indicates that "working with me" really means unconditional surrender to administration demands. Short of total surrender by Congress any "compromise" measure reached will almost surely be vetoed again, using the same time-worn and hollow cliches that the bill would "inhibit coal production, raise prices for consumers, and ultimately delay our achievement of energy independence."

We now know, and several mining companies have admitted, that these allegations were totally untrue as applied to the strip mining bill. Even the backup figures were contrived in that case. With S. 391 the allegations are equally false, and no backup data is provided. Instead, the veto message expounds numerous inaccuracies and some outright falsehoods in an attempt to discredit S. 391. We should not be fooled. Even Secretary of Interior Kleppe has stated that S. 391 will not deter coal production.

On the contrary, S. 391 was carefully drafted to increase coal production from Federal leases by requiring production from leases within 10 years. This requirement is in S. 391 because only 59 of the 534 existing Federal leases have ever produced coal. Indeed 239 of 467 western leases have no production plans prior to 1990. Instead, most existing leases are held for speculative purposes—to be developed when the price for coal is right—for the coal companies. Profits from rising coal prices, therefore, go not to the Federal Government which owns the coal, but to the lessee. As trustee of the Federal coal lands, Congress must put an end to this. S. 391 does, and yet so reasonable are its provisions that the 534 existing leases will not have to produce coal until 10 years after the next scheduled readjustment of lease terms, which in many cases will not be for 15 or 20 years. This can hardly be termed unfair.

The charge that S. 391 will raise coal prices to consumers is likewise unfounded. In the first place Federal coal accounts for only 3 percent of the coal burned in this country, and any tendency towards increased prices from the higher royalty of S. 391 will be more than offset by the bill's numerous provisions to increase competition in the coal industry. These include provisions facilitating the leasing of Federal coal to rural electric cooperatives, small corporations, or public bodies which produce electricity. Such provisions which can only benefit the consumer. I think it is clear, therefore, that it is time to dismiss the President's feeble arguments against S. 391 and vote to override. Anything less would constitute an abrogation of our duty to the American people as trustee of the Federal coal lands.

Mrs. MINK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, the President in his veto message to the Senate yesterday, made reference to an amendment which I introduced and which was accepted by this body, an amendment which authorizes a Governor to delay any strip mining that may take place in a national forest within his State.

The President says that my amendment authorizes the Governors to delay the leasing process and that national forests are solely the Federal responsibility. He suggests that the effect of my amendment is unprecedented. Apparently the same was suggested yesterday during Senate debate. Actually, there are all kinds of precedents in almost every agency of the Federal Government, including the Department of the Interior. The 93d Congress passed the Deep Water Port Act, Public Law 93–627, which gives precisely the kind of postponing feature my amendment gives to a Governor of a State.

I happen to have the Shawnee National Forest in my district, which has substantial Federal coal reserves. We in southern Illinois, do not want to wake up one morning and find that a Secretary of the Interior, who has never been to southern Illinois, has all of a sudden authorized devastation, strip mining and blight on this beautiful national forest. So, I think the point that we have mandated, that a Governor at least have the authority to delay action in a national forest, is a sound procedure.

Mr. Speaker, I urge that the President's veto be overridden.

Mrs. MINK. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I take this time to refute the suggestions that have been made by those who are seeking a vote to sustain the veto with reference to the exploratory program. The bill which we passed is explicit. The committee report on the bill sets down on page 6 the criteria, the reasons and justification for the exploratory program.

It is designed to obtain the resource information necessary for determining where there are commercial quantities of coal and what the geological extent of those deposits are, in order to set the proper basis for a land-use determination, and for the determination of the value of the resource. If there is anything which is clear under the Constitution and laws, it is the congressional responsibility toward the assets that belong to all of the people of these United States. That responsibility is to make sure that when we lease out our resources, we are able to get the dollar value back which we are deserving of.

Without an exploratory program, we are unable to know the extent of these deposits. We can only depend upon what the private sources now tell us. So, consistent with what the U.S. Geological Service has already done, we are simply enacting this program as a method in order to make sure that in the future these assets are preserved and that the values are turned back into the treasuries of the States, where they belong. It seems to me that is absolutely necessary.

The bill also provides that 6 months after enactment of this legislation, the Secretary shall develop a plan for exploration. He will come back to the Congress and lay out the extent to which this plan is to be implemented, and the cost. It will be completely within the domain of this Congress to decide exactly what the program will be, and the extent of it. There is an absolute grant of authority for contracting private companies to do the actual exploratory work.

The only difference now is that the private companies have absolute control over the information, and the public is not protected. This way, when we contract the exploration to private industry, we will be able to gather data about the resources of the lands in order to lay out what values to assess, and will be able to protect the values of our people.

Some of the cost figures mentioned earlier are ridiculous. They are based upon an average hole of 1,500 feet depth. All of our estimates and those of the experts we have consulted suggest the average depth shall be no more than 300 feet. Members in debate earlier have made wild estimates as to the number of drill holes to put in each one of these sites.

They say the bill requires the Government to complete the program in 5 years. There is no such thing mandated in this legislation. I submit that the importance of this bill is what we have learned from history. Two hundred thirty-nine leases having 16 billion tons of coal in the West are sitting there not producing because the existing leasing act is obsolete.

Mr. Speaker, I urge a vote to override the veto.

Mr. LEGGETT. Mr. Speaker, the motion to override the President's veto of S. 391, the Federal Coal Leasing Act amendments, raises a set of issues similar to those we faced with H.R. 6218, the bill to provide a comprehensive policy for the development of the petroleum resources of the Outer Continental Shelf. Once again, we face a choice between an approach which would leave coal development largely in the hands of the big energy companies and a policy which would provide a better return to the public, stimulate production and competition, and provide for protection of the environment.

Just as with the OCS bill, a major emphasis of S. 391 is the provision to end reliance on front end bonus bidding for coal leases. It would require 50 percent of Federal coal acreage to be leased each year under a system of deferred bonus bidding. This is not as desirable an alternative as royalty bidding, which would provide a better return to the taxpayer. But it would enable the smaller companies without the massive capital needed for "front end" bonuses to defer this cost until later and get into the bidding. This should stimulate competition for coal leases.

A related provision designed to protect the interests of the consumer and taxpayer is the requirement that a reasonable number of lease tracts be reserved for sale to nonprofit public entities, such as electricity cooperatives. This will insure that the cooperatives, which have done so much for rural America, will have access to a fair share of the coal.

Another provision which is also comparable to our new policy for the Outer Continental Shelf is the requirement for a coal exploration program on Federal lands. This will provide prospective lessees with the data to evaluate a potential tract, and also insure that the data generated is available equally to all parties.

Still another section of the bill would require that information be provided the Attorney General about the leasing process so he would have the opportunity to examine it from the antitrust standpoint. This, together with the other provisions, should go a long way toward increasing competition and providing the public a fairer return on its lands. If the administration really meant what it says in general about the desirability of competition and free markets, it would eagerly support this bill. What we have, on the contrary, is a veto which appears to serve only the interests of the energy oligopolists.

Would this bill inhibit coal production, raise prices, and delay our achievement of energy independence, as the President alleges? I submit that there is no evidence in support of these allegations.

A program to stimulate competition, as is envisioned in this bill, ought to hold down prices rather than the reverse.

And what of production? Would the

President continue the present situation, where there is now no plan for production prior to 1990 for fully half of the existing Federal coal leases in Western States? Our bill would require termination of leases at the end of 10 years if they were not producing coal in economical quantities, as well as consolidation of uneconomical lease areas into more efficient mining units.

This approach ought to stimulate, not inhibit, production of coal on Federal lands. And if we produce more, we will progress toward energy independence. If we do not do one, we will not do the other. It is as simple as that.

This bill would also provide assistance to the affected Western States to help them deal with the substantial impact which accelerated development of Federal coal lands will have on them. Through redistribution of leasing receipts, impacted States, such as Wyoming, would receive around $10 million annually to deal with the growth effects which would ensue from coal mining efforts.

Mr. Speaker, this legislation is certainly not the last word in national coal policy. In my estimation, we still need a strip-mining bill. But S. 391 represents a step which 344 of us thought should be taken last January. I believe it still is, and I urge my colleagues to vote accordingly.

The SPEAKER. The time of the gentlewoman from Hawaii (Mrs. MINK) has expired.

Mrs. MINK. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 316, nays 85, answered "present" 1, not voting 29, as follows:

[Roll No. 606]

YEAS—316

Abdnor	Bowen	Dellums
Adams	Brademas	Dent
Addabbo	Breckinridge	Derrick
Alexander	Brodhead	Derwinski
Allen	Brooks	Devine
Ambro	Brown, Calif.	Diggs
Anderson, Calif.	Broyhill	Dingell
Andrews, N.C.	Burke, Calif.	Dodd
Andrews, N. Dak.	Burke, Fla.	Downey, N.Y.
Annunzio	Burke, Mass.	Downing, Va.
Armstrong	Burlison, Mo.	Drinan
Ashley	Burton, John	Duncan, Oreg.
Aspin	Burton, Phillip	Duncan, Tenn.
AuCoin	Byron	du Pont
Badillo	Carney	Early
Baldus	Carr	Eckhardt
Baucus	Chappell	Edgar
Beard, R.I.	Chisholm	Edwards, Calif.
Bedell	Clancy	Ellberg
Bell	Clausen, Don H.	Emery
Bennett	Cleveland	Erlenborn
Bergland	Cohen	Eshleman
Bevill	Conte	Evans, Colo.
Biaggi	Corman	Evans, Ind.
Biester	Cornell	Fary
Bingham	Cotter	Fascell
Blanchard	D'Amours	Fenwick
Blouin	Daniel, Dan	Fish
Boggs	Daniels, N.J.	Fisher
Boland	Danielson	Fithian
Bolling	Davis	Flood
Bonker	de la Garza	Florio
	Delaney	Foley
		Ford, Mich.
Fraser	McHugh	Roncalio
Frenzel	McKay	Rooney
Frey	McKinney	Rose
Fuqua	Madden	Rosenthal
Gaydos	Madigan	Rostenkowski
Giaimo	Maguire	Roush
Gibbons	Mahon	Roybal
Gilman	Martin	Runnels
Ginn	Mathis	Russo
Gonzalez	Matsunaga	Ryan
Goodling	Mazzoli	St Germain
Gradison	Meeds	Santini
Grassley	Melcher	Sarasin
Green	Metcalfe	Sarbanes
Gude	Meyner	Scheuer
Hagedorn	Mezvinsky	Schroeder
Haley	Mikva	Schulze
Hall, Ill.	Miller, Calif.	Sebelius
Hamilton	Mills	Seiberling
Hanley	Mineta	Sharp
Hannaford	Minish	Shipley
Harkin	Mink	Shriver
Harrington	Mitchell, Md.	Sikes
Harris	Mitchell, N.Y.	Simon
Harsha	Moakley	Sisk
Hawkins	Moffett	Slack
Hayes, Ind.	Mollohan	Smith, Iowa
Hechler, W. Va.	Montgomery	Smith, Nebr.
Heckler, Mass.	Moorhead, Calif.	Solarz
Hefner	Moorhead, Pa.	Spellman
Heinz	Morgan	Staggers
Helstoski	Mosher	Stanton, James V.
Henderson	Moss	Stark
Hightower	Mottl	Steed
Hillis	Murphy, Ill.	Stephens
Holland	Murphy, N.Y.	Stokes
Holt	Murtha	Stratton
Holtzman	Myers, Ind.	Stuckey
Horton	Myers, Pa.	Studds
Howard	Natcher	Talcott
Hubbard	Neal	Taylor, N.C.
Hughes	Nedzi	Thompson
Hungate	Nichols	Thone
Ichord	Nix	Thornton
Jacobs	Nolan	Traxler
Jeffords	Nowak	Tsongas
Jenrette	Oberstar	Udall
Johnson, Calif.	Obey	Ullman
Johnson, Colo.	O'Neill	Van Deerlin
Jones, Ala.	Ottinger	Vander Veen
Jordan	Patten, N.J.	Vanik
Kasten	Patterson, Calif.	Vigorito
Kastenmeier	Pattison, N.Y.	Waxman
Kazen	Pepper	Weaver
Keys	Perkins	Whalen
Koch	Peyser	White
Krebs	Pickle	Whitten
Krueger	Pike	Wiggins
Lagomarsino	Pressler	Wilson, C. H.
Landrum	Preyer	Wilson, Tex.
Leggett	Price	Winn
Lehman	Pritchard	Wirth
Lent	Rangel	Wolff
Levitas	Rees	Wright
Lloyd, Calif.	Regula	Wylie
Lloyd, Tenn.	Reuss	Yates
Long, La.	Richmond	Yatron
Long, Md.	Rinaldo	Young, Ga.
Lujan	Risenhoover	Young, Tex.
Lundine	Rodino	Zablocki
McCloskey	Roe	Zeferetti
McCormack	Rogers	
McDade		
McFall		

NAYS—85

Anderson, Ill.	Goldwater	Paul
Archer	Guyer	Pettis
Ashbrook	Hall, Tex.	Poage
Bauman	Hammer-schmidt	Quie
Beard, Tenn.	Hébert	Quillen
Breaux	Hutchinson	Railsback
Broomfield	Hyde	Randall
Brown, Mich.	Jarman	Rhodes
Brown, Ohio	Johnson, Pa.	Roberts
Buchanan	Jones, N.C.	Robinson
Burgener	Jones, Okla.	Rousselot
Burleson, Tex.	Kelly	Ruppe
Butler	Kemp	Satterfield
Carter	Ketchum	Schneebeli
Cederberg	Kindness	Shuster
Clawson, Del	Latta	Skubitz
Cochran	Lott	Snyder
Collins, Tex.	McClory	Spence
Conable	McCollister	Stanton, J. William
Coughlin	McDonald	Steiger, Wis.
Crane	McEwen	Symms
Daniel, R. W.	Mann	Taylor, Mo.
Dickinson	Michel	Teague
Edwards, Ala.	Miller, Ohio	Treen
English	Moore	Waggonner
Flowers	O'Brien	Walsh
Forsythe		
Wampler	Wilson, Bob	Young, Alaska
Whitehurst	Wydler	Young, Fla.

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—29

Abzug	Ford, Tenn.	Milford
Brinkley	Fountain	O'Hara
Clay	Hansen	Passman
Collins, Ill.	Hays, Ohio	Riegle
Conlan	Hicks	Steelman
Conyers	Hinshaw	Steiger, Ariz.
Esch	Howe	Sullivan
Evins, Tenn.	Jones, Tenn.	Symington
Findley	Karth	Vander Jagt
Flynt	LaFalce	

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee and Ms. Abzug for, with Mr. Steiger of Arizona against.

Mr. Esch and Mr. LaFalce for, with Mr. Conlan against.

Mr. Steelman and Mr. Fountain for, with Mr. Hansen against.

Until further notice:

Mr. Passman with Mr. Hicks.
Mr. Brinkley with Mr. Milford.
Mr. Hays of Ohio with Mr. Findley.
Mrs. Collins of Illinois with Mr. Conyers.
Mr. Evins of Tennessee with Mr. Karth.
Mr. Flynt with Mr. Ford of Tennessee.
Mr. Howe with Mr. O'Hara.
Mr. Clay with Mr. Riegle.
Mr. Symington with Mrs. Sullivan.

Mr. DERWINSKI changed his vote from "nay" to "yea."

So, two-thirds having voted in favor thereof, the bill was passed, the objections of the President to the contrary notwithstanding.

The result of the vote was announced as above recorded.

The SPEAKER. The Clerk will notify the Senate of the action of the House.

GENERAL LEAVE

Mrs. MINK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, S. 391.

The SPEAKER. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12169

Mr. STAGGERS. Mr. Speaker, I have two unanimous consent requests. First, Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such act, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT BETWEEN 10 O'CLOCK A.M. AND 1 O'CLOCK P.M. ON THURSDAY, AUGUST 5, 1976

Mr. STAGGERS. Mr. Speaker, my second request is that I ask unanimous consent that the Committee on Interstate and Foreign Commerce be permitted to sit between the hours of 10 o'clock a.m. and 1 o'clock p.m. tomorrow, August 5, 1976, for the purpose of considering the swine flu vaccine legislation.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from West Virginia assure us that the committee will meet only on the one bill the gentleman has described?

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. ROUSSELOT. And only from 10 o'clock a.m. until 1 o'clock p.m. tomorrow?

Mr. STAGGERS. That is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REQUEST FOR COMMITTEE ON THE JUDICIARY TO SIT DURING DEBATE TOMORROW

Mr. FLOWERS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be allowed to sit during debate tomorrow for further consideration of the bill H.R. 15.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. ROUSSELOT. Mr. Speaker, I am constrained to object.

The SPEAKER. Objection is heard.

FURTHER LEGISLATIVE HEARING

(Mr. O'NEILL asked and was given permission to address the House for 1 minute.)

Mr. O'NEILL. Mr. Speaker, I have taken this time so that I may announce the program for the remainder of today.

The House will go back into the Committee of the Whole for further consideration of the Clean Air Act Amendments of 1976 and we hope, Mr. Speaker, to be able to finish the general debate but we will rise, under any circumstances, at 5:30 this afternoon. So the House will adjourn at 5:30.

Further, Mr. Speaker, may I say that we will meet at 10 o'clock tomorrow.

There will be no session on Friday because of the special committee that will be going to Missouri to attend the funeral of our late colleague, JERRY LITTON.

Mr. DON H. CLAUSEN. Mr. Speaker, if the gentleman will yield, what is the business scheduled for tomorrow?

Mr. O'NEILL. Regarding the business for tomorrow, we will announce at a later hour what the order will be.

CLEAN AIR ACT AMENDMENTS OF 1976

Mr. ROGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10498, with Mr. ROUSH in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the gentleman from Florida (Mr. ROGERS) had consumed 49 minutes, and the gentleman from Kentucky (Mr. CARTER) had consumed 47 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, the legislation the House begins debating today is the product of over a year's work by the Health and Environment Subcommittee and the full Committee on Interstate and Foreign Commerce. The leadership of the subcommittee chairman, Representative PAUL ROGERS of Florida, in crafting these amendments deserves widespread recognition and approbation. Not only has he understood the proper course to be charted by the Clean Air Act Amendments of 1976, but he has sought to bring all the interested parties—industry and labor, environmentalists and citizens, Governors and mayors, and the relevant agencies of our Government—together. This has, generally, been accomplished. This legislation represents a broad consensus of where our environmental efforts should be directed over the next decade, and what constitutes the best means to fulfill them. It has not been an easy task, but it has been one which I believe well serves the Nation. I am proud to be associated with Mr. ROGERS and the other members of the subcommittee and, with but a few reservations, am pleased with the bill we are today proposing to the House.

The issues involved in this legislation are numerous and complex, and at times as intangible as the air we breathe. I therefore wish to briefly review and comment on what I believe to be the major themes guiding our debate.

WHAT THE CLEAN AIR ACT SET OUT TC DO

The 1970 Clean Air Act, which was the culmination of a years-long environmental effort throughout the country, began a concerted effort to clean up the Nation's air in this decade. It directed the Environmental Protection Agency to establish air quality standards for the most pervasive and dangerous pollutants. The standards were to protect not only the health of the American people but also against the damages pollution causes to crops, vegetation, and building materials. These standards were to be enforced within specific time limits, generally by 1975.

Of crucial importance, the States were given primary responsibility for achieving and enforcing these standards. They were to devise, subject to final review by EPA, a series of implementation plans designed to insure that the standards would be met on time.

The Clean Air Act of 1970 established a four-tiered pollution control program. First, each stationary source—utilities, refineries, smelters, and so forth—was directed to comply with emissions limitations on its effluents by adopting a continuous method of pollution control. These sources, in other words, were to adopt whatever equipment or use whatever fuel was necessary to meet the pollution standards. Only by each source assuming responsibility for its own emissions in this manner could the regional air quality standards be achieved.

Second, the Congress established deadlines for severely reducing the amount of pollution caused by automobiles. The law mandated that the three tailpipe pollutants—hydrocarbons, carbon monoxide, and oxides of nitrogen, or NO_x—be reduced 90 percent from their uncontrolled levels. This was to be accomplished by 1975 for hydrocarbons and carbon monoxide, and by 1976 for NO_x.

Clearly the major emphasis of these amendments was on the control of the two most obvious and widespread sources of air pollution—automobiles and stationary facilities. But it was also evident at the time that even if these sources were controlled to the levels contemplated under the law, several areas of the country—particularly around our major cities—would still experience pollution levels in excess of the ambient standards. The Clean Air Act therefore authorized the States to require the implementation of transportation and land use programs to control such important factors as commuting patterns and the siting of large facilities in order to insure that the standards would be met.

The Congress embarked on this comprehensive program because it was apparent that earlier attempts to control air pollution, using less stringent methods, were inadequate. Involved were not merely questions of esthetics, but also the growing realization that air pollution posed a severe threat to the health of the American people.

THE PROGRESS ACHIEVED TO DATE

In the intervening 6 years, significant progress has been achieved in meeting the Nation's air quality goals, although much remains to be done. Nationally, the air is cleaner now than it was in 1970. There has been a 25-percent decrease in atmospheric levels of sulfur oxides, and a decrease of more than 14 percent in particulates—the two major pollutants from industrial sources. Overall, new cars marketed today are 67-percent cleaner than those sold in 1970.

On the other hand, of the country's 247 air quality control regions, 188 remain out of compliance with the stand-

ards for particulates, 34 for SO_2 70 for oxidants and carbon monoxide, and 16 for NO_x. Disturbingly, an analysis of these figures reveals that although most of these areas surround large cities, some cities have even shown increases in pollution while significant amounts of air pollution continue to be measured in rural areas.

An industry-by-industry examination of the status of compliance with the Clean Air Act's requirements shows that although many facilities have been able to make the necessary adjustments, significant portions of many of them remain in violation of the law's requirements. Although there are some 200,000 stationary sources of air pollution in the country, only 15,000 of the 20,000 major sources have been brought into compliance or placed on compliance schedules—and that most of these violators are the largest polluters and presumably those in the best position to come into compliance. Indeed, such statistics raise the gravest questions as to whether those who have chosen to comply within a given industry have placed themselves at a competitive disadvantage with respect to those who remain outside the bounds of the law's requirements.

This is what must be weighed when we consider that 200 of the 480 coal-fired powerplants, 150 of the 200 steel complexes, 19 of 28 nonferrous smelters, 130 of 250 large refineries, 1,000 of 3,500 commercial boilers, and nearly half the 320 municipal boilers in the country all remain in violation of the Clean Air Act.

Although the cost of pollution control is often cited by industry as being prohibitive, the cost of this program to date has not been excessive. Total national expenditures for air pollution control in 1975 were $15.7 billion—around 1 percent of our total output of goods and services—and a rate which has been constant for the past several years—and less than is being spent on water pollution control. Meanwhile, it has been conservatively estimated that the cost of air pollution in health and material damage exceeds $25 billion annually.

The fact remains that whether or not these recalcitrant polluters clean up their act, the American people are already paying—through either higher medical costs or days lost to illness or death, or because of damage to crops, animals or other property—the high price of air pollution. Air is a resource that does have a value, and the choice before us is whether that value will be internalized in the price of materials or externalized through widespread harm to the health of the American people. The question is not whether but simply in what manner this burden is to be borne.

All of these efforts were complicated and somewhat compromised by the oil embargo of 1973–74 and the ensuing recession. Utilities which had come to rely on oil rather than install scrubbers which would allow them to burn coal demanded relief from pending pollution control deadlines. Automobile manufacturers eagerly sought extensions for compliance with the statutory standards in exchange for greater promises to improve the fuel economy of their gas guzzlers. In the crisis atmosphere and state of energy siege which gripped the country—and which washed over the more reasoned voices who insisted that energy conservation and environmental protection were not mutually exclusive, but compatible—the Congress relented, postponing Detroit's requirements for a year, and giving the Nation's coal-fired powerplants until 1979 to come up with acceptable ways to burn our abundant coal reserves.

It was the issues raised during this debate—the balance between concerns over energy, the economy, the environment, and ultimately the question of the quality of future growth—which would shape this years deliverations on this legislation.

THE CHALLENGE TO THE CONGRESS

The progress which has been achieved to date, and the realization of how far we remain from realizing the Clean Air Act's goals, reflects both the essential nature of congressional action in this area if our air is to be cleaner, and the need for such programs to be responsive to changing circumstances and conditions if they are to be effective. Although some critics have contended that if good faith efforts had been consistently undertaken by industry we would not be encountering deadlines which could not be realistically met, it is clear that several real problems have emerged which have been contributed to the delays in meeting the law's requirements.

The fact remains that the mid-1975 deadlines for complying with the standards in the Clean Air Act have come and gone with significant numbers of major sources out of compliance, and with our automobiles well short of meeting the statutory standards.

At the same time, the growing body of scientific information clearly shows that the causes and effects of air pollution are more complex than previously thought. This evidence has revealed that air pollution hardly respects political boundaries—that it is borne in the atmosphere over long distances, contributing to environmental hazards sometimes hundreds of miles from its original source. Without continued efforts to reduce the loading of harmful pollutants into the air, it is conceivable that rather than becoming uniformly clean, our air could turn uniformly dirty.

Additionally, all of the data on health effects continues to show that whatever safety margins may have been thought to exist by virtue of the primary—or health—standard are small indeed. Epidemiological studies have concluded that there is no threshold level below which adverse effects do not occur, and that particularly susceptible populations, such as the very young and the elderly, would be afforded little relief even if the standards were met. Moreover, evidence that air pollution contributes to a variety of heart and lung diseases—pulmonary dysfunction, asthma, emphysema, chronic bronchitis—has been compounded by studies which have tentatively linked air pollution and cancer. If anything, therefore, both the Congress and EPA should err, if at all, on the side of caution in both establishing and enforcing our air quality standards.

The challenge to this Congress, then, is to maintain adherence to the goals and standards of the law, while making the necessary adjustments and midcourse corrections which would insure that the goals will be met as quickly, and economically, and responsibly as possible. Our intent is to neither paralyze industry by applying unfairly burdensome requirements, nor jeopardize the health of the American people by allowing industry to construct massive shelters which would shield them from the implementation of the law.

I believe we have generally succeeded in this endeavor.

THE COMMITTEE BILL RESPONDS

In every area in which there were serious problems with compliance with the law's deadlines, the Commerce Committee has provided for a series of extensions from them. At the same time, we have imposed a new series of obligations upon those who seek these extensions in order to insure that they will not be abused and in the hope that at the expiration of these grace periods these sources will be in full compliance.

We have been most generous. If adequate pollution control technology has not been demonstrated; if there is a shortage of technology; if the equipment is unavailable due to a strike or emergency; if construction has been delayed; if financing is unavailable; if a source wants to try out new technology—for all these reasons an extension of up to 5 years may be granted.

These extensions are fully responsive to the problems we heard from most segments of industry. These provisions meet their needs.

However, if these sources were primarily at fault for the circumstances which led them to seek these extensions, they are liable for an excess emissions fee in an amount which is designed to insure compliance as quickly as possible, and which should prevent any extension from creating a competitive disadvantage for those who are complying—and are therefore absorbing the costs for pollution control. All sources receiving extensions, moreover, must take steps to alleviate the reasons for the delay, and use the best feasible pollution control measures in the interim.

Such a scheme provides, therefore, extensions for all the legitimate obstacles which have prevented compliance to date, while cracking down on those who would seek to take advantage of the delays provided by law.

Our approach is balanced, reasonable, and fair.

We have nevertheless refused to back down on two sore points of contention with the industry: the use of tall stacks and intermittent controls as an acceptable means of pollution control. The Congress firmly intended in 1970 that all stationary sources adopt a continuous method of pollution control—either the application of filtering technology or the continuous use of cleaner fuels.

There has never been any misunderstanding, either by EPA or the courts,

of our policy in this regard. And yet, the utility industry in particular has tried to gain acceptance for operating methods which only disperse harmful emissions over a larger area, which are unreliable in practice, and which mask each source's contribution to a region's air quality problems. The committee has unequivocally rejected the use of tall stacks and intermittent controls as a final means of compliance with the Clean Air Act's requirements. I feel that the committee has finally, after a half-dozen years, laid this argument to rest.

We have also continued to insist that all new sources be required to use the best available control technology on their plants. It makes the best of sense that any new complex, as part of its planning, factor in the best pollution control achievable. The committee's action in this regard reflects the judgment that pollution control should more and more be considered as a regular cost of doing business, and not simply as exception to expected capital outlays.

In order to encourage the development of new, more fuel-efficient, and more effective technology, the committee has provided a series of incentives for technology innovations. We fully expect major breakthroughs to result in part from the use of the opportunities provided in this bill.

Many areas of the country face the prospect that even if all automobile standards and stationary source controls were met, additional steps to modulate the rate and patterns of auto traffic and the location of facilities—such as shopping centers—which attract cars, and hence pollution, would have to be undertaken to meet air quality standards. In and of themselves these programs hold out the prospect of significantly affecting the way we go about our daily business.

However, in the absence of adequate public transportation in most of these areas, and because of the extensions we have granted for both stationary sources and automobiles, it seemed particularly unfair to compensate for these delays by maintaining strict adherence to the original transportation and indirect source control programs. And so we have directed EPA and the States to extend these regulations for several years, provided that our cities begin to commit themselves to improving their mass transit systems.

But it is important to remember that in the last analysis, transportation controls not only reduce pollution but conserve energy by causing a switch from single-passenger commuting to group travel—an approach that is not only sane and prudent, but reflective as well of the compatibility between our environmental and energy goals.

The subcommittee also adopted an amendment I offered to allow States to delete gas rationing and vehicle retrofits from these plans. Such measures are extraordinarily unpopular; their imposition would cause widespread social and economic disruption. Their imposition by Federal agencies far removed from the scene would be not only unworkable, but precisely the kind of solution which erodes peoples' faith in the legitimacy and desirability of environmental legislation. As far as these two discredited strategies are concerned there simply has to be a better accommodation among the conflicting needs involved. My amendment will insure that one will be found.

In one of the most crucial areas of this legislation, the prevention of significant deterioration of air quality, the committee has outlined a major program designed to insure that our air which is cleaner than required by law will remain clean. We have chosen to set aside from the ravages of air pollution the most pristine—and fragile—land resources in the Nation so that they may be protected and enjoyed by future generations of Americans. Our national parks, wilderness areas, and wildlife refuges should remain free from the encroachment of industry.

In response to the need for economic expansion, however, we have initially directed that most of the rest of the land in the country be open for vigorous and sustained amounts of growth. At the same time, we have required the States to carefully review their future planning, so that development occurs in an orderly and rational manner, with due regard to all the factors—energy development, economic growth, and environmental protection—which must be weighed in these decisions. By requiring all new sources to use the best available control technology we have insured that as many facilities as possible will be able to use the limited air resources available to them.

Let there be no mistake: If we do not adopt a comprehensive nondegradation policy, it will be too late to reclaim the air once it has deteriorated to the level of the ambient standards—and too expensive as well. This legislation strikes the necessary balance between fostering economic growth and protecting our scarce clean air reserves.

On the other hand, in several crucial respects, I believe this section could be made stronger. By permitting the States to classify some of their land area for industrial growth to pollution levels rivaling our larger cities, the bill allows a degree of flexibility which is inconsistent with the purposes behind the policy. I will therefore be supporting, along with Representative MAGUIRE, a series of strengthening amendments which would eliminate class III and provide for slightly more Federal protection of certain precious land areas. I believe there is compelling evidence—on not only a health basis but in every economic analysis of this section's impact—that we have been too lenient in drafting these provisions, the bitter criticisms of the Chamber of Commerce notwithstanding.

Finally, there is the issue of automobile emissions. For over a year I have consistently advocated tighter controls on tailpipe emissions—a position which I believe has been vindicated not only by the latest technological developments but by all the data we have on the need to reduce these harmful pollutants.

The committee bill in my judgment represents too great a capitulation to one of the most intense lobbying and propaganda campaigns this Congress has witnessed—a capitulation based more on emotion than reason, more on distortion than fact.

Moreover, the committee's position only invites the industry to return once again in 3 years and repeat their present performance. The committee bill, in other words, only mortgages into the future the final reckoning with the statutory standards.

I believe we can take a firmer stand. As my colleagues are well aware, I will be offering an amendment which maintains pressure on the industry to comply with the thrice—delayed statutory standards, but within a timetable that is both reasonable and responsive to the need to protect public health.

I urge my colleagues to join in supporting the Waxman-Maguire automobile emissions amendment.

THE ISSUES BEFORE THE HOUSE

More than ever it is evident that the environmental concerns of the 1960's are the public health issues of the 1970's. Clean air is no longer merely a question of intangibles or esthetics, but an issue that is as important as the purity of our food, the cleanliness of our water, the safety of where we work, and the quality of the health care we receive. Some still refuse, however, to believe the issue is as momentuous as that.

This, then, is the challenge before the House: will it retreat under the assault of some powerful voices in industry or will it reaffirm—with the adjustments necessary—the Nation's commitment to reclaiming, protecting, and enhancing our clean air resources? Will we sacrifice the long-term benefits to be obtained by staying the course we have previously charted for an ill-conceived, short-term deferral of responsibility for these efforts?

I trust we will not.

The Clean Air Act of 1970 reflected the realization that this job must be done; the Clean Air Act Amendments of 1976 affirm that the job can still be done.

Thank you, Mr. Chairman.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I just want to compliment the gentleman from California (Mr. WAXMAN) on his excellent statement and associate myself with the gentleman's remarks. I know of the great work the gentleman has put into the drafting of this bill and I share the same feelings the gentleman has expressed with regard to some of its deficiencies, which I hope can be corrected during the process of amendment here on the floor.

Mr. Chairman I view this bill, H.R. 10498, the Clean Air Act Amendments of 1976, with mixed feelings and from a variety of perspectives. The reason for my mixed feelings is that although I believe much, if not most, of H.R. 10498 is good legislation and deserving of enactment into law, several parts of this

bill are serious retreats from the landmark legislation we enacted in 1970. The various perspectives come from my position as a Representative from one of the most heavily polluted districts in the United States, from my position as chairman of the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology, and from my role as a politician who tries to be pragmatic about legislation. H.R. 10498 is a very complex and important piece of legislation that represents the best efforts of the Interstate and Foreign Commerce Committee. Although I do not support all aspects of this bill, I have nothing but praise for the members and staff who molded this compromise legislative package.

As one who introduced a major package of amendments to the Clean Air Act, H.R. 4369, I know that the committee carefully and thoroughly considered all of the proposals before it. The hearing record was quite extensive, and the markup process was slow and deliberate.

As the report which accompanied H.R. 10498, House Report No. 94–1175, demonstrates, this legislation is based upon extensive evidence of its need.

H.R. 4369, THE CLEAN AIR ACT AMENDMENTS OF 1975

H.R. 4369, the Clean Air Act Amendments of 1975, was introduced by myself and Mr. OTTINGER as a response to the Ford administration's Clean Air Act package and in an effort to strengthen the existing law in several particulars. The Brown-Ottinger bill, H.R. 4369, was subsequently introduced as H.R. 4836 and H.R. 5220 with the following Members as cosponsors: STEPHEN J. SOLARZ, SIDNEY R. YATES, JAMES H. SCHEUER, HERMAN BADILLO, YVONNE B. BURKE, EDWARD I. KOCH, LARRY WINN, Jr., ROBERT F. DRINAN, JONATHAN B. BINGHAM, BENJAMIN S. ROSENTHAL, DOMINICK V. DANIELS, RONALD V. DELLUMS, FREDERICK W. RICHMOND, GLADYS NOON SPELLMAN, PATRICIA SCHROEDER, FORTNEY H. STARK, DON EDWARDS, BELLA ABZUG, EDWARD W. PATTISON, LOUIS STOKES, KEN HECHLER, and JOHN F. SEIBERLING.

Further information on H.R. 4369, the Brown-Ottinger Clean Air Act amendments, can be found on page 8264 of the March 21, 1975, CONGRESSIONAL RECORD, and on pages 207 to 218 of the hearings before the Subcommittee on Health and the Environment, serial No. 94–25.

Among other things, the Brown-Ottinger bill established an excess emissions fee; required the revision of the national particulate standard to include small particulates; mandated standards for currently unregulated pollutants, such as suspended sulfates, nitrates, and other "secondary" pollutants; extended transportation control plan deadlines by 4 years instead of the administration proposed 10 years; required new air pollution monitoring; required new emission controls on uncontrolled motor vehicles; added an employee protection provision; and other amendments to existing law designed to strengthen, rather than weaken the Clean Air Act Amendments of 1970.

H.R. 4369 did not extend auto emissions standard deadlines and it did not grant extensions to stationary sources which violated air pollution laws. Further, it did not allow significant deterioration of our Nation's unpolluted regions. This bill, and the Members who cosponsored it, stood in sharp contrast to the package of weakening amendments proposed by the Ford administration.

Perhaps the best short summary of this legislation was presented by the National Clean Air Coalition in testimony:

> The Brown-Ottinger Bill, unlike the Administration bill, addresses responsibly the public health and welfare problems that result from our increasing use of energy, especially energy generated from coal. It includes means for allowing flexibility in meeting the Act's deadlines, while retaining significant and workable measures to encourage the earliest possible compliance.

Without elaborate analysis, it is obvious that much, but by no means all of H.R. 4369 is included, in some form or another, in H.R. 10498. I am not pleased with the form of some of these amendments, but given the presence of numerous weakening amendments in H.R. 10498 to existing law, I should be grateful for the few strengthening provisions that the committee did adopt.

I would hope that the full House sees fit to adopt the strengthening amendments to section 108, the significant deterioration provision, and section 203, the automobile emissions section, and make H.R. 10498 a package that we can be proud, rather than reluctant to support.

SUBCOMMITTEE ON ENVIRONMENT AND THE ATMOSPHERE

The Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology, which I chair, has conducted numerous investigations into subjects directly related to the legislation before us. Several of the reports of this subcommittee have been sent to Members in the House in the hopes that the information gathered from the researchers would help illuminate the regulatory approach which should be taken.

I do not wish to take the time necessary to thoroughly discuss this work, some of which was done in support of justifying authorizations for research, development and demonstration under the Clean Air Act, and some of which was done as oversight on important issues relevant to the Clean Air Act, but I would like to reference some of this material for those who may want to review this issue in depth.

On sulfates, including emissions from mobile sources and from stationary sources, the Subcommittee on Environment and the Atmosphere has published the Congressional Research Service prepared report entitled, "Research and Development Relating to Sulfates in the Atmosphere," Serial F; the 1,029 page hearing record on "Research and Development Related to Sulphates in the Atmosphere," No. 39; the Congressional Research Service prepared "Summary of Hearings on Research and Development Related to Sulfates in the Atmosphere," Serial L; and the very excellent staff report of our oversight investigations entitled "Review of Research Related to Sulfates in the Atmosphere," Serial AA.

On the broad range of pollutants which are not now regulated, the subcommittee held major hearings on the costs and effects of chronic, low level pollution in the environment. As background to these hearings, the Congressional Research Service prepared an excellent 402-page report entitled, "Effects of Chronic Exposure to Low-Level Pollutants in the Environment," Serial O.

A summary of the findings of this report can be found in the November 5, 1975, issue of the CONGRESSIONAL RECORD on pages 35243 to 35245. In addition, the 1,457-page hearing record, entitled "The Costs and Effects of Chronic Exposure to Low-Level Pollutants in the Environment," No. 49, is also available from the committee. Finally, a very concise and useful staff report has been published, entitled, "Report on the Costs and Effects of Chronic Exposure to Low-Level Pollutants in the Environment," serial GG.

JOINT ACTIVITIES BY THE COMMITTEE ON SCIENCE AND TECHNOLOGY AND THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

The two environment subcommittees of the two committees have conducted joint activities in two areas of concern to H.R. 10498. One of these activities concerned section 107, the stratosphere and ozone protection section, which is substantially identical to H.R. 3118, the Stratospheric Research and Protection Act of 1975, which was reported by the Committee on Science and Technology by unanimous rollcall vote of 25 to 0 on October 9, 1975. The report which accompanied this bill, House Report 94–575, Part I, is available from the document room and should provide Members with ample justification for section 107 of H.R. 10498.

The reason for the House report by the Science and Technology Committee is that the jurisdiction for environmental research and development is in that committee. Therefore, when H.R. 3118 was originally introduced by Congressman ROGERS and Congressman ESCH, who I might note is ranking minority member on the Subcommittee on Environment and the Atmosphere, the bill was jointly referred to the two committees, and subsequently to the two environment subcommittees involved.

During the course of our deliberations on H.R. 3118, and related legislation, the staffs of the two subcommittees worked very closely together. After initial markups were completed in both subcommittees, Chairman ROGERS of the Subcommittee on Health and the Environment, and myself, as chairman of the Subcommittee on Environment and the Atmosphere, called an unofficial joint "markup" session to agree on a single bill. I believe H.R. 3118, as reported, and section 107 of H.R. 10498, accurately reflects the concerns of the scientific community, and adequately addresses the threat of manmade pollutants to our fragile, but vital stratospheric ozone shield.

The pictures from Mars, a planet with-

out an ozone shield to deflect harmful ultraviolet radiation from its surface, should be remembered when we consider the consequences of inadvertent modification of our own atmosphere. It may take centuries to occur, but if our own ozone shield is destroyed, this planet too may become barren and lifeless.

The legislation instructs the EPA to conduct a broad research program to study the cumulative and separate effects of all "substances, practices, processes and activities which may affect the stratosphere, especially ozone in the stratosphere." This broad language is supplemented by specific instruction to consider release of halocarbons, other compounds containing chlorine or bromine, and aircraft emissions; and to conduct whatever physical, chemical, atmospheric, biomedical, or other research is necessary to understand causes of changes in the ozone layer and the relation between ozone layer changes and effects on public health.

EPA is also instructed to conduct research to provide an information base for possible future regulatory action, specifically research on methods to recover, recycle or prevent the escape of substances harming the ozone layer; substitutes for such substances, and other methods to control or eliminate the need for substances which may affect the ozone layer.

The research program is to be conducted in conjunction with other Federal agencies, such as NASA, NOAA, NIEHS, NCI, the Department of Agriculture, and the Department of State. Further, the National Academy of Sciences is to conduct its own study and to review the research by the Federal agencies.

The legislation provides for a continuing program in NOAA of research and monitoring of the stratosphere to provide early warning of potentially harmful changes in the ozone layer. The monitoring program is to encourage the cooperation of other Federal agencies, universities, industry, and others which have expertise.

Finally, the legislation provides for promulgation of regulations to control potentially harmful substances. Before proposing regulations, EPA shall consider the results of research and studies carried out under this program. At the end of 2 years, or earlier if there is cause, the administration of EPA shall "propose regulations for the control of any substances, practice, process, or activity—or any combination thereof—which may reasonably be anticipated to endanger public health or welfare." I believe this careful reasoned approach contained in section 107, is well deserving of support.

The other joint activity by the two subcommittees concerned the serious allegations which were made about an EPA health effects study, the "community health and environment surveillance system"—CHESS—study. The allegations were that the EPA researchers involved systematically and intentionally distorted the results of the CHESS study to indicate adverse health effects which could not be substantiated by the data. The Subcommittee on Health and the Environment and the Subcommittee on Environment and the Atmosphere held a marathon joint hearing on April 9, 1976, during which nearly two dozen witnesses testified. The hearings found no evidence to substantiate these allegations and, in fact, received strong testimony in favor of the current air quality standards, and even strong support for changing these standards to make them more, rather than less stringent.

The conclusions reached as a result of this hearing follows:

CONCLUSIONS

Personal conduct of Dr. John F. Finklea

1. There was no evidence that Dr. Finklea tampered with, distorted, or withheld data.

2. There was general agreement that no basis exists to question Dr. Finklea's integrity or scientific honesty.

3. Those who took issue with Dr. Finklea's actions during the preparation of the CHESS studies did so largely on the grounds that he may have overinterpreted the data in reaching conclusions. Those same witnesses, however, testified that the issue of overinterpretation was a matter of scientific judgment on which reasonable persons could differ.

4. There was agreement that Dr. Finklea had rewritten many individual drafts in the course of preparing the CHESS monograph, and that important qualifiers may have been left out of the drafts in the process. However, there was an equally strong consensus that ample opportunity for the individual authors to replace important qualifiers existed in the review process, and that many qualifiers were replaced at that time, before the monograph was published.

5. Testimony revealed that Dr. Finklea was demanding of both himself and his staff. This caused some conflict among the staff.

Validity and adequacy of the CHESS studies

6. The CHESS studies are pioneering efforts in the very difficult field of environmental epidemiological research. As such, they are subject to some legitimate scientific criticis: .s. These criticisms, however, do not totally invalidate the studies.

7. There was agreement that the CHESS studies confirm an association between sulfur oxide emissions and adverse health effects.

8. There was agreement that no data had been distorted or tampered with in the CHESS studies.

9. There was some testimony that much of the criticism of CHESS was focused on the first draft of the monograph (which had been sent to 150 outside critics for comments).

10. There was agreement that many, if not most, of the criticisms of the draft were corrected before the monograph was published. Nevertheless, some questions of scientific judgment (as to whether CHESS data had been overinterpreted) remained.

11. There was agreement that reanalysis of the data would be a major task.

Impact of CHESS on regulations

12. The National Ambient Air Quality Standards (NAAQS) for sulfur dioxide were set before CHESS, and were based on other data.

13. There was general agreement that the sulfur dioxide primary NAAQS should not be relaxed at this time.

14. There was testimony that, although supported by the CHESS results, EPA's policy with respect to tall stacks and intermittent control is based on the Clean Air Act and data other than CHESS.

15. There was testimony that while the CHESS studies point out deleterious health effects of sulfates, we do not yet have enough information to set an ambient standard for sulfates (as distinguished from sulfur dioxide).

EPA research program

16. Certain weaknesses in EPA's CHESS research program were noted and alternative measures for addressing such weaknesses were considered. An initial measure includes separating the functions of environmental regulations and environmental research.

17. One major criticism was that the CHESS study had not been conducted openly. Thus, EPA did not take full advantage of the perceptions of outside observers in the planning and conducting of the studies.

18. There were several comments criticizing EPA's management of the CHESS program.

19. Several specific, technical questions about the conduct of CHESS were raised.

20. The possibility of further hearings on this and related matters was left open.

21. The unanalyzed CHESS data should be analyzed and interpreted as quickly as posssible to provide a check on the validity of the monograph.

The entire "Report on the Joint Hearings on the Conduct of the Environmental Protection Agency's 'Community Health and Environment Surveillance System' (CHESS) Studies," may be obtained from either of the two committees involved.

AMENDMENTS TO H.R. 10498

I will be supporting, quite strongly, two key amendments to H.R. 10498. The first amendment, the Maguire-Waxman amendment, attempts to improve the significant deterioration section, section 108 of the bill. The second amendment, the Waxman-Maguire amendment, attempts to deal responsibly with the auto emissions issue, section 203 of the bill.

Given the remarks I have already made here today, it should not be too difficult to understand why I am supporting these two amendments. Both provisions should have been in the committee bill, and probably would have been if the Members involved had voted without the presence of intense and extensive economic and political pressure to weaken the requirements for clean air. The reports which I have referenced above, as well as the documents made directly available to the Committee on Interstate and Foreign Commerce, thoroughly support the Maguire-Waxman and the Waxman-Maguire amendments.

The Maguire-Waxman amendment to the significant deterioration provision, section 108, is quite similar to the provision in the Senate amendments to the Clean Air Act, which were supported just yesterday by an overwhelming vote in the Senate. It seeks to guarantee that in future years we do not let clean areas, not yet blighted by air pollution, become dirty. The argument that these presently unpolluted areas would only become as polluted as the primary ambient air quality standards, which is not harmful, is irresponsible. First of all, we do not know what currently unregulated pollutants should be regulated. H.R. 10498 attempts to force the EPA to proceed

rapidly in finding out, but this will take time. Second, we do not believe the current standards are the ultimate standards, and all evidence indicates that the current standards are too lax. Third, besides human health, there are many adverse effects besides those to humans.

As testimony to the Subcommittee on Environment and the Atmosphere pointed out, in the field of agriculture "large-scale damage to productivity is occurring at pollutant concentrations much below ambient standards or commonly observed ambient levels."

The Maguire-Waxman amendment to section 108 moves in the right direction in attempting to prevent this large-scale damage to our precious agricultural economic base.

The Waxman-Maguire amendment to section 203, on automotive emissions, has received extensive comment from me in the past in numerous statements to this body. There is no sound reason to oppose this amendment, unless one is concerned about the profit margin from auto sales. The technology is proven and available at an economical level; fuel economy is not a factor with the use of the proper technology; and the need to improve air quality by reducing auto emissions is more real than ever. The Waxman-Maguire amendment puts the entire United States about 2 to 3 years behind the controls already on and operating in California. When we started Federal controls on auto emissions in the 1970 law, California was only 1 year ahead of the rest of the United States.

I do not wish to repeat the arguments that I have made in the past. Instead I wish to reference some of them in the hopes that anyone who is interested in the facts will go back and review the record.

Among the statements I have made on auto emissions in recent years are those on pages 29789 of September 13, 1973, CONGRESSIONAL RECORD; 30329 on September 19, 1973; 31927 on September 27, 1973; 35986 on November 5, 1973; 41305 on December 13, 1973; 41737 on December 14, 1973; 8074 on March 25, 1974; 10718 on April 10, 1974; 12247 on April 29, 1974; 12759 on May 1, 1974; 20669 on June 21, 1974; 21118 on June 25, 1974; 21363 on June 26, 1974; 21789 on June 28, 1974; 832 on January 20, 1975; 1174 on January 23, 1975; 2713 on February 6, 1975; 5952 on March 10, 1975; 6160 on March 11, 1975; 7089 on March 18, 1975; 7632 on March 19, 1975; 8959 on March 26, 1975; 17963 on June 9, 1975; 21662 on July 8, 1975; 25043 on July 25, 1975; 27231 on September 3, 1975; 30829 on September 29, 1975; 1428 on January 28, 1976; 4447 on February 25, 1976; 11962 on April 29, 1976; 12058 on April 30, 1976; 15397 on May 25, 1976; 15443 on May 25, 1976; 18446 on June 15, 1976; 24811 on July 30, 1976; 24827 on July 30, 1976; and 25112 on August 2, 1976, to name only the main comments I have made on auto emissions and the related issues in the past.

I urge, in the strongest words possible, the adoption of the Waxman-Maguire amendment to the bill before us.

CONCLUSION

Mr. Chairman, I have attempted to briefly present here today an overview of my concerns about H.R. 10498. This presentation has omitted many important and relevant issues in an effort to focus on the concerns of others. I have spent more than 20 years of my life either directly or indirectly attempting to combat air pollution. As the years have progressed, I have grown more involved, more pragmatic, and more cynical.

I stand here today convinced that the goals of the 1970 amendments to the Clean Air Act are attainable with only a few modifications in the timetables to control emissions. I am further convinced that the currently regulated pollutants are only a small fraction of those which will have to be regulated in the future. To establish this fact, better and more extensive research will have to be done. But the problem we are faced with in H.R. 10498 is not one of inadequate research, but one of commitment to protecting the public health, the general environment, and future generations from pollution.

It is my sincere hope that the votes which are to come will demonstrate the same commitment the Congress demonstrated in 1970.

Mr. MAGUIRE. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Mr. Chairman, few bills that are so wideranging and touch so many social and economic problems will come before this House this session to deal with health, welfare, jobs, industrial growth, energy development, national parks and Federal-State relationships. There will be few bills that will come before this body in this session that have been more carefully considered than this bill. We are operating in areas in this bill where often there is a lack of scientific certainty and in situations where cause and effect cannot always be definitely proved, although strongly suspected.

There are some things that industry and EPA are asked to do under this bill where the technology is coming over the horizon. It is coming into view, but it is not yet available at our local supermarkets and has not been absolutely convincingly demonstrated; so in this situation, the committee has moved with great caution.

Mr. Chairman, I want to compliment the gentleman from Florida (Mr. ROGERS), who has proved to be a monument of patience, fair-mindedness, and tolerance.

In the markups on this bill, we have revised the section to meet the problems that have been called to our attention. We have revised the revisions, and then on further information we revised the revised version. I might say at this point that it is not just a Democratic bill either. The gentleman from Pennsylvania (Mr. HEINZ) pointed out in his supplemental views in the report the contributions and leadership of his colleagues on his side of the aisle. He spoke of former Member James Hastings and all that he contributed to the automobile emission standards. On the Senate side he spoke of Senator BUCKLEY, Senator BAKER, and Senator MCCLURE, and their contributions. He modestly did not mention his own very significant contributions to this bill.

This entire process has yielded a product that is not very dramatic, perhaps; that does not satisfy the ideological purists, either on the environmental side or among the free enterprisers, but that is moderately balanced and will bring stability in the relationships between environmental interests and industrial growth. It is a bill that moves steadily and firmly toward cleaner air in this country. It is not a compromise bill in the sense of splitting the difference, but only in the sense of establishing a proper balance between the interests involved.

I wish this bill was not necessary. It would be nice if the free market system would solve these problems and we could solve the regulatory redtape and delay which will inevitably follow, and we might as well brace ourselves for this now, but what we are seeking to accomplish here is worth some trouble, worth a lot of trouble. I hope we will stand fast on that point.

The dynamics of the marketplace, unfortunately, just do not work where environment is concerned. A conscientious corporate citizen who tries to do something about environmental problems is put at a competitive disadvantage to the unscrupulous polluter. It is important that all play by the same ground rules if we are to have a competitive game.

The process by which this bill was formed had continuous consultations with all affected parties, constant revisions to meet valid objections, and has broad general agreement on both sections of the bill—a remarkable amount of agreement for such a wide-ranging bill.

There are several key areas, however, where consensus has proved impossible. One is section 108, the prevention of significant deterioration section; another is section 203, dealing with automobile emissions. The details on these two provisions will go to some length, but let me just make a few general observations. The news on the health effects of polluted air is getting steadily worse, and while we are not able to measure this with the scientific exactitude we would like, we do know that the more we learn about it, the worse the news becomes. The more we learn, the more we find at fault, so we ought to err on the side of caution as far as air pollution is concerned.

Finally, Mr. Chairman, let us bring into focus what the clean air debate is really all about. This bill, in the simplest terms, is a health bill. It is a pro-health bill.

I represent a district which flourishes with the expansive pristine green of rural North Carolina, yet I also represent other citizens who reside in a highly urbanized city. I feel, therefore, that I can objectively be sensitive to the needs

of both areas. As I think of my own district, and more importantly, as I think of my country, so diverse with desert, country towns, booming metropoli, and untainted wilderness—I ask myself one question: What level of pollution can our people afford below which there is no danger to them, to their crops, to their buildings, to their oceans, to their world?

I do not know the answer to that question. But I do know that my throat burns when I drive home some nights. I do know that a black smokestack is strangely out of place alongside a quiet mountain stream. And I do know that the oceans, and the life in it, are not equipped to carry soot, sludge, and oil spills.

When the Congress first adopted the Clean Air Act of 1963, there was very good intention to get at the bottom of this problem, and learn as much as we could. In 1970, when we adopted the Clean Air Act amendments, we pooled the previous 7 years of knowledge to set timetables for enforcement of standards—standards merely to protect the health of our people and our natural environment. The bill before you today, 6 years later, seeks to guarantee implementation of what should have already been done.

This is a reasonable and balanced bill. It is not "anti-growth." It favors neither the environmentalists nor the industrialists—it works to the advantage of both. It allows for delays where technological achievement has not yet been proven, yet it encourages development of control technology. It allows for moderate degradation of air quality. It is cost-effective. It has the support of scores of major organizations and of the boards of elected officials. It puts the decisions back where they belong—into the hands of the people, through State and local representation in decisionmaking process.

The powerplants have a right to be here. The factories have a right to be here. The automobiles have a right to be here. And, because of that, we need to spur our economic growth and to continue development lest we surrender our vote as the world's greatest economic power.

But the oceans have a right. So do the forests. The heavens. You and me. A Supreme Court Justice used to cite the environment as a plaintiff of equal, if not greater value, than man. Let us not in hindsight reject the wisdom of his foresight.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I want to thank my good friend from North Carolina for yielding to me, and say that I support clean air also. However, I feel, Mr. Chairman, that we have a double standard here. We are cutting down on the class 2 areas at 90 percent of their primary standards, arbitrarily. We here in Congress, in other areas, the most polluted areas, are making them dirtier, allowing them to become 15 percent dirtier than they are at the present time. Am I correct in that?

Mr. PREYER. The gentleman is correct that the cleaner the air in an area, it proportionately is penalized. We will get into a discussion of that a little later. It does appear to have some unfairness to those areas, and I think it is something that we ought to be concerned about.

Mr. CARTER. If the gentleman will permit, I want to thank the gentleman for his very good answer. This is one of the very objections I have to this legislation, because it does not go squarely across the board.

I am afraid, if the gentleman will permit me, sir, that if we continue to have the pollution from Delaware through New Jersey and New York of this 115 percent of what is allowable now, this increase of 15 percent, I object to that.

Mr. PREYER. I think the gentleman has pointed up some problems we ought to discuss fully, and we will when we get to that amendment in the bill.

In the few minutes left, I would like to mention two further points. One, as I said, is the health effect of the pollution. The news gets worse and worse the more we learn about it. The basic answer to air pollution is not a no-growth economy. But the answer is technology progress. The enemy is not growth. The enemy is pollution. We will habitually stifle ourselves to death from pollution if we have a no-growth economy, even if we all end up making candles in the woods. It will just take a little longer for us to do it.

Therefore, this bill attacks this basic problem by encouraging—forcing, if you will—technological development. It allows for delays where technological achievement has not yet been proven, but it strongly encourages development of controlled technology. It applies the Dr. Samuel Johnson principle that if you know you are going to be hung in a fortnight, it concentrates your attention wonderfully. So in the automobile emissions section, deadlines and statutory standards are used for the purpose of concentrating the automobile companies' attention and for encouraging technology, or forcing it, if you will.

I oppose the Dingell amendment because it does not offer enough encouragement. For competitive reasons, the automobile companies are not likely to do things they do not have to do, in terms of meeting regulatory standards. On the other hand, the Waxman-Maguire amendment carries Dr. Johnson a little too far. It would hang him in a week, not a fortnight. The demands made in the committee's provisions are more realistic and attainable, using sounder technological means.

I hope the Members will support the committee's position on the automobile emissions.

The "no significant deterioration" policy of the committee bill is designed in part so that there will be no longer an incentive for new sources to abandon technological approaches to pollution control in favor of low-sulfur coal or in favor of simply moving to a clean air State. Along with the requirement that all new major pollution sources are required to use the best available technology, the "no significant deterioration" provision will encourage the development of technology and allow us to have both expanded growth and clean air.

Mr. CARTER. Mr. Chairman, I yield 2 additional minutes to the gentleman in order that we may have a colloquy.

If the gentleman would yield, I would like to ask the distinguished gentleman if, in regard to automobile emissions, by placing on them a catalytic converter we may well have made a mistake.

Mr. PREYER. I assume the gentleman is referring to the fact that the sulfate emission in the catalytic converter may be adding a new pollutant to the air that was not there before.

Mr. CARTER. Is that true?

Mr. PREYER. It is true that the catalytic converter does give off some sulfates; and, in fact, we were very concerned about that. As the gentleman knows, in committee Mr. Train gave that as a reason for the Dingell amendment. But if the gentleman will recall, we heard a great deal of testimony and evidence on that.

I believe the EPA itself admitted that the dangers from that were greatly overrated, and I do not think that is really a problem now. In fact, I understand a car without any catalytic converter gives off in test about the same amount of sulfates as a car equipped with one. So I think the arguments concerning that danger have been overridden.

Mr. CARTER. But the fact is that they do emit sulfates?

Mr. PREYER. Yes; they do.

Mr. CARTER. And that was a matter of concern?

Mr. PREYER. Yes.

Mr. CARTER. And is it not true that these sulfates, when they are mixed with mists, become sulfuric acid?

Mr. PREYER. Yes; the gentleman is correct.

Mr. CARTER. Therefore, we stand in danger of inhaling sulfuric acid fumes, whereas at one time, when the cars emitted nitric acid or, rather, NO_x, which in the presence of a mist becomes nitric acid, we inhaled nitric acid fumes. In other words, it might be stated that we swapped the devil for a witch; is that correct?

Mr. PREYER. Mr. Chairman, I would not adopt the gentleman's characterization on that point. The gentleman is right, of course, in saying that the sulfuric acid problem is one that we had not been concerned with. It was an unexpected byproduct and an unwelcome byproduct of the catalytic converter.

However, I think, after going into the subject in some detail and hearing a lot of testimony on it, it is generally agreed that it is an overrated danger. I believe we can ask EPA to study this subject and to come up with standards relating to sulfates, if they believe it is necessary.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, I certainly hope we will do that, and I want to thank the distinguishd gentleman for his answers. The gentleman from North Caro-

lina has been one of the finest gentlemen in this House, and I appreciate his interest in this subject.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. PREYER) has expired.

Mr. ROGERS. Mr. Chairman, I understand I have 6 minutes remaining, and I yield the balance of my time to the gentleman from North Carolina (Mr. PREYER).

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I would like to ask a question about section 110 of this bill. This week, a group of industry spokesmen from Congressman CONTE's and my district met with aides from our local offices. They expressed a very real concern about the present ambient air quality standard for photochemical oxidants. In their opinion, and I understand this to be the opinion of others, there is not an adequate data base to support this standard. This group contended that the Massachusetts State implementation plan based, in part, on the present photochemical oxidant standard, would have a severe effect on industry in western Massachusetts.

They and I, of course, recognize the need for ambient air quality standards to protect the public health and welfare. But I am concerned about the allegation that the data do not completely justify the photochemical standard, that a revised standard may be equally protective of public health while not harming industry and jobs.

Do I understand section 110 to state, that the Administrator will allay this concern of myself and others, by periodically reviewing the ambient air quality standards to insure that they are, in fact, supported by sound, scientific data? And if the data do not support the standard, as the case may be for photochemical oxidants or other pollutants, the standard can be revised?

Mr. ROGERS. Mr. Chairman, if the gentleman from North Carolina will yield, that is true, with reference to section 110.

Mr. BOLAND. Mr. Chairman, I thank the gentleman very much.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the Clean Air Act Amendments of 1976 (H.R. 10498) represent the first major review of the Clean Air Act of 1970. The scope of the amendments is quite broad, ranging from the establishment of strategies to control dangerous unregulated pollutants and to protect the quality of the Nation's remaining clean air to a reconsideration of the timetable for compliance with the existing requirements for stationary sources of pollution as well as of the timetable for reducing pollution from automobiles—the single largest source of pollution.

Most debate over these amendments has been over complex data concerning the cost and technological feasibility of control equipment for stationary and mobile sources of pollution. However, there has been far too little consideration of the primary purpose of the Clean Air Act which is to protect public health.

Today there is more scientific and medical evidence than ever before indicating severe health dangers of pollution. Perhaps these health dangers seem abstract because it is virtually impossible for fair-minded scientists and physicians to be absolutely certain of specific health effects of pollution. The dangers may also seem abstract because it may take years before the deadliest effects of pollution take their toll on a human life. It is increasingly clear, however, that while the death toll may be difficult to prove, pollution is slowly killing hundreds of thousands of Americans.

New evidence shows a strong relationship between pollution and cancer—one of the greatest killers of all. The National Cancer Institute estimates that 75 to 80 percent of all cancer is environmental in origin. It now appears to be no coincidence that my own State of New Jersey suffers the highest cancer death rate in the Nation and also has one of the highest levels of pollution. Expert testimony by witnesses at a hearing of the Commerce Subcommittee on Oversight and Investigation which I conducted in Newark, N.J., emphasized this relationship between pollution and cancer in the State.

In particular these hearings uncovered an alarming relationship between the automobile pollutant nitrogen oxides, NO_x, and nitrosamines—one of the most potent cancer causing agents known. Testimony indicated that NO_x combines in the air with the common pollutant, amines, to form nitrosamines. Reports of the National Academy of Sciences, NAS, in 1974 and 1975 pointed to the health dangers of another automotive pollutant—carbon monoxide. The 1975 NAS report concluded:

> The addition of any CO above background represents an additional stress on persons with heart and artery disease.

The NAS has estimated that in the aggregate automotive pollutants cause as many as 4,000 deaths and 4,000,000 days of illness per year. The individuals most vulnerable to the health effects of these pollutants are older persons, those with respiratory or heart ailments, and comprising nearly 20 percent of the population.

The dangers of pollution do not end with those polutants emitted from autos. As each pollutant is subjected to exhaustive scientific research, it becomes increasingly clear that the human body can tolerate very little pollution without adverse effects. The results of the Conference on Health Effects of Air Pollution conducted in 1975 under the aegis of the NAS found that—

> It is impossible at this time to establish an ambient air concentration of any pollutant—other than zero—below which it is certain that no human beings will be adversely affected.

Dr. John Finklea stated in testimony before the Health Subcommittee in 1973 that—

> Our new information does show that even low levels of pollutant can adversely affect health.

Congress has a responsibility to reasonably protect the Nation's health, and it is clear that this responsibility can only be fulfilled by reducing existing pollution and minimizing any additional pollution. We cannot afford to gamble with the health of the American people by ignoring these very real dangers.

There are some who suggest that pollution control is incompatible with the economic health of the country. I reject this notion. While most attention is focused upon the cost of pollution control, Congress must face the fact that pollution costs money—a great deal of money—according to reliable studies.

According to the Environmental Protection Agency, EPA, air pollution annually results in $20 billion in damages to health, property, materials, and vegetation. The Commerce Committee report on H.R. 10498 explains that considerable damage to crops may be occurring at levels significantly below national air quality standards. New evidence also shows that sulfur oxides and nitrogen oxides in the atmosphere cause a phenomenon known as acid rain. This rainfall acidity is having a very significant effect on forest, soils, and crops. The U.S. Forest Service reported "substantial reduction in timber volume caused by chronic low levels of SO_2 or acid rains," which compelled them to urge "a cautious approach to allowing any deterioration of air quality."

The Energy and Power Subcommittee of the Commerce Committee, which studied the effect of pollution on agriculture, reported that damage directly linked to industrial pollution "extending hundreds of miles beyond the sources of emission, has already reduced yields in forests and other crops in some areas by as much as 75 percent." This evidence of significant pollution damage to crops and forests emphasizes the fact that pollution is not merely an urban problem but rather a national problem.

In the debate over the economic aspects of pollution control, there are some who maintain that expenditures on pollution abatement programs divert financial resources into "unproductive" purposes. The fact is that pollution control helps the economy. In a recent study the President's Council on Environmental Quality reported that industry, Federal, State, and local spending for the environment, is currently providing the Nation with 1.1 million jobs for the economy as a whole. The study concluded that—

> When all factors are considered, including the impact on health and property, there does seem to be an outright economic advantage to pollution control.

In sum, effective pollution control is good for both economic and public health.

On the whole I believe that the Com-

merce Committee bill represents a well-balanced approach to the development of national strategies for pollution abatement. A brief view of the more important aspects of the bill is appropriate.

Section 101 concerning unregulated pollutants corrects administrative oversight in failing to regulate four specific pollutants which have been associated with serious health hazards. The section would require EPA to control pollution of vinyl chloride, arsenic, cadmium, and polycyclic organic matter unless the Administrator finds on the basis of new evidence that these pollutants are safe at current and future levels of exposure.

Section 102 of the bill would prevent EPA from being prevented from acting against potential endangerment to public health. The section emphasizes the responsibility of EPA to evaluate and to act on potential risks to health caused by pollution rather than acting only after proof of actual harm. I firmly support both sections 101 and 102.

I am disappointed over the committee's action in section 103 which provides excessive authority to the States and to EPA to grant stationary sources extensions in order to meet emission control requirements. The section fails to require adequate demonstration of need of additional time for compliance and permits long delay.

I am pleased to have been actively involved in the development of section 105. This section would require the payment of an excess emission fee for major stationary sources which received a compliance date extension based on circumstances not beyond the sources control. While I would have preferred a higher ceiling on excess emission fees, the section provides a reasonable step forward in preventing industries which devote little or no resources to pollution control from gaining a competitive advantage over publicly minded concerns which invested in effective control equipment.

Section 106 would dangerously permit compliance date extensions in areas which exceed the national air quality standards established to protect public health.

Perhaps the most important provision in the clean air bill is section 108 concerning whether to prevent significant deterioration in the quality of the Nation's remaining clean air. The committee position unfortunately adopts an approach which would contribute to the graying of America. Section 108 establishes three categories of air quality deterioration ranging from small permissible increases in pollution to massive permissible increases—from class I to class III.

I have been actively involved in the development of this section, but I believe that the committee failed to achieve a reasonable balance among economic, environmental and energy considerations. The class III category would permit significant deterioration in clean air quality and, in effect, would repeal section 101 (b)(1) of the act which established that one of the purposes of the act is—

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.

Congressman HENRY WAXMAN of California and I will be offering an amendment to eliminate the class III category of air quality degradation. This proposal—which is consistent with the bill which was approved by the Senate yesterday by a vote of 63 to 31—is designed to prevent significant deterioration of clean air quality while providing for full economic development. Without such effective air quality planning, uncontrolled or poorly controlled industrial development would quickly increase pollution to maximum permissible levels. Then further industrial development would be impossible without posing serious health hazards. This would force millions of Americans to choose between endangerment of their health and endangerment to their economic well-being, a bleak choice which can be avoided with reasonable planning. The class III category would minimize incentives for the development of improved technology to reduce pollution and permit maximum economic growth.

The class II category of air quality degradation would allow for significant economic development. EPA Assistant Administrator Roger Strelow explained that any one of the major point source catergories regulated by EPA can be accommodated within the committee class II designation with the exception of a new grassroots steel complex which is not planned. The class II category could accommodate even the once proposed, massive, 3,000 megawatts, Kaiparowits power project, the largest coal-fired powerplant ever planned. This project, which has been abandoned due to economic considerations and overestimated projection of energy requirements, would have provided enough energy for the entire Washington, D.C., area during normal periods of use.

The cost for the consumer for eliminating the class III designation would be minimal. A February 1976 EPA report indicated that the elimination would increase capital expenditures to the electric utility industry by only 0.2 percent over the committee's proposal, or by $27 million annually. This estimate is particularly important since the amount of air pollution generated by other industries is typically much lower, and thus their capital requirements would be lower.

It is clear that the elimination of class III would maximize long-term economic growth by precluding unnecessary pollution before it is too late and too expensive to reverse. More pollution now means less growth later.

The amendment which Congressman WAXMAN and I will offer would also permit the EPA to disapprove air quality reclassifications which arbitrarily and capriciously disregard economic, health, social, and environmental concerns. While we believe that maximum flexibility should be provided for the States for effectuating the purposes of the Clean Air Act, there exists an overriding public interest to review ill-considered actions. While we firmly believe that this authority should be used only sparingly, it is a necessary safeguard.

Similiarly, we believe that Federal lands such as Death Valley in California or the Badlands in South Dakota which are initially classified in the class I designation should enjoy Federal protection against excessive pollution increases which would destroy these valuable national resources. In particular Federal land managers should have the authority to disapprove reclassification of these lands to lesser categories of protection from pollution.

Thus this amendment would provide a balance to section 108 which it fails to achieve in its present form. The National Conference of State Legislatures, Governors Apodaco of New Mexico, Dukakis of Massachusetts, Hammond of Alaska, Lamm of Colorado, and Kneip of South Dakota are among the many proponents of a clean air policy without class III.

The Maguire-Waxman amendment has been specifically endorsed by the American Lung Association, the League of Women Voters, Common Cause, the Sierra Club, the Friends of the Earth, the Environmental Policy Center, and other public interest groups.

Integrally related to the need to prevent significant deterioration of the quality of clean air is the need to insist upon the best avaliable pollution control technology that has been adequately demonstrated for new sources of pollution. Section 111 of the bill provides important clarification to the intent of the 1970 act by requiring the use of such technology.

Sections 201 and 202 of the committee bill would hinder EPA's ability to reduce pollution. Specifically, section 201 would significantly restrict EPA's authority to require that State and local governments establish programs to cut pollution emanating from indirect sources of pollution such as shopping centers and sports arenas which attract a considerable volume of auto traffic.

Section 202 would grant lengthy delays for compliance with the national air quality standards to protect health to those 29 metropolitan regions which otherwise need to implement transportation control plans. These extensions could be granted on social or economic grounds even though they may result in violation of the standards.

Pollution is a multisource problem. It comes from both stationary and mobile sources all of whch require control. We can neither hope nor expect to protect and enhance the Nation's air quality if Congress permits weak and ineffective control strategies for any single source of pollution. Unfortunately, the committee bill has adopted section 203 which would significantly delay the achievement of the full 90 percent emission reduction in automobile pollution required by the 1970 act.

There has been considerable controversy over the technological feasibility of meeting the full 90 percent reduction

requirement. This controversy should be placed in the context of the historical fact that the goal was set 6 years ago in order to provide sufficient time for the development of the necessary technology. In 1970 Congress set 1975 as the deadline for its 90-percent statutory reduction standards. At the insistence of the automobile manufacturers, this deadline has already been delayed three times: First to 1976 by administrative action; second, to 1977 by congressional action; and once again to 1978 by administrative action.

The committee bill would freeze the present standards until 1980 for hydrocarbon and carbon monoxide pollutants. The section would delay until at least 1981 implementation of the statutory standards for nitrogen oxides.

Congressman WAXMAN will be offering an amendment which provides a more reasonable approach to the problem of reducing automobile pollution. Interim standards for 1978 would be implemented which are identical to the 1975–76 California standards, and in 1979–80 the 1977 California standards would be put into effect nationally.

This amendment would allow adequate leadtime to the automobile manufacturers for the development of and perfection of pollution control technology. These standards can be met with little or no fuel penalty and with nominal cost to the consumer. It has the support of the Governors of New York, New Jersey, and California as well as several environmental and public interest groups.

I am very pleased that the committee adopted section 203 which would provide effective, yet flexible standards to reduce pollution from motorcycles and heavy-duty vehicles. As a member of the Health and Environment Subcommittee, I sponsored the amendment which established this section. In adopting this section the committee has acted where EPA has failed to act.

The committee report documents well the need for effective standards to reduce pollution from these virtually uncontrolled mobile sources. The NAS, for example, reported in 1975:

> There is a need to complete the development of emission standards and more effective controls for sources (both mobile and stationary) other than light-duty motor vehicles of HC, CO, NO_x . . . Of particular concern are exhaust emissions from heavy-duty vehicles and motorcycles.

A report prepared by the Library of Congress explains that a heavy-duty vehicle will emit as much nitrogen oxides as 9 automobiles, as much HC as 18 automobiles, and as much CO as 45 automobiles. The report makes the alarming conclusion that at some time between 1980 and 1995, the emissions from heavy-duty vehicles will be more than half of all transportation emissions, unless control regulations are modified.

Many people do not realize that motorcycles emit high levels of pollution due to incomplete combustion. Presently uncontrolled motorcycles emit twice as much CO and six times as much HC as a 1976 new car.

For these reasons the committee adopted a proposal which would set interim standards between 1978 and 1984 which would reflect the greatest degree of emission reduction achievable. EPA would have the authority to consider cost, noise, energy, leadtime, and safety factors.

The standards after 1985 would require a 90-percent reduction of HC and CO, and a 65-percent reduction of NO_x, from uncontrolled emission levels. The EPA would also be provided the flexibility to review these standards and revise them upon determination that they are infeasible.

I worked actively with representatives of industry and public interest groups to develop this moderate approach. Congressmen JOHN MURPHY of New York and BOB ECKHARDT of Texas, and PHIL SHARP of Indiana deserve special commendation for their efforts in making this section a reality.

Emissions from aircraft are another source of serious pollution particularly for urban areas. Pollution standards for subsonic aircraft have already been effectuated by the EPA upon congressional directive. However, pollution from supersonic aircraft has been ignored. EPA has failed to promulgate final regulations for these aircraft. For this reason, I offered an amendment which the committee adopted which required the Administrator to issue final rules within a year of enactment of the Clean Air Act Amendments of 1976.

As my colleagues from New Jersey know, our State has been operating a very successful program of vehicle inspection. Included in the inspection process is a check of emission levels to determine whether the vehicle is in compliance with standards. This system results both in lower emissions and lower fuel consumption since a well-tuned car uses less gas. Through the diligent efforts of Congressman JAMES SCHEUER of New York, the committee adopted a proposal which would extend this system throughout the country.

In conclusion, I should emphasize that despite my serious reservations to certain sections of this bill, I believe that as a whole it represents an excellent effort in attempting to reduce the persistent and dangerous pollution problem which endangers the health and welfare of all Americans. I commend Chairman ROGERS, the members of the subcommittee, and the full committee for their efforts on this vital piece of legislation.

Mrs. SCHROEDER. Mr. Chairman, a situation now exists in Denver and other high-altitude areas of the country where the letter of the Clean Air Act is being obeyed, but its spirit is being violated.

As incongruous as it may seem, cars in high-altitude areas which are equipped with emission control devices are polluting more than they would without the devices. Emission control devices are geared to sea level operation and, when used at sea level, function efficiently. At high altitudes, however, they run extremely fuel-rich and actually emit up to twice the amount of pollutants as a well tuned car at sea level. For cities such as Denver, which Mr. WIRTH and I represent, Salt Lake City, and Albuquerque, this results in the waste of millions of gallons of gasoline, with cars emitting more pollutants than they would without the emission control devices.

I find it ironic that several States, including Colorado, are forced by the Federal Government to accept more pollutants in the air than they would otherwise have. It is obviously impossible for high-altitude States to meet Federal ambient air standards if the devices required to help meet those standards actually cause twice the pollution, simply because they cannot be adjusted to the proper setting for the higher altitudes.

Unsatisfactory emission control performance can be corrected, but auto dealers are prohibited from making such adjustments by the antitampering provision of the Clean Air Act, which carries a $10,000 penalty for its violation. Dealers are only permitted to make adjustments within manufacturer's specifications, which do not compensate for high altitude. The dealer's hands are tied. The only way dealers could make such adjustments would be to run long mileage tests and submit the results to the Environmental Protection Agency—EPA—for possible approval—an impossible task for small businessmen. Moreover, auto dealers, who are probably best able to satisfactorily adjust emission control devices, are the only ones that are singled out and prevented from doing so. The service station on the corner, Joe's garage down the street, as well as the individual car owner, are all permitted to adjust emission control devcies. In many cases, these adjustments are done in a less than satisfactory manner. The individual car owner, in particular, often relies on one of the many do-it-yourself kits on the market, for which there is absolutely no standardization.

The auto dealer's situation could be solved, however, by the manufacturer. Manufacturers can develop high-altitude modifications for certified vehicles of earlier model-year designations and get approval from EPA for such modifications relatively easily. The only requirement is that the manufacturer install the modifications on a vehicle with stabilized missions—that is, a vehicle that has been operated for the basic 4,000-mile stabilization period—and that he then demonstrate that, when modified, the vehicle can meet emission standards at high altitudes. In the vast majority of cases, the only change that is needed to allow a vehicle to meet emission standards at high altitudes is a change in carburetor and ignition calibrations.

The fact that there is a procedure by which the manufacturer can readily obtain approval for high-altitude modifications for earlier model-year cars, however, does not mean the manufacturer will elect to make such modifications. Auto dealers in the Denver area have requested this assistance, citing the tremendous good will and public welfare of

such help, but to no avail. The realization that the manufacturer can offer such modifications but has chosen not to—disregarding that such refusal greatly increases the pollution at high altitudes and results in the burning of additional gasoline which we can ill-afford—was the impetus behind the Schroeder-Wirth high-altitude amendment. The Schroeder-Wirth amendment was offered in the full Interstate and Foreign Commerce Committee by Mr. WIRTH on March 16, 1976. The amendment passed by a unanimous voice vote.

In its present form, the Schroeder-Wirth amendment provides:

First. Any adjustment or alteration of emission control equipment would not be considered a violation of the anti-tampering provision, as long as such adjustments or alterations would not adversely affect emissions performance of the vehicle.

Second. Adjustments or alterations would not be considered as adversely affecting performance of the vehicle if the adjustments or alterations are performed in accordance with manufacturer's instructions approved by EPA, or with instructions promulgated by EPA, to permit better fuel economy in high-atltitude areas.

Third. The manufacturer of any motor vehicle or engine made after model year 1968 would be required to publish and make generally available to the public the instructions necessary to make appropriate altitude adjustments to emission control systems on that vehicle.

Fourth. If a manufacturer has failed to submit approvable instructions within 6 months after the date of enactment of the amendment or 6 months after the date on which the vehicle first becomes available to the general public, whichever last occurs, EPA would be required to promulgate regulations within 18 months after the date of enactment to carry out this provision.

Representative WIRTH and I would like to amend our original amendment to correct some oversights in the language of that amendment. On Thursday, August 4, I will offer an amendment on behalf of Mr. WIRTH and myself to do the following:

First. Allow an increase in nitrogen oxide—NO_x—emissions, as long as they do not exceed the Federal new vehicle emission standard. This change is necessitated by the fact that when carbon monoxide — CO — and hydrocarbon — HO—emissions are decreased, nitrogen oxide emissions are inadvertently increased due to changes in combustion.

Second. Mandate that the manufacturer must submit approvable instructions within 6 months after the date of enactment of the amendment, or 6 months after the date on which a class or category of motor vehicles first becomes available to the general public, whichever last occurs. If the manufacturer does not do so, he will be subject to the same $10,000 penalty which is now invoked if auto dealers "tamper" with auto emission devices. The rationale behind changing the amendment was our desire to insure that the responsibility for providing these instructions would remain with the manufacturer, and not be passed on to EPA after the 6-month period had expired. If the original wording of the amendment were to remain, I am afraid we would be creating a giant loophole for the manufacturer to legally shirk this responsibility.

I would also like to point out that Representative WIRTH and I are aware that EPA has issued regulations which, beginning with model year 1977, would allow the manufacturers to ship only cars that will meet the air quality standards at their designated place of sale. These EPA regulations will do nothing to solve the emission problems of cars already on the road. Our amendment will enable dealers to improve emission control performance on any car built after 1968, which will assist the average carowner who may not be driving the latest model car.

In sum, we realize the auto manufacturers are busy attempting to meet 1977 and future standards, and that the percentage of cars in our high-altitude areas is small in comparison to the total number of cars on the road. Nevertheless, this is a very real and serious problem to the people who live in these high-altitude areas. Our amendment has been endorsed by both environmental and business groups, as well as by Denver Mayor William H. McNichols and Colorado Gov. Richard D. Lamm.

We ask your support of this amendment. It would greatly improve the air pollution situation in the urban areas of the Rocky Mountain States.

Mr. DRINAN. Mr. Chairman, I am pleased to rise in support of H.R. 10498, the Clean Air Act Amendments of 1976. This massive and complex bill is probably the most significant piece of legislation to be acted upon by the 94th Congress in the area of environmental quality.

THE CLEAN AIR ACT OF 1970

The Federal response to the growing problem of air pollution does not, of course, originate with H.R. 10498. In 1970, Congress passed the landmark Clean Air Act which established specific deadlines and mechanisms 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."

Significant progress has been made to date in attaining the goal of clean air embodied in the 1970 act. According to the Environmental Protection Agency, approximately 94 percent of the designated air quality control regions have met the primary standard for atmospheric concentrations of nitrogen dioxide; 80 percent have met the standard for sulphur dioxide; 72 percent for carbon monoxide; 68 percent for photochemical oxidents; and 47 percent for particulates.

While these results are encouraging, the Clean Air Act has far from solved our national air pollution problem. Contamination of the air in some parts of the country has continued to intensify, while the national levels of hydrocarbons, sulphur oxide, and nitrogen oxide emissions have remained virtually unchanged during the past 6 years. Many of the EPA's efforts to enforce the provisions of the act have been resisted by State governments and private industry and stymied repeatedly through dilatory legal action.

The greatest failure of the Clean Air Act has been in the area of automobile emissions. According to a report by the National Academy of Science, auto pollution causes approximately 4,000 deaths and 4 million days of illness in the United States each year. Our Nation's vast fleet of cars spews out massive quantities of carbon monoxide, hydrocarbons, and nitrous oxides. Automobiles are the primary source of nitrous oxides in the atmosphere which lead to the formation of nitrosamines, a deadly carcinogen, which has been linked to leukemia and other forms of cancer.

Recognizing the serious health hazard posed by auto emissions, Congress acted in 1970 to require a 90-percent reduction in these contaminants by 1976. The auto industry, which fought the standards every step of the way, has managed to secure postponements of the requirements from the EPA and from Congress itself. At this point, the 90-percent reduction standards will take effect in 1978, but the auto industry continues to fight for additional delays.

TOUGH AUTO EMISSION STANDARDS MUST BE IMPLEMENTED

I certainly do not intend to discuss each of the numerous provisions of this comprehensive bill which totals 190 pages in length. The most significant changes contained in this 3-year reauthorization of the Clean Air Act are in the areas of: First, auto emission controls; second, restrictions on the deterioration of air quality in areas which currently surpass clean air standards; and third, requirements for emissions controls on new industrial facilities. Perhaps the greatest controversy on the floor will surface on the issue of auto emission controls. The provision contained in the committee bill, which freezes emissions controls at their present levels until 1970, constitutes a tremendous concession to the automobile industry which has successfully staved off the implementation of the statutory 90-percent reduction standard since its enactment in 1970. The industry claims that reduced automobile emissions will require lower fuel efficiency and a sharp rise in auto prices. Yet the 1976 model cars, which meet the toughest antipollution standards ever imposed, are the most fuel efficient vehicles produced in the last 20 years. Moreover, one automotive company has produced a car, to be distributed in the fall of 1976, which exceeds the 90-percent pollution reductions standards, and surpasses previous fuel economy by 10 percent at an additional cost of only $50 per vehicle. Thus the industry's claims simply do not stand up to rigorous examination.

Our most important consideration, however, in resolving this issue, must be to safeguard the health of the American people. There is no question that the pollutants spewed out by our Nation's automobiles cause disease and contribute substantially to the deterioration of the environment. According to the EPA, an additional 200,000 children

will suffer attacks of lower respiratory disease each year between 1980 and 1990 if emissions standards continue to be frozen at their current levels. Since the technology is readily available and the need for stronger controls is immediate, I cannot support the committee's recommendation that current auto emissions standards remain unchanged until the 1980's or beyond.

Rather, I intend to support the Waxman-Maguire amendment which would put the more stringent emission standards currently employed in California in effect throughout the Nation. If the automakers can produce cleaner cars for the citizens of California, they can produce those same cars for the citizens of Massachusetts as well. The Waxman-Maguire amendment, which has been endorsed by the League of Cities, the National Association of Counties, the League of Women Voters, and Common Cause, would provide automakers with an interim period to improve their pollution control technology before implementing the 90-percent reduction standards by 1981.

SIGNIFICANT DETERIORATION MUST BE STOPPED

We are fortunate that large expanses of our Nation are still relatively free from serious air pollution. These areas, including farmland, national parks, and public wilderness areas, become increasingly precious as our urban centers continue to expand. It is imperative to our national well-being that these areas remain relatively clean and free from air contamination. For that reason, I support the limitations on significant deterioration contained in the committee bill. I believe that those limitations should be further strengthened, however, and intend to support floor amendments to accomplish that objective.

STANDARDS FOR NEW SOURCES

One of the most laudable sections of H.R. 10498 establishes requirements for the use of emission control devices by all new industrial facilities and other stationary sources. The provision mandates the use of the best "continuous control technological system" available. At the same time, it permits the issuance of variances to companies which wish to experiment with innovative systems if there is a likelihood that such systems might surpass existing technology. This provision will insure that the future development of American industry will not contribute any more than necessary to the extent of our air pollution problem.

NO RETREAT FROM CLEAN AIR

Mr. Chairman, the commitment which this Congress made in 1970 to improve air quality must not be broken or forgotten. The quality of life in the United States depends, to an increasing extent, upon the quality of our environment. Air pollution cannot be taken lightly or shunted aside. According to the EPA air pollution costs the Nation $20 billion annually in damage to health, property, and vegetation. The National Cancer Institute estimates that 75 to 80 percent of all cancer is environmental in origin. Unless we act swiftly to clean up our air, the generations which succeed us will suffer the consequences of death, disease, and eventual extermination. The major bill before us today is a step away from that nightmare and toward a more livable environment for all Americans.

Mr. BINGHAM. Mr. Chairman, it has now been 6 years since Congress enacted the Clean Air Act. That law, the product of a new environmental consciousness which swept the Nation in the late 1960's, was designed to eliminate most air pollution within a decade. But today we are breathing air that has improved little since 1970. In many areas, especially in our major cities, air quality has, in fact, deteriorated.

We have permitted serious slippage in the achievement of our clean air goal. The energy crisis proved itself a godsend to those who want to delay compliance with clean air standards. The recession too has been their ally. They have told us that they just cannot afford to provide fuel economy and meet emission control standards at the same time. Three times the "big three" automakers have been granted delays in compliance. Today they seek one more. They are not alone in urging a certain laxity in enforcement. Virtually every section of the Clean Air Act has been challenged by some group or interest that is finding compliance difficult or expensive. That is to be expected. No one in 1970 suggested that the achievement of clean air would be an easy task. Congressional review of the original standards is a good idea but that review can only convince us that laxity is inappropriate and that we must redouble our commitment to our original clean air goal.

H.R. 10498, the Clean Air Act Amendments of 1976 as reported by the Committee on Interstate and Foreign Commerce, remedies several of the defects in the original legislation while at the same time weakening some of its most significant provisions. Strengthened, as I hope it will be, in at least two areas, it will go far toward the implementation of the goals of the original landmark legislation.

Section 203 of the committee bill extends the date of compliance of automobile emission standards another 3 years until 1981. Standards now in effect for hydrocarbons and carbon monoxide would be frozen until then. The statutory standard on nitrous oxides, the third major auto pollutant, would be delayed until at least 1981 and possibly 1985. These freezes, especially the one on nitrous oxide which is suspected of being a deadly carcinogen when combined with other air pollutants and which is most difficult to control, might well result in a dramatic increase in illness, disease, and disability from auto pollution. Moreover another 3-year freeze only removes Detroit's incentive to improve their clean fuel-efficient auto technology.

These delays are not warranted. We already have the technology necessary for the mass production of clean, fuel-efficient cars as is evidenced by the 1977 California Volvo and the fact that stringent California clean air standards are already being met by 10 percent of all cars of domestic manufacture.

I shall support the Waxman-Maguire amendment which requires nationwide standards in 1978 equivalent to those being met by 1976 California vehicles; 1979 and 1980 Federal standards equivalent to those met by next year's California cars; and 90-percent reduction in hydrocarbons, carbon monoxide, and nitrous oxide in 1981. The rationale behind the amendment is sound. California, with its stricter emission controls, would serve as a 2-year laboratory in each step toward implementation of the full statutory standard. Waxman-Maguire insures that there will be no slackening in the clean air effort. Without it, the goal of clean air will remain a distant dream.

The stated purpose of the 1970 act was to "protect and enhance the quality of the Nation's air resources." It was clear that significant air deterioration could not be permitted, being in direct contradiction of the law's goal. This was the view of the Congress and the administration until, in 1971, the EPA issued guidelines permitting massive deterioration of air quality in areas cleaner than minimal Federal standards. This was regrettable as it would have resulted in a uniform national standard of barely tolerable air. Air cannot be too clean. In 1972 the U.S. District Court for the District of Columbia ruled that "significant deterioration" of clean air was not permitted under the act. That ruling was upheld in 1973 by the Supreme Court.

The architects of the committee bill before us have drawn up specific "significant deterioration" guidelines but unfortunately they are not tough enough. The committee bill requires each State to classify areas which ae cleaner than required by national clean air standards as class I, II, or III, and within each area pollution would be allowed to increase within clearly defined limits. In class I areas, primarily federally designated park and wilderness areas, only the slightest increase in pollution levels would be permitted. In class II areas, by far the largest category of clean air regions which would include virtually 100 percent of all non-Federal lands in clean air areas and 95 percent of Federal lands, moderate deterioration would be permitted. In class III areas deterioration up to the Federal ambient level would be permitted. With certain exceptions, States would be authorized to reclassify areas as class I, II, or III at any time.

I believe that there is no need for a class III classification which, in essence, allows States to opt for dirty air. Industry does not need class III since even the electric utility companies are well able to construct even their largest powerplants within the class II guidelines. The massive Kaiparowits project—the largest coal fired powerplant ever planned—could have been constructed in a class II area. Class II permits massive industrial development and is, in fact, lenient enough to permit sulfur dioxide concentrations in previously clean areas at the level of Toledo's or Houston's. We do not need class III which, in the name of clean

air, would permit concentrations at the level of Los Angeles.

I shall therefore support the Maguire amendment to eliminate class III altogether, this conforming to the Senate bill, currently under consideration.

The Maguire amendment also provides for review by the Federal Land Manager of any State reclassification of federally designated park land from Class I to Class II. It also permits EPA to disapprove any State redesignation which arbitrarily ignores relevant environmental, social, or economic consideration. EPA must have override authority. Federal override authority will strengthen the State's hand in dealing with those pressing for the maximum levels of pollution. It is essential.

I certainly hope that we will today see the passage of H.R. 10498 with the amendments offered by Mr. WAXMAN and Mr. MAGUIRE. The issue of environmental cleanup grows more pressing every day. Since 1933 there has been an increase in the cancer death rate of 1 percent a year, year after year. This past year the rate of increase jumped to 2.3 percent. Respiratory cancers are increasing at a 4.5 percent annual rate. The Department of Health, Education, and Welfare and the World Health Organization tell us that cancer is 70-to-90 percent environmental in origin. In the last few days I have been receiving letters and calls from police groups in New York telling me that due to automotive air pollution pulmonary and cardiac abnormalities are showing up in large numbers of patrolmen between age 20 and 30. They urge our support of the early enforcement of clean air standards.

We now know that there is no such thing as a safe level of air pollutants. The only safe level of sulfur dioxides, nitrous oxides, hydrocarbons and the rest, especially given their synergestic effects, can only be zero. I do not expect that we will attain a zero air pollution level any time soon. Limited pollution may well be the price we have to pay for industrialization. But there must be limits. There must be standards. H.R. 10498, strengthened by the Waxman and Maguire amendments, provide those standards. This time they must not be relaxed.

Mr. KOCH. Mr. Chairman, in the debate over how to improve the quality of the environment in our cities and particularly the quality of the air, I think it is particularly important to consider the key factor of providing adequate and inexpensive mass transportation. There are those who feel that the Clean Air Act should be amended in order to postpone indefinitely the hard decisions that must be made in all our major cities as to the most expeditious means to reduce air pollution. New York City's transportation control plan contains four controversial strategies: First, a plan to impose toll increases on the bridges which carry automobile traffic across the East and Harlem Rivers; second, a plan to limit truck deliveries in Manhattan to nonbusiness hours; third, a plan to restrict taxicab cruising; and fourth, a plan to impose parking restrictions in the downtown area. All of these options have implications for business activity in the city of New York, and some may be painful to certain constituencies. However, just as each of these options has social and economic implications, so does a failure to do anything about the environment of New York City. Just as economic factors may cause businesses to leave, business may also choose to leave New York City or not to expand there, because of the poor quality of the air, or because the mass transportation system, for all its well-known virtues, is relatively rundown. Mass transit is becoming increasingly expensive while suffering from a lack of funds to fix up the stations and cars.

I do not know which set of options New York City should choose, but I do know that a failure to maintain the city's subway system or to maintain a reasonable fare level will have at least the same impact on the environment, on the social and economic well-being of the city, as would the adoption of any of the four strategies contained in the transportation control plan. Adoption of a strategy of putting tolls on the bridges crossing the East River will make a lot of motorists unhappy, but raising the fares on the subways will make a lot of transit customers unhappy, too, and may cause serious environmental problems.

Some of those motorists will no doubt wonder why they should be asked to contribute to the subway system, as is proposed by the "toll bridge" option of the transportation control plan. Yet I understand that the evidence shows that each car that travels into Manhattan costs the city 11 cents per mile traveled, while only returning 2 cents per mile in revenues. If a commuter makes a 20-mile round trip, the city is losing $1.80. So even though a toll strategy seems unfair to these motorists and even though such a strategy is primarily a device to raise revenue for the subway system and not to reduce car traffic, a toll does help the city pay the actual cost of these vehicles to the city each day. Such a toll strategy would raise a net of $140 million for the city, but there may be other ways to raise such money for transit, when it is needed.

I do not want to leave the impression that I believe the city should adopt the toll strategy as a means of subsidizing transit, but I do think that, before a waiver or exemption or delay in implementing the control plan is granted, because of social and economic implications, the social and economic implications of doing nothing should also be considered. Luckily, for subway riders, the transit authority believes that it can maintain the present 50-cent-fare structure until December 31, 1977. If it is to maintain the fare beyond that point in time, it may be necessary to look to alternate revenue sources. In the meantime, New York City should be willing to take some serious steps toward reducing the unnecessary flow of traffic in the city. Bridge tolls will not reduce such traffic, so the city may be justified in resisting them. But there are other options, and the city cannot in good conscience do nothing.

In conclusion, let me make it clear that I do not believe the Environmental Protection Agency should mandate which of the alternative strategies the city should choose to improve the quality of the air in New York, so long as the city does take adequate measures to improve the air. There will be severe social and economic consequences, if the city chooses to do nothing to control traffic and improve the air. The city should not view the requirements of the Clean Air Act as an obligation to be avoided, but as an opportunity to improve the quality of life in New York City.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCFALL) having assumed the chair, Mr. ROUSH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10498) to amend the Clean Air Act, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill H.R. 10498.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8410, THE PACKERS AND STOCKYARDS ACT AMENDMENTS

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report on the bill (H.R. 8410), the Packers and Stockyards Act amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONSUMER COMMUNICATIONS REFORM ACT

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, with the passage of the Communications Act of 1934, the Congress developed a national philosophy to govern the communications industry. In this act the Congress mandated that the communications industry "make available, so far as possible to all the people of the United States, a rapid, efficient, nationwide, and worldwide wire and radio communications service with adequate facilities at reason-

able charges. The 1934 act also created the Federal Communications Commission charging it with the responsibility of regulating, in the public interest, interstate and foreign communications by wire and radio.

Recent Federal Communications Commission rulings, however, appear to deviate from established communications philosophy. These rulings allow competition in two areas of telephone service, terminal equipment and private lines, and have proven the cause of much alarm. As have a number of my colleagues, I have heard from many who fear that rather than improve the telephone system through the introduction of competition, the FCC rulings may result in increased rates and poor service.

These fears are centered on the fact that telephone charges are based on the concepts of "value of service" and "average pricing." In keeping with these principles, revenues from the more profitable business services are used to lower the cost of basic residential service so that all customers can afford to be served. The FCC ruling threatens the continued application of these pricing policies since the competition will enter the market only where it is profitable thereby taking in that revenue so necessary to keeping all telephone rates reasonable.

These charges bring the issue of whether or not it is possible to mix the concepts of monopoly and free enterprise to the fore. In many ways I find these concepts irreconcilable. Our country does have a long history of following the path of allowing certain types of utilities to hold monopolies as long as they are given restrictive territories and are carefully regulated by law. The Communications Act of 1934 and various State statutes came about precisely because early in phone development it was recognized that the industry could best develop in the monopoly form since competition lead to duplication of facilities which only proved uneconomic and inconvenient.

These charges deserve to be aired. It is not and should not be the prerogative of the Federal Communications Commission to make decisions which may have far reaching effects on consumer interests. Too often the Congress has allowed regulatory agencies to rule on events which change the intent of the law. The recent FCC rulings fall into this category and should be subjected to congressional scrutiny. Therefore, I am introducing today the Consumer Communications Reform Act which would reverse the FCC decisions in the hopes that this legislation will serve as a vehicle for needed congressional hearings on this issue. This is a view shared by many of my colleagues and one which should be honored.

ABUSING THE LAW IN SOUTH KOREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 5 minutes.

Mr. COTTER. Mr. Speaker, a tragedy is in the making in South Korea, where democratic intellectuals and church leaders have been arrested, tortured and killed because they oppose the martial law regime of President Park Chung Hee.

Since South Korea is our ally and a recipient of billions of dollars of American military and economic aid, we in Congress should do our best to ascertain the truth about the Seoul government.

For the information of my colleagues, I would like to insert the following article from the August 1, Washington Post:

ABUSING THE LAW IN KOREA

(By John Saar)

SEOUL—Before a prominent South Korean lawyer agreed to defend accused Christian and political leaders in a Seoul criminal trial this year, he drew up his will and called a family conference. His conscience dictated that he accept the brief in defiance of death threats by the country's secret police, the Korean Central Intelligence Agency, and he wanted his family to understand his decision and its possible consequences.

He also underwent an extensive medical checkup, including X-rays, so that in the event of his death signs of torture would be readily detectable.

The lawyer's alarm was triggered by a hint that he found particularly ominous. "If you dare to defend, you're going to be the next Chang Jun Ha," a government agent warned him, referring to a widely admired writer and opposition politician, outspoken in his criticism of President Park Chung Hee. Chang died last year in a "climbing accident" that raised many suspicions in Seoul.

The lawyer would not comment on the attempts to intimidate him; to do so would invite prosecution under a statute forbidding "slanderous" conversations with foreign journalists. But his friends confirm the story and say it is consistent with a pattern of intimidation directed at others among the 27 lawyers defending 18 prominent Koreans accused of trying to overthrow the Park regime.

Practicing lawyers and foreign experts in Seoul believe that justice—the citizen's right to a fair and speedy trial—has been perverted and abused by the present government as the key tool in a systematic campaign to crush all political opposition. They complain privately of vindictive laws, rigged prosecutions, forced confessions and government pressure on judges to secure dubious convictions and overly harsh sentences.

Journalist Lee Pu Young, who irritated authorities by leading a reporters' strike against censorship, was arrested a year ago on the familiar charge of plotting to overthrow President Park. Lee told an appeals court he had been forced to make a false confession, and the principal government witness—excused from prosecution on grounds of insanity—said he could remember nothing of the alleged plot. The court reduced Lee's eight-year sentence to two and a half years, but upheld the conviction.

Justice Minister Whang San Duk, a former law professor, claims that government interference in the administration of justice is "strictly prohibited." Judges are free to rule as law and conscience decree, he said in an interview, and allegations that "judges who decline to cooperate are removed from office are totally groundless."

Lawyers say justice is meted out fairly in the ordinary criminal cases that make up most of the courts' calendars; the abuses arise in cases allegedly involving challenges to the government's authority.

In the most notorious example, eight members of the People's Revolutionary Party were hanged in April 1975 for "attempting a violent and bloody overthrow of government." An Amnesty International report concluded that the prosecution was a fabrication, but poet Kim Chi Ha, already serving one life sentence, is on trial anew for saying the same thing.

Although the case against the members of the People's Revolutionary Party was, in the view of impartial jurists, an elaborate fraud, 15 of the defendants are still serving terms ranging from 10 years to life. Four of them have been tortured and held in solitary confinement for two years, according to the wife of one of the imprisoned men, for refusing to make false confessions.

POWER OVER JUDGES

The consensus of many lawyers interviewed in Seoul is that independence of the judiciary vanished, except in theory, in 1972 when President Park, ruling under martial law, promulgated a new constitution giving him the right to appoint judges, from chief justice of the Supreme Court on down.

In 1973, approximately a third of the judges staged a short-lived revolt against prosecution pressure. For unspecified reasons, some 30 judges, including seven Supreme Court justices, were not reappointed.

Fear of not being renamed on expiration of their 10-year terms or of transfer to the provinces—the fate of a judge who issued a ruling favorable to opposition figure Kim Dae Jung—has reportedly rendered the judges docile and amenable to KCIA manipulation of South Korea's juryless courts. In a state where all power emanates from the president and judges see their careers at stake, one bright young lawyer said, "there's an atmosphere of terror in the courthouse that makes it useless to talk about justice."

In mid-May 1975, under the rule-by-decree powers of the "revitalizing" constitution, Park promulgated Emergency Measure No. 9, a formidable law that outlaws virtually all outlets of peaceful opposition. Since then, about 150 students have been arrested and half of them sentenced.

For such offenses as distributing a declaration favoring democracy or a document smuggled from Kim Chi Ha's cell, in which the poet renounced an earlier confession as made under duress, students have been sentenced to as much as 10 years. Last month, five Catholic seminarians received sentences ranging up to five years for printing and distributing a poem written by someone else.

Habeas corpus was another casualty of the 1972 constitutional revision. Suspects are commonly held for weeks without access to lawyers or publication of arrest warrants and charges. Many Seoul lawyers believe that measures as sweeping as EM–9 are illegal; but the constitutionality of laws cannot now be challenged in South Korea's courts.

The laws are applied with bewildering intricacy to shield South Korea's leader and constitution from criticism. Kim Chol, founder of the Socialist Party, is serving a two-year sentence. He was prosecuted under the anti-Communist law for allegedly aiding the Communist cause by publishing the indictment in the case of a man convicted of insulting President Park.

A GREAT TRAGEDY

Justice Minister Whang defends the emergency measures as similar to steps taken by other countries and as required by "the urgent necessity to protect the national security and survival of our people."

"Imagine what you would do with Kim Chi Ha in Washington, D.C., if you had a Red Army from the Soviet Union out at Dulles Airport, which is about how far we are from North Korea," Whang argued.

Oppositionists contend that Park invokes the Communist bogey as an excuse to consolidate and perpetuate his regime, and many lawyers agree that there is substance to this charge. "The government prosecutes anti-regime people under the pretext that they are Communists," a wealthy attorney told me.

No one disputes that South Korea is the most virulently anti-Communist nation in the world—a diplomat calls it "an understandable national paranoia"—or that the fallout bears profoundly dangerous consequences for anyone accused of being a Communist or helping the Communists.

During the interview, Minister Whang slid a hand-crayoned map of Asia across a coffee table. It explained, he said, the uniqueness of South Korea's situation. The Communist countries were colored red. South Korea alone was a tiny speck of all-white. Other countries, including Japan, Thailand, Malaysia and Indonesia, were diagonally striped in red—denoting, Whang explained, "semi-red, meaning coexistent philosophies."

The minister used the words "dissident" and "Communist" interchangeably about such opposition figures as Yyn Po Sun, a former president of the country with impeccable anti-Communist credentials. The cold war atmosphere has spawned an epidemic of red-hunting and red-branding. Twelve Christian leaders and social workers from a Seoul urban mission were released this month after six weeks of interrogation in what they said was a fruitless effort by police authorities to fabricate a Communist-plot charge.

The spirit of extreme anticommunism common among Seoul prosecutors, contrasted with the accommodating mood in Japan, where colonies of North and South Koreans live side by side, has contributed to what a Japanese correspondent in the South Korean capital calls "a great tragedy."

Of eight persons under sentence of death for spying for Pyongyang, six are Korean residents of Japan. Observers estimate that between 30 and 40 other Koreans from Japan, mostly students, are serving heavy prison sentences. Some have admitted traveling to North Korea for espionage training, and observers accept most of the convictions as reasonable. The question they ask is whether campus spying by gullible students deserves the supreme punishment.

On occasion, the politically associated trials lapse into protracted ideological inquisitions that bear striking similarities to the religious trials of the Middle Ages. In seeking to prove that he is not a Communist but a Catholic radical, Kim Chi Ha has quoted voluminously from the Scriptures and from more than 20 theologians, ranging from Thomas Aquinas to the Catholic liberation activists in South America.

"The emphasis in all these cases," an American resident in Seoul says, "is not what you've done, but what you are." A Jesuit missionary underlined the difficulty of proving ideological purity. "Just by quoting the Pope I can find something that would put a Korean in jail very easily," he said.

Minister Whang derided North Korea for "kangaroo courts" and a criminal code which "provides that crime is any act feared to endanger the People's Republic of Korea as well as its law and order."

The description comes uncomfortably close to fitting some aspects of justice in South Korea.

THE 1976 CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, from all reports the 1976 Captive Nations Week was an impressive success. Guided by the National Captive Nations Committee in the Nation's Capital, the recent 18th observance of the week fulfilled its purposes. The observance in Congress the spectacular rally at the State of Liberty, assemblies in Cleveland, Chicago, Los Angeles, and elsewhere in the country bicentennialized the week by relating our national independence as a moral responsibility toward all the captive nations under Communist domination. As in previous years, the week also provided a national forum for constructive criticism of détente, the Helsinki agreements, so-called normalization of relations with Peking and other pending issues. Above all, it served the additional purpose of reminding our citizens of the continuing plight of over two dozen nations that have lost their independence to Soviet Russian imperialism and, as the Vice President pointed out, the continuing reality of this growing threat to our national independence.

The proclamations of our Governors and mayors across the land well indicate these facts. So do the commentaries written here and abroad. I refer further examples of this to the attention of my colleagues by appending to my remarks the proclamations of Gov. James B. Edwards of South Carolina, Gov. Ella Grasso of Connecticut, Mayor Gene Rhodes of the city of Fremont, Calif., Mayor Henry W. Maier of Milwaukee, Mayor Bobbie Sterne of Cincinnati, and a commentary in the Review of the News, and pertinent editorials in America and the China Post:

PROCLAMATION BY GOV. JAMES B. EDWARDS ON CAPTIVE NATIONS WEEK

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate prayer, ceremonies, and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, James B. Edwards, Governor of the State of South Carolina, do hereby proclaim the week of July 18 through July 24, 1976; as:

Captive Nations Week in South Carolina.

OFFICIAL STATEMENT OF HER EXCELLENCY ELLA GRASSO, GOVERNOR

"For ever in thine eyes, O Liberty,
Shines that highlight whereby the world is saved,
And though thou slay us, we will trust to thee!"

The thoughtful and eloquent words of the 19th century American diplomat John Hay reflect the sincere dedication and spirit of all people who share a devotion to liberty and individual freedom.

As the people of our state and nation observe the American Bicentennial, we are reminded of the citizens of many countries who continue to seek independence and justice.

Each year, the United States Congress and many of our states proclaim Captive Nations Week in recognition of the longing for freedom by those men and women who continue to live under oppressive rule.

The Polish Freedom Fighters are typical of those organizations committed to the cause of independence for Poland and other nations controlled by foreign governments.

I, Ella Grasso, therefore designate the week of July 11 through 17, 1976, as Captive Nations Week in Connecticut, and I urge all our citizens to support and encourage those devoted men and women who labor diligently for the establishment and preservation of liberty throughout the world.

PROCLAMATION

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of captive peoples.

Now, therefore, I, Gene Rhodes, do hereby proclaim the week of July 18-24, 1976, as "Captive Nations Week" in the City of Fremont, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION

Whereas: The policies of Communist Russia have led to enslavement for many peoples of many captive nations in all parts of the world; and

Whereas, The desire for liberty and independence by the overwhelming majority of peoples in these nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, The freedom-loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, The Congress of the United States, by unanimous vote, passed Public Law 86-90, establishing the third week in

July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities as expressions of their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Henry W. Maier, Mayor of Milwaukee, do hereby proclaim the week of July 18–24, 1976, as Captive Nations Week in Milwaukee, and I call upon the citizens of our community to join with others across the nation in observing this week by offering prayers and dedicating their efforts toward the peaceful liberation of the captive nations.

PROCLAMATION

Be It Proclaimed:

Whereas, the history of our Nation reminds us that the traditions of liberty must be protected and preserved by each generation; and

Whereas, we must rededicate ourselves to the ideals of our own democratic heritage; and

Whereas, in so doing, we manifest our belief that all men everywhere have the same inherent right to freedom that we enjoy today; and

Whereas, in support of this sentiment, the Eighty-sixth Congress, by a joint resolution approved July 17, 1959 (73 Stat. 212), authorized and requested the President to proclaim the third week in July of each year as Captive Nations Week:

Now, therefore, I, Bobbie Sterne, Mayor of the City of Cincinnati, do hereby proclaim the week of July 18–24, 1976 as Captive Nations Week and call upon the people of Cincinnati to observe this week with appropriate ceremonies and activities, and I urge rededication to the aspirations of all peoples for self-determination and liberty.

[From the Review of the News, July 21, 1976]

CORRECTION, PLEASE!

The world should know that we stand for freedom and independence in 1976, just as we stood for freedom and independence in 1776, . . . Now, therefore, I, Gerald Ford, President of the United States of America, do hereby designate the week beginning July 18, 1976, as Captive Nations Week.

CORRECTION: Other statements and actions by the Ford Administration over the twelve months since the last Presidential proclamation of Captive Nations Week make these words a sham and a farce.

For example, while Secretary of State Henry Kissinger was unleashing a bitter attack against the anti-Communist Government of Rhodesia, the Communist dictatorship of East Germany was without protest installing more men and barriers all along its border with West Germany. But, people continue to flee, often at great risk. United Press International reported last February: "The August 13 organization, named after the day the Russians built the Berlin Wall in 1961, said a total of 6,011 East Germans emigrated illegally to the West in 1975, including 673 who braved the minefields and barbed wire. . . . The West German Ministry for Intra-Government Relations said the East Germans laid 26,000 mines along the border in 1975, increased fencing between East and West Germany by 63 miles to a total of 659 miles and built 30 new watch towers. The number of self-firing border devices, which last year killed four persons trying to escape, rose from 13,300 to 19,000." When have you heard the Ford Administration so much as mildly protest such barbaric practices?

These Communist slavemasters freely engage in such activity because the West has failed to oppose it. President Ford went so far as formally to accept Communist Russia's dictatorship over Eastern Europe at last year's Helsinki Conference. In August of 1975 the Final Act of the Conference on European Security and Cooperation was signed by the United States, Russia, Canada, and many European nations. Its language in effect guaranteed the continued enslavement of the Captive Nations.

The President has been strongly criticized for agreeing to this betrayal and for backing away elsewhere as well. For example, Congressman Jerome Ambro (D.-New York) reminded his colleagues on December 2, 1975, that for thirty years the American government had refused to recognize Soviet seizure of the Baltic states of Estonia, Latvia, and Lithuania. But, he observed "Unfortunately this firm stand for freedom and against aggression and enslavement appears to be eroding because of actions taken by the Ford Administration. I am specifically referring to the Declaration adopted by the European Conference of Security and Cooperation . . . which recognized all of the boundaries of the participating countries.

"Thus, after 30 years of the Soviet Union's insistence, recognition has been accorded to the status quo of the present boundaries of Europe, meaning that the United States and 43 other states have apparently legitimized the illegal incorporation of the Baltic States of Estonia, Latvia and Lithuania into the Soviet Union. . This is an insult and a shocking disappointment to the brave, freedom loving people of the Baltic States and to those of Latvian, Lithuanian and Estonian background presently living in the United States."

That shocking disappointment can be better appreciated when one realizes what life is like in those enslaved nations. The Los Angeles Herald-Examiner for February 16, 1976, published an interview with Jonus Jurasas, former chief director of the State Drama Theatre of Kauna, Lithuania. Mr. Jurasas and his wife are among the few who have been able to escape that Red hell. He reports: "We had the constant fear of being sent to one of the camps or worse, of being placed in a mental institution where they inject you with all kinds of drugs until you are crazy. . . . In 1972 there was one of the biggest demonstrations against the government. A college student burned himself and everyone marched for 'freedom for Lithuania.' The girls all carried black scarves. There were thousands of arrests but the spontaneous protest continued. When the burned student was buried secretly, there were four more days of protest."

The Ford Administration even accepts the status quo in Communist Poland where resistance also continues. Last month, when the government announced price increases for meat and other foodstuffs, riots and strikes broke out in three Polish cities. Workers barricaded roads, tore up railroad tracks, and engaged in pitched battles with the police. At least 75 policemen were injured and two demonstrators were killed. The situation is apparently typical, and so widespread that even in the U.S.S.R. it is still necessary for the slavemasters to hold more than a million people in concentration camps.

The hypocrisy in President Ford's Captive Nations Week Proclamation was pointed up by Aleksandr Solzhenitzyn's observation that "America's détente with Russia nudges the governments of East Europe into more restrictively communistic internal policies." But the hope for freedom is not dead in the Captive Nations. Concerned Americans would do well to keep the issue of Communist enslavement before the public to expose détente as a Communist fraud, and to remind the world at every opportunity that Communists hold power only by treason and tyranny. There is no such thing as a legitimate Communist Government and never could be.

[From the Philadelphia "America," July 29, 1976]

LET US REMEMBER OUR CAPTIVE ALLIES IN THE U.S.S.R.

". . . The United States supports the aspirations for freedom, independence and national self-determination of all peoples. We do not accept foreign domination over any nation. We reaffirm this principle and policy . . ." (From President Ford's "Captive Nations Week" Proclamation, 1976).

As the United States now is officially observing its 200th birthday anniversary, these words of our Chief Executive assume especial meaning and significance, as the official opening of the Bicentennial celebrations coincides with "Captive Nations Week" observances.

We rejoice over our freedom, power and prosperity which began to grow and develop from the very inception of American Independence in 1776.

The United States of America is a "Nation of Nations"—E Pluribus Unum—One of the Many. Over the past two centuries millions of immigrants from every corner of the world have come to these shores, giving their toil, sweat and blood. Millions of these immigrants came from the lands of Central and Eastern Europe, and the Balkans, all of which are now under Communist domination. In July, 1959, the U.S. Congress in its political far-sightedness passed the "Captive Nations Week Resolution," now Public Law 86–90, which enumerated some 22 countries, including Ukraine, which were subordinated to Russian Communist rule, and which were entitled to their own freedom and national independence. The law authorized and requested the President of the United States to issue in the third week of July of each year a Presidential Proclamation, calling on the American people to rededicate their efforts toward the attainment of freedom for all who are deprived of it.

During the past ten years or so, with the policy of detente between the U.S. and the USSR, observances of the "Captive Nations Week" were left almost entirely to ethnic organizations, while Presidential Proclamations were a mere dry and meaningless formality.

This year the situation has changed, to the effect that more attention and emphasis is placed on "Captive Nations Week" on the part of the general American public. In contrast to Presidential Proclamations in past years, President Ford's 1976 "Captive Nations Week Proclamation" is forceful and meaningful, in which he speaks bluntly of U.S. support of aspirations of freedom, independence and national self-determination.

The Communist takeover of South Vietnam, Cambodia and Laos last year and the defeat of the pro-Western movement in Angola by the pro-Soviet forces this year made clear to all that the forces of Soviet Russian imperialism are relentlessly on the move everywhere.

This concern of the American people for the captive nations was best exemplified by the AFL–CIO's active participation in the national "Bicentennial Salute to the Captive Nation," sponsored together with the National Captive Nations Committee on July 11, 1976, at the Statue of Liberty in New York Harbor.

"The purpose of the Bicentennial Salute,—explained Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee,—is to keep the hope of freedom alive in the many peoples who do not enjoy the liberty we Americans do."

[From the China Post, July 28, 1976]

ADVICE FOR PRESIDENT FORD

It is significant members of U.S. President Ford's own political party are urging the

President to reiterate the United States' commitment to the Republic of China. One of those who has given this advice is Congressman Edward Derwinski of Illinois. In a speech on Congress the Republican Congressman warned that a series of events in recent months has raised grave concern about America's continued support for its allies.

Congressman Derwinski told the U.S. House of Representatives: "To continue to move in a direction that appears to abandon the Republic of China, courts disaster, not only for our loyal allies in Taiwan, but for our whole strategic and economic posture in East Asia".

Other members of President Ford's party in Congress have urged the White House not even to consider any unilateral concessions to the Peiping regime under the guise of normalization of relations with Red China. The list includes, among others, Senator Barry Goldwater, who was the Republican candidate for President in 1964.

Leading Americans in civilian life are joining in support of the Republic of China. Dr. Lev E. Dobrinsky of Georgetown University in Washington, D.C. is one of the authorities warning of the danger of any change in American policy. In a recent article he pointed out that the future relationship between the United States and the Republic of China "is critical to the question of general confidence in the entire region of Asia."

Dr. Dobrinsky added: "Aside from the strategic values of the Republic of China to our national interest and in spite of all the pro con arguments bearing on future normalizing our relations with Peiping, the basic truth is that a severance of diplomatic relations with Taipei would be a prime and dishonorable example of how not to stand by one of our most loyal friends."

Asian authorities agree with Dr. Dobrinsky that any change in American policy would "abnormalize" America's position with every nation in Asia friendly to the United States. It would not only damage American prestige with its friends, but it would also virtually destroy the forces of anti-Communism in mainland China.

We hope that the Republican leaders who support the Republic of China will use their influence to persuade the drafters of the party's 1976 Platform to include a plank calling for continued support for the Republic of China. All of the recent public opinion polls in the United States reveal that a great majority of the American people favor the maintenance of diplomatic relations with the Republic of China.

OLD MYTHS AND NEW REALITIES IN SOUTHERN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 30 minutes.

Mr. SOLARZ. Mr. Speaker, there are few areas of the world where we have more at stake but about which we know less than Southern Africa.

The recent competition between the United States and U.S.S.R. in Angola highlighted the extent to which the struggle to overthrow the remaining vestiges of white rule on the African continent has important implications, not only for the people of Southern Africa, but for ourselves as well.

To get a better sense of the forces at work in this critically important part of the world, I recently went on a fact-finding mission, on behalf of the Committee on International Relations, to South Africa, Rhodesia, Mozambique, Zambia, and Tanzania. During the course of my travels, I met with spokesmen for the white regimes in South Africa and Rhodesia, leaders of the liberation movements for Zimbabwe and Namibia, American, British, and Israeli diplomats, journalists, intellectuals, farmers, businessmen, and U.N. Representatives. I came away full of impressions not only about the direction in which events are moving but, more importantly, about what the United States should—and should not—do to influence events in the area.

The most pressing problem in the region is Rhodesia. Full scale war between the white regime of Prime Minister Ian Smith and the Zimbabwean Liberation Movement has already broken out. Since the abortive discussions between Smith and leaders of the liberation movement nearly a year ago, both sides have concluded there is no real prospect for a negotiated settlement of the conflict. In my judgment, they are both right. The leaders of the liberation movement, as well as spokesmen for the frontline black African states of Zambia, Mozambique, and Tanzania, all contended they were no longer interested in a gradual transition from minority to majority rule but would now insist on an immediate transfer of power. The representatives of the white regime with whom I spoke in Salisbury, on the other hand, made it quite clear they had no intention of turning over control of their country—instantly, gradually, or any other way—to the blacks who, in their view, though they constitute 94 percent of the population, are incapable of governing themselves.

Right or wrong, the Smith government is convinced that once the blacks come to power—regardless of whether they do it peacefully or violently—the white minority will inevitably lose their privileges and position. In addition, they are convinced they can militarily control the insurgency. They realize they are in for a prolonged struggle. They concede they may have to tighten their belts by cutting back, as one of them put it, "from two servants to one." But they are confident that, just as England won the Battle of Britain against overwhelming odds 36 years ago, they too can win their own struggle for survival. Believing that black rule will result in disaster and convinced the blacks are incapable of overwhelming them, the whites have little incentive to relinquish their power voluntarily.

Black rule in Rhodesia may well mean the end of the lifestyle the whites have come to know and enjoy. But if this is so, the whites will have mainly their own intransigence to blame. Had concessions to the just demands of the black majority been made even several years ago, a climate could have been created in which a truly multiracial society might have emerged. But the whites, determined to maintain their power, refused to make changes which would have enabled the blacks to throw off the shackles of racial repression and participate as equals in the economic and political life of their own country.

In the meantime, attitudes that were once soft have now hardened, and what the blacks might have accepted a decade ago, they would never accept today. Power is rapidly passing from those who once did the talking to those who are now doing the fighting. And whatever slim chance the whites have for a future role in Rhodesia will be eliminated unless they soon come to terms with the blacks.

Only time will tell whether the whites are correct in their assessment of the political consequences of black rule. But I believe they are profoundly mistaken in their analysis of the military situation. The days of the Smith regime are numbered. Exactly when it will fall no one can say—although fall it will and probably sooner than later.

In the kind of liberation struggle now underway in Rhodesia, military analysis estimate a ratio of about 10 government soldiers for every guerilla fighter is needed to keep the insurgency under control. But the Rhodesian Army has only 7,000 men under arms (about half of whom are black and whose loyalty, particularly as the tide of battle begins to turn, is questionable) while the liberation movement has 2,000 freedom fighters in the field and another 10,000 in training. By the time the rainy season begins in December, the troops in training will have already been sent into the fray, thereby tipping the military scales in favor of the liberation movement.

Already, close to 2,000 lives have been lost, and the number of casualties is likely to increase sharply as the fighting intensifies. Under the circumstances, for all their bravado, the morale of the Rhodesian whites is likely to crumble. Although the Smith regime would dispute it, there is reason to believe that last year over 20,000 whites left the country—close to 10 percent of the entire white population—indicating that many have already come to the conclusion there is no future for them in Rhodesia.

After the fall of the American-backed forces in Angola, there was genuine concern in Washington that the Cuban contingents responsible for the triumph of the Soviet-backed faction would join forces with the Zimbabwean Liberation Movement for a new march on Rhodesia. The leaders of the liberation movement with whom I spoke made it clear, however, that while they welcome whatever military equipment and financial assistance they are given, they want to do the fighting themselves, and do not want foreign troops—for or against them—on Rhodesian soil. To some extent, they very much want "the pride of liberating themselves," as one of the members of the Central Committee of the Zimbabwe African National Union told me in Mozambique.

To a larger extent, however, it stems from their fear that once foreign troops come in, they may never leave. And the Liberation leaders have no intention of winning power only to lose their independence in the process. This fear of foreign forces may change, however, if their expectations of victory are not realized in the relatively near future. The longer

it takes to force the whites to relinquish power, the sooner they may decide to call upon foreign forces to assist them. The liberation leaders clearly prefer to liberate themselves by themselves. But they would undoubtedly prefer to liberate themselves with the help of foreign troops than not to liberate themselves at all. To the extent that it is in our interest to avoid another Angola—as a way of precluding both the possibility of an American military involvement as well as the use of Soviet surrogates on the African Continent—the sooner the war ends the better.

Under these circumstances, I find that the policy of our own Government—articulated by Secretary Kissinger in his now famous Lusaka speech—is based on an illusion. The Secretary's eloquent call for majority rule throughout all of Southern Africa was, to be sure, a significant step forward in the development of our African foreign policy. It was, in many respects, one of Dr. Kissinger's finest moments. And his energetic effort to obtain a peaceful settlement of this explosive conflict clearly deserves our profound respect and sincere appreciation.

But to work for a negotiated solution when neither side is interested in a compromise is to tilt with diplomatic windmills. In each of the black African countries I visited, I found a growing dissatisfaction with our present policy toward Rhodesia. To be sure, the black leaders welcomed our newly expressed rhetorical support for majority rule. But because we have refrained, in contrast to the Chinese and Russians, from doing anything to help the Liberation Movement achieve it, they question our sincerity.

I think it would be a profound mistake for us to send American troops to do for the Zimbabweans what the Zimbabweans should be doing for themselves. This is their fight and, as their spokesmen say, it is up to them to win it. Perhaps more importantly, our strategic stake in the political future of Southern Africa, unlike Western Europe, Japan, and the Middle East, where our most vital national interests are truly engaged, is much more marginal. But I do believe that short of a military involvement we can and should more actively identify ourselves with the Liberation Movement. We could, for example, provide humanitarian and economic assistance to the more than 20,000 Zimbabwean refugees now living in squalid refugee camps in Mozambique and Zambia.

The refugees, many of whom fled Rhodesia as a result of the government's decision to force them into "protective settlements" (to deprive the Liberation Movement of indigenous popular support) are desperately in need of assistance. They urgently require food, clothing, shelter, and medical supplies. It would be entirely consistent with our own humanitarian traditions to provide it to them. At the same time, we could also offer economic and administrative training to those Zimbabweans living in exile who will ultimately assume the responsibility of running an emergent Zimbabwe. Such assistance would, in my judgment, help convince the leaders of the Liberation Movement, and the rulers of the black African States, we are truly committed to majority rule in Rhodesia. Because the Zimbabwean insurgents are badly divided, however, with several factions contending for power and position within the movement, it would be a mistake for us to provide assistance to any of them directly. What we should do is channel our contributions through the OAU—which has already requested that all foreign aid be distributed through them. Indeed, the Liberation leaders with whom I spoke supported the OAU position—precisely because they wanted to minimize any external influence, in their internal affairs.

Very often, in the formulation of foreign policy, one has to choose between the obligations of principle and the requirements of reality. I would suggest that the situation of Rhodesia is one which requires a response that is both principled and pragmatic. The just cause of the black majority in Rhodesia, which is fighting for freedom within its own land, deserves our sympathy and support. But even if we did not feel obligated to support the liberation movement as a matter of principle, it would still make sense for us to do so pragmatically. Time, after all, is on the side of the blacks. Sooner or later they will come to power—6 percent of the population cannot, in the final analysis, suppress the remaining 94 percent forever—and when they win, our chances for a productive relationship with them, and the 46 other black African nations, will be significantly enhanced if we make it clear that we support them in deed as well as in word.

As part of his effort to produce a negotiated settlement in Rhodesia, Secretary Kissinger has suggested the whites should be given political and economic guarantees to encourage them to turn power over to the blacks. If the Rhodesian whites could be compensated for whatever economic losses they might suffer after the blacks assume power, so the Kissinger theory goes, they might be more willing to accept the risks involved. What this theory fails to take into account is that the Rhodesian whites do not see themselves as bears in a bull market: they have no interest in selling their shares in Rhodesia at the optimum moment in order to take their money and run. They clearly prefer to fight it out rather than surrender their way of life in exchange for token resettlement payments.

To the extent that "compensation" might, however, provide a theoretical inducement for the whites to accept majority rule, it would cost more than a billion dollars to cover the market value of their residential properties, farms, industrial investments, pension plans, and other financial interests. Can anyone expect the U.S. Congress—even in cooperation with other countries—to appropriate this kind of money, particularly when we have a backlog of unmet social and economic needs at home? Consequently, even if the Rhodesian whites were willing to accept compensation in exchange for their acceptance of majority rule, which they are not, there is no reason to believe the Congress, or any other parliament in the Western World, would be willing to provide it.

If "compensation" is a nonstarter, repeal of the Byrd amendment allowing the importation of chrome from Rhodesia would at least be a beginning of a long overdue change in our foreign policy. No one seriously believes the Smith regime will be brought to its knees if the United States prohibits the purchase of Rhodesian chrome. Indeed, sanctions appear to have had relatively little economic effect (except in forcing Rhodesia to become more self-sufficient) and, from a purely political point of view, seem to have effectively precluded the emergence of an indigenous white opposition to Smith.

Be that as it may, African activists see a refusal to enforce economic sanctions against Rhodesia as a symbolic manifestation of support for the Smith regime. As long as we continue to trade with Rhodesia—in violation of U.N. resolutions calling for a total embargo on Rhodesia which we supported—our credibility concerning majority rule will be fatally impaired. Leaders of the Liberation Movement view the repeal of the Byrd amendment as a litmus test of our attitude toward their fight for freedom. The only question is whether we pass the test before the Smith regime falls.

Pending the repeal of the Byrd amendment, Secretary Kissinger has been attempting to persuade Prime Minister Vorster of South Africa to pressure Prime Minister Smith of Rhodesia into coming to terms with his black majority. There is no question Vorster, if he chose to, could force Smith to capitulate. Now that the Mozambique border has been closed, the only way in and out of landlocked Rhodesia is through South Africa. Should Vorster cut the rail and road links betwen the two countries, Rhodesia would literally collapse in a matter of weeks. Yet Vorster, a shrewd judge of his country's own self interest, at least when it comes to South Africa's external relations, hardly needs to be persuaded that a negotiated transition to majority rule in Rhodesia would be to South Africa's advantage. Ideologically opposed to black rule in his own country, he realizes it is inevitable in Rhodesia. And to the extent a peaceful transition to majority rule in Salisbury would enhance the prospects for a more moderate leadership in Zimbabwe—thereby creating fewer problems for South Africa—Vorster already has ample incentive to facilitate a transfer of power from the white minority to the black majority in Rhodesia, the blandishments of Secretary Kissinger notwithstanding.

The problem is not that Vorster fails to recognize his interests, but that he is politically incapable of acting on them. There is enormous sympathy, and a great sense of identification, on the part of South African whites for their beleaguered brethren in Rhodesia. Over 15 percent of the white population in Rhodesia consists of transplanted South Africans. Any attempt on Vorster's part

to force Rhodesia into accepting a settlement by threatening to cut the rail and road traffic to South Africa would provoke a firestorm of political criticism within his own white nationalist constituency. And Smth, acutely aware of Vorster's economic leverage as well as his political problems, would not hesitate to appeal to white public opinion in South Africa. In addition to the political obstacles, there are ideological ones as well. South Africa is, for understandable reasons, vehemently opposed to boycotts. And Vorster would find it extremely difficult to justify imposing such sanctions on Rhodesia while simultaneously decrying similar tactics against South Africa.

Some have suggested that Vorster could quietly reduce the flow of oil and arms to Rhodesia as a way of pressuring Smith into a settlement. This strategy, however, is unlikely to have the desired effect. A slowdown of supplies could conceivably produce a minor modification in the Smith regime's negotiating position should talks with the leaders of the Liberation ever be resumed. But it cannot be expected to effect a fundamental reversal of attitude, particularly when the whites are convinced that the transition to black rule will result in catastrophe. Only by severing Rhodesia's links to the outside world can South Africa force Rhodesia into accepting the inevitable. But this is the very strategy which the prevailing political realities preclude.

It would appear, therefore, that there is no more hope of getting both sides back to the negotiating table than of buying the whites out or of persuading South Africa into forcing the Smith regime to yield. In the absence of such developments, the armed struggle will intensify. White morale, which is already deteriorating, will crumble. And sooner or later the Smith regime will fall—the victim of its own intransigence as much as the overwhelming odds against it.

One can only hope, before this day comes, that we will have demonstrated by our deeds, not merely our words, where we stand. And it would not, I think, be too egregious an exaggeration to say that the future of our relations with the rest of Africa will be significantly affected by what we do.

Unlike the situation in Rhodesia, where the prospects for a settlement have been lost in the mutual antagonisms of an armed conflict, there is still a chance for a constructive reconciliation between the white and black populations of South Africa. If the Vorster regime were to make the necessary changes now, it would probably be able to avoid bloodshed later. In spite of the Sweto riots, however, the white regime in Pretoria gives no indication of a willingness to ameliorate apartheid. Indeed, they seem determined to press forward with their "homelands" policy under which the blacks, who constitute 80 percent of the population, will be consigned to 13 percent of the land.

As bad as the racial situation may be in Rhodesia, it is infinitely worse in South Africa. In Rhodesia, the blacks have at least nominal representation in Parliament; in South Africa, they have none. In Rhodesia, blacks are more or less free to travel around the country, although they can only live in specially designated areas; in South Africa, blacks cannot leave their own community for more than 72 hours, and they cannot live with their own families unless they have resided in the area in which they work all their lives, or have worked there continuously for at least 15 years. For millions of black contract laborers in South Africa, this means they can only see their families for several weeks a year—producing understandable bitterness.

The black South Africans are, in short, among the most repressed people in the world. During the course of my visit to South Africa, I spoke with many of them and came away with the feeling that their accumulated resentment constitutes a political volcano on the verge of erupting. The younger generation of blacks, much more militant than their elders, are particularly afflicted by feelings of rage and frustration. And there is every reason to believe they will refuse to accept the grinding indignities of their existence with the same sense of futile resignation as the preceding generation.

There is a widespread feeling on the part of many thoughtful analysts of the South African situation that, in spite of the repressive character of the regime, there is unlikely to be any major upheaval in the country for the foreseeable future. Since the establishment of apartheid in 1948, they point out, the blacks in South Africa have remained relatively docile and, the recent rioting notwithstanding, are likely to refrain from violent protests in the years ahead. I believe this analysis is completely mistaken and that tranquillity is likely to soon give way to turmoil. The reason blacks failed to engage in systematic efforts to change the status quo until now was not because they accepted their status with equanimity but because they felt there was nothing they could do to change it. Precluded from participation in the political system, confronted by a massive security operation which effectively crushed any significant opposition, and surrounded by a series of white buffer states that insulated South Africa from the rest of the continent, they had no realistic prospect of being able to overthrow the system that oppressed them.

The fall of the white regimes in Angola and Mozambique, and the imminent collapse of the Smith government in Rhodesia, have had a profound psychological impact on the South African blacks. The triumph of black nationalism in the surrounding states has inevitably led to a growing sense that if the blacks in Angola and Mozambique could achieve independence, they should be able to liberate themselves as well.

But even more important than the psychological implications are the logistical possibilities opened up by such a development. As long as South Africa was surrounded by buffer states under white control, it was virtually impossible for the blacks to organize an effective insurgency. Now that the neighboring nations have come under black control, however, the ability of indigenous opposition forces to launch a liberation movement has been significantly enhanced.

At the moment, Africa's attention is focused on Rhodesia. But once Rhodesia falls, South Africa will be the sole remaining white redoubt on the continent, and the stage will be set for the final act in this racial drama. Despite their desire for the elimination of apartheid, it is most unlikely that the other African countries will organize a Pan African army to descend on South Africa. Logistically, they lack the resources to mount such an operation. And the OAU is sufficiently divided that, even if an expeditionary force were technically possible, it would be politically impossible to organize. In any case, the leaders of the black African States with whom I spoke made it clear that, their antagonism toward apartheid notwithstanding, the liberation of South Africa was something the South African blacks would have to accomplish for themselves.

The existence of a substantial amount of trade and travel between South Africa and the other African nations has led a number of white South Africans to conclude that, even after the fall of Rhodesia, the leaders of the neighboring states will put their economic interests above their ideological inclinations and refrain from supporting a war of national liberation against them. If the border between South Africa and Mozambique or between South Africa and Botswana were closed it would, indeed, create significant economic problems for these developing African nations. But the decision on the part of President Machel of Mozambique, in comparable circumstances, to close the border with Rhodesia gives ample indication of what is likely to happen when a similar situation develops in South Africa. And the leaders to the liberation movement for Zimbabwe, as well as the representatives of the front-line states, made it clear they would provide a South African Liberation Movement with the same advice and assistance they provided to the Liberation Movements for Angola and Mozambique in the past, and which they are now providing to the liberation movement in Rhodesia.

For all these reasons, I believe the emergence of an active insurgency in South Africa is only a matter of time. Once Rhodesia falls and the Zimbabwe border is available for such purposes, I find it hard to believe that substantial numbers of young South African blacks would not be prepared to go into exile, and to lay down their lives if necessary, to join the liberation movement. Operating from bases in Mozambique and Zimbabwe, with access to the Botswana border as well, an organized insurgency could create serious security problems for the white regime in South Africa. Unlike the situation in Rhodesia, however, where the collapse of the Smith regime is imminent, the white government in South Africa is likely to prove more durable. Several reasons account for this—not the least of which is that the whites have been in South Africa for over 300 years and truly feel that South Africa is

their country and that they have nowhere else to go. As the threat to their survival grows, so will a sense of beleaguered embattlement resulting in a deep determination to fight it out until the bitter end. But by far the most important factor involved here is the disparate numbers involved. In Rhodesia, after all, there are only 250,000 whites. In South Africa, there are 4 million. And the latter provides a critical mass of manpower which the whites can use with great effectiveness to suppress the blacks.

South Africa is thus likely to enter a period of prolonged violence—with the development of a rural insurgency feeding on a growing racial rebellion in the cities—although the whites will probably retain their power for some time to come. Faced with increasing pressure for change, the whites are likely to become more, not less, intransigent. And whatever slim chances now exist for the development of a more moderate policy will probably be eliminated in a vicious cycle of fear and repression.

From the point of view of the South African whites, the answer to their dilemma lies in the creation of autonomous "homelands" for each of the tribal groupings in the country. Within the confines of their tribal homeland, so the theory goes, the blacks will be free to govern themselves, thereby giving them the right to determine their own future. Aside from the fact that the black homelands only include 13 percent of the land (although the blacks constitute 80 percent of the population), there are several other reasons why the policy is unlikely to secure the support of the very people it is supposed to serve. Perhaps most significant is the failure of the homelands policy to make any meaningful provision for the urban blacks who refuse to move there after they are established. Those blacks who now live in the rural areas, where the homelands are located, may find the establishment of a series of independent black nations within South Africa an acceptable solution to the problem of apartheid. But the 6 million blacks living in and around the big cities—who constitute the backbone of the industrial labor force—are unlikely to accept with equanimity the loss of South African citizenship which the creation of the tribal homelands will entail. What they want is not symbolic citizenship in a tribal homeland, hundreds of miles away from where they live, but the right to participate as equals in the social, economic, and political life of South Africa.

A number of white liberals, and even some enlightened white nationalists, think the situation can be saved if the regime will only mitigate some of the more irksome consequences of its racially repressive policies. But the elimination of petty apartheid, in the absence of fundamental change in the social and political system as a whole, will do no more than buy the whites a little more time. Unless the blacks can be made equal partners in the entire South African enterprise, the prospects for an ultimate reconciliation between the races will be dim indeed.

Under these circumstances, it would be a profound mistake for us to recognize the Transkai, the homeland for the Xhosa people, when it receives its independence on October 26. The OAU has already condemned the imminent independence of the Transkai and, were we to provide it with the respectability of American diplomatic recognition, we would seriously alienate the rest of Africa. The homelands are, after all, one of the main political props in the ideological foundation of apartheid, and any support we give the Transkai would inevitably be interpreted as an indication of our indifference toward the plight of the South African blacks.

If the blacks had voluntarily opted for the homelands policy, it might have provided a legitimate basis for American support. But the homelands, like apartheid, have been imposed on them. And, if for no other reason, they are almost certain to fail.

If there is nothing we can do about the homelands, there is something we can do about the economy. There are, at the moment, over 350 American firms doing business in South Africa. The book value of our investment there comes to $1.5 billion and constitutes 15 percent of the total foreign investment in the country. Representatives of the frontline African States were all in favor of a prohibition on American investment in South Africa as a way of economically isolating the white regime. But within South Africa, I found black activists virtually unanimous in saying that the withdrawal of American investment would hurt blacks far more than whites. It is, after all, their jobs that are on the line, and they did not appear eager to sacrifice the interests of their people, who might be thrown out of work as a result, to score symbolic victories against an entrenched regime. On the other hand, they felt very strongly that American investment should be used to promote constructive change rather than simply to maximize profits. We should, they strongly argued, require American firms to adopt progressive pay and personnel policies as a precondition for investment in South Africa. I believe they are right. In view of the escalating demands for an economic boycott against South Africa, the only way to morally and politically justify our existing investment in the country will be to show that it has, in fact, created opportunities for advancement the blacks might otherwise not have had.

The winds of change are blowing throughout Southern Africa. There are, of course, limitations on our ability to determine the future course of events. Certainly we must avoid any kind of military involvement on the African continent. But we can move with the tide of history rather than against it. And we should, consistent with our own democratic principles and humanitarian traditions, do more to promote racial harmony and majority rule in the region than we are at present.

A TRIBUTE TO CHARLES O'DONNELL

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts (Mr. BURKE) is recognized for 5 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, it is with great sadness that I announce the passing of an old and respected friend, Mr. Charles C. O'Donnell of Lynn, Mass. I do not think we will soon see the likes of Charlie again—he was a completely selfless individual who dedicated nearly 50 years of his life to causes for the elderly. Charlie O'Donnell, in his capacity as vice president and executive director of the Senior Citizens and Associates of America, Inc., which he founded in 1926, became a well known figure in the Massachusetts State House. For days at a time he would stalk the corridors, buttonholing every legislator that he came across to make sure that the bill being considered would serve the best possible interests of the elderly. I worked closely with Charlie in those days, and I found him to be one of God's great and noble men.

Charlie brought his message down to Washington, too. His testimony before the House Ways and Means Committee and the Senate Finance Committee was compelling, and forcefully expressed the needs and concerns of the elderly of this Nation. He came to Washington time and time again, until he could come no longer because of age and illness. Charlie will always have a special place in my heart for his efforts in behalf of the elderly.

I include an article written by the Boston Herald American's excellent columnist, Mr. Wendell Coltin, and an article which appeared in the Boston Globe.

[From the Boston Herald American, Aug. 4, 1976]

A TRIBUTE TO CHARLIE O'DONNELL

(By Wendell Coltin)

Cynics may disagree, but it is true that the good men do (and women, too) lives after them.

So, too, it will be when we and others think of "Charlie" O'Donnell, who died Monday at age 86 in Lynn Hospital.

His death came after a long illness; but even that illness did not deter him from his dedication to the elderly, to whom he had devoted 47 years of his life as head of the Senior Citizens and Associates of America, Inc.

From time to time—most recently less than two months ago—he would call us to comment on a column, express his views on a matter that concerned older persons, or make a suggestion. He was held in great affection by the older generation; his generation and the older generation that preceded it.

We saw a good example of that affection when, a few years ago—we believe now it could have been on his 80th birthday anniversary—he "tossed" a party for elderly persons in Lynn.

It was a chicken pie dinner and was served a Sunday afternoon in a veterans' post home that was filled to capacity.

"Charlie" had invited this writer to be his guest and said, "Be sure to bring your wife, too."

We recall another birthday party in his honor, tendered by Lynn Postmaster Thomas Costin, a former mayor of that city.

We can recall "Charlie"—Charles C. O'Donnell—going to Washington to testify, in failing health, before a congressional committee in behalf of the elderly. He had the admiration and respect of the entire Massachusetts delegation—in both houses of Congress. Like Frank Manning, "Charlie" O'Donnell was not a person who sought

things for himself; but he was a fighter for others; always with his sights set on a better life for the elderly among us; a sincere person who did not know the meaning of the word "quit" and made his voice heard at a time when advocates for the elderly were not given the ear they have come to receive today, when Senior Power is demonstrated at the polls and large national organizations, such as the National Council of Senior Citizens, American Ass'n of Retired Persons and National Retired Senior Teachers Ass'n command respect on Capitol Hill and also have chapters and legislative councils active in all the states.

In his own way, "Charlie" O'Donnell, a plodder who very well could have given up the fight many, many, times in the face of discouragement or rebuff over the years, was truly a pioneer who did much to pave the way for recognition and programs the elderly of our country—yes, our country, not just Massachusetts—share today. As his "obit" in Tuesday's Herald American stated, he worked for "legislation pertaining to senior citizens on the national and state level."

A Mass for Charles C. O'Donnell will be offered tomorrow at 9 a.m. in St. Joseph's Church, Lynn.

[From the Boston Globe, Aug. 4, 1976]

C. C. O'DONNELL, 86; PIONEERED AID FOR ELDERLY

A funeral Mass for Charles C. O'Donnell, 86, of Lynn, who devoted nearly 50 years of his life in work to help the elderly, will be held tomorrow at 9 a.m. at St. Joseph's Church, Lynn. Interment will be in St. Joseph's Cemetery.

Mr. O'Donnell died Monday in Lynn Hospital after a long illness.

For 47 years he headed the Senior Citizens and Associates of America and he sponsored the American Loyalty League, which worked for legislation pertaining to senior citizens at state and national levels. His efforts for the aging went back to the Depression years and the Townsend Plan.

He leaves three stepsons, John D. Rose of Upton, Charles A. Rose of Hollywood, Fla., and Joseph C. Rose of West Palm Beach, Fla.

THE DEATH OF A SIX-YEAR-OLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. METCALFE) is recognized for 5 minutes.

Mr. METCALFE. Mr. Speaker, I am inserting an editorial from this morning's Washington Post. I do not intend to expand on what is said in the editorial. The tragedy speaks for itself. If this senseless, tragic incident does not prompt us to pass strong handgun legislation, then I wonder what will.

"The Death of a Six Year Old," editorial, The Washington Post, August 4, 1976:

THE DEATH OF A SIX-YEAR-OLD

The words, or actions, of children often speak volumes to adults, and nothing illustrates that truism as vividly as the death in Baltimore the other day of a six-year, shot by a three-year-old boy, using a .357 magnum pistol that had been left fully loaded, within easy reach. Millions of words have been written about this country's cavalier attitude toward the proliferation of handguns. The argument over the efficacy of gun control laws goes on interminably. But there is something about the senseless shooting of a six-year-old by a three-year old that concentrates the mind on the role of hand guns in modern urban society and quite literally begs for a break in the stalemate over handgun control.

The three-year-old was a visitor in a household in which a security guard was also a house guest. It was the guard's gun, and it was stored in a dining room cabinet. The three-year-old boy and his six-year-old brother got hold of the gun and took it outside, where they had earlier had a small argument with Jeffrey Krauch. Jeffrey and a friend were off buying ice cream with their lawn-mowing earnings. "When they walked back," as Philip McCombs reconstructed the tragedy for The Washington Post, "the three-year-old and the six-year-old were waiting for them with the magnum." The smaller child was wielding the gun and threatening people, but no one took him seriously, assuming a three-year-old would only have a toy gun. Then, without a word, said a witness, "he just pointed the gun, his brother cocked it and the little boy pulled the trigger. It was the awfullest thing I ever saw. Jeffrey just stood there for a moment with a big hole in his stomach and blood all over the place. Then he fell over."

That's how Jeffrey Krauch, 6, became a statistic. The special difference in this case is the tender age of the victim and the even tenderer age of his assailant. Most of the other details could be about thousands of Americans who lose their lives each year in the grim carnage caused by a portion of the 40 million handguns lying around in America. A man by the name of Nelson Shields lost a son to random handgun violence not long ago, and it made him decide to work for the control of handguns. In an interview with the New Yorker magazine, he put the matter of the handgun in a startling statistical context:

To give you a better idea of what the murder figures alone mean, between 1966 and 1972, the peak years of the war in Vietnam, 44,000 Americans were killed in battle there. During the same period, 52,000 people were murdered with handguns here at home.

As a spokesman at Mr. Shields' organization, the National Council to Control Handguns, pointed out, adequate gun control laws would include requirements that their owners be thoroughly trained in their use, handling and storage—and the requirements with respect to storage would categorically preclude access by children aged three and six.

There is more to be learned about the tragedy in Baltimore than the obvious lesson it offers about the need for better gun control. This is a story that pleads to be studied by the presidents of television networks, the creators of comic books and by parents, teachers, ministers and all who really care about what we are doing to children when we expose them daily to television shows, books and comic strips that celebrate violence books and comic strips that celebrate violence, in general, and gunplay in particular. This impact of violence—which is discussed by Therman Evans on the opposite page—is the wider part of the lesson in the death of Jeffrey Kraugh. The other part of the lesson, which has to do with gun control, is nicely captured by a poster in Mr. Shields office here that says:

"In the eight seconds it takes to read this sentence, another handgun will have been produced in the United States. By the time you finish reading this poster, it will have been sold. Aren't things moving a little too fast?"

The gun lobbyists who succeed in thwarting each attempt to bring this crazy proliferation of civilian weaponry under control persist in the argument that slowing down the arms race will only make the world safe for criminals. The simple truth is that handguns do their most devastating work in the home by accident or because of a momentary fit of rage. The chance of a gun hurting a family member or friend is many times greater than its chances of ever harming a burglar. By bringing the handgun under some semblance of control, we doubt the world will be any safer for criminals. But if we could have made it safer for Jeffrey Krauch, aged six, wouldn't that be something worth doing?

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 5 minutes.

Ms. ABZUG. Mr. Speaker, I was unable to be here yesterday for the vote on rollcall No. 593, which was on the motion that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment. This vote concerned the decision whether to place a ceiling of $7.2 billion on the amount of highway funds which could be spent in the 1977 fiscal year.

Due to some confusion in instructions, I was paired in favor of the motion. Had I been here for the vote, I would have voted against the motion.

FURTHER LEGISLATIVE PROGRAM

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute.)

Mr. MYERS of Indiana. Mr. Speaker, I thought that this afternoon the majority leader, the gentleman from Massachusetts (Mr. O'NEILL) in a colloquy, made the statement that the program for the remainder of today and tomorrow would be announced at a later hour today. It would appear that the hour is getting pretty late today to make such an announcement. Is there going to be such an announcement made?

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I thank the gentleman for yielding.

It is my understanding, Mr. Speaker, that the schedule for tomorrow will begin with the consideration of H.R. 9719, payments in lieu of taxes, H.R. 11552, postcard registration and a continuation of the Clean Air Act amendments, H.R. 10498. Those three items.

Mr. MYERS of Indiana. I would ask the gentleman from Indiana if he can tell us what the adjournment time for tomorrow will be?

Mr. SHARP. Mr. Speaker, I am sorry, but I cannot answer the gentleman.

Mr. MYERS of Indiana. Mr. Speaker, I have asked that question because I believe there are many Members who would like to make reservations so as to go back to their constituencies.

The SPEAKER pro tempore. The Chair will advise the gentleman from Indiana (Mr. MYERS) that although he talked to the majority leader a while ago, he would have to verify the adjournment time with the majority leader and the Speaker.

INTRODUCTION OF VOLUNTEER FIREFIGHTER BILLS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. OTTINGER. Mr. Speaker, today I am introducing three bills originally authored by Congressman MURTHA aimed at providing assistance to the Nation's volunteer firemen.

Approximately 95 percent of all the fire companies in the United States are manned by volunteers, giving their time and risking their lives to perform a vital service for their communities. Many of these communities and fire departments are finding it increasingly difficult to maintain effective fire protection.

The financial crises that local governments have faced in the past few years have often precluded the purchase of equipment and prevented the provision of training necessary for a modern firefighting capability. The financial pressures on Government have been matched by inflationary pressures on the price of equipment; that purchased by the community or company and those items which must be provided by the individual volunteer.

There can be little question that many deaths and injuries might be prevented were better preparation and equipment available to the volunteers. As it is, these public-spirited citizens are faced with a hard choice: To reduce their efforts for lack of financial support or to continue serving their communities with inadequate equipment, posing ever-increasing risks to their health and safety.

The legislation I am introducing will not alleviate all of the problems confronting volunteer firefighters, but it is a necessary response to some of the distressing problems which they face in carrying out their work.

The first bill is designed to assist volunteer departments which are having trouble purchasing vehicles or other items because of the rapidly increasing prices for that equipment.

The bill authorizes $8 million annually for a Federal grant program to pay the difference between the 1972 and the present price for firefighting equipment. Some of these prices have doubled during that time, precluding the modernization of the local departments. I was told of one situation in my district where a company purchased a vehicle in 1970 for $52,000 and that upon inquiring they found that today that same vehicle sells for approximately $100,000.

This program will not only alleviate these financial pressures which are working against the improvement of local fire protection, but, in addition, will return to the individual departments some initiative in establishing their force structure and capabilities.

The second bill amends the Internal Revenue Code to exempt volunteer fire companies from Federal liquid fuel taxes, excise taxes on communications equipment and services, and fire trucks in excess of 10,000 pounds. The basis for these changes is that these companies should not be required to pay these taxes when they are already sacrificing time and effort on behalf of their communities and find themselves hard pressed financially. The revenue loss to the Federal Government would not be significant, and this measure could make a significant difference to many small companies.

The last bill I am introducing addresses the question of the individual firefighter's safety. It would allow volunteers to deduct from their Federal income tax the cost of protective clothing used in firefighting activities. Hopefully this bill's passage would give the individual firefighter an incentive to invest in the protective equipment which his company might not be able to provide.

Volunteer firefighters deserve all the praise and support we can give them for their selfless work. Passage of these bills would represent recognition of the fine work done by these men, and would help them to continue serving their communities with less financial hardship and less risk.

The texts of the bills follow:

H.R. 15053

A bill to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as the result of inflation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201–2219) is amended by adding at the end thereof the following new section:

"ASSISTANCE FOR VOLUNTEER FIRE DEPARTMENTS

"SEC. 24. (a) The Administrator may make grants, on such terms and conditions as he deems appropriate, to volunteer fire departments to enable such departments to purchase firefighting equipment which is necessary for providing adequate community fire protection, but which such departments are unable to purchase because of the increase in price of such equipment since 1972 as a result of inflation.

"(b) In making grants under this section the Administrator shall give preference to volunteer fire departments serving areas having a population of less than fifty thousand people.

"(c) The amount of a grant made under this section for the acquisition of firefighting equipment shall be the amount which, as determined by the Administrator, represents the increase in price of such equipment since 1972 as a result of inflation. If such equipment was not available for purchase in 1972, the Administrator shall estimate the 1972 price of such equipment on the basis of the 1972 prices of comparable equipment.

"(d)(1) No grant may be made under this section unless an application for such grant has been submitted to, and approved by, the Administrator. Any such application shall be in such form, shall be submitted to the Administrator in such manner, and shall contain such information as the Administrator shall by regulation prescribe.

"(2) The Administrator may not approve an application for a grant under this section unless the applicant provides assurances satisfactory to the Administrator that upon receipt of such grant it will have sufficient funds available for the purchase of the firefighting equipment with respect to which such application was submitted.

"(e) For pruposes of making payments pursuant to grants authorized by this section, there are authorized to be appropriated not to exceed $8,000,000.".

H.R. 15054

A bill to amend the Internal Revenuue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of section 4221 of the Internal Revenue Code of 1954 (relating to certain tax-free sales) is amended—

(1) by striking out "or" at the end of paragraph (4), by inserting "or" at the end of paragraph (5), and by inserting immediately after paragraph (5) the following new paragraph:

"(6) to a nonprofit volunteer firefighting or rescue organization for its exclusive use,"; and

(2) by adding at the end thereof the following new sentence: "Paragraph (6) shall not apply in the case of the sale of any article which is taxable under section 4161 or 4181.".

(b) Subsection (d) of section 4221 of such Code is amended by adding at the end thereof the following new paragraph:

"(7) NONPROFIT VOLUNTEER FIREFIGHTING OR RESCUE ORGANIZATION.—For purposes of this paragraph, the term 'nonprofit volunteer firefighting or rescue organization' means an organization—

"(A) the primary purpose of which is to provide firefighting or rescue services,

"(B) the services of which are primarily provided by volunteer members, and

"(C) which is described in section 501(c) and which is exempt from income tax under section 501(a).".

(c) Section 4041 of such Code (relating to special fuels) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR USE BY NONPROFIT VOLUNTEER FIREFIGHTING OR RESCUE ORGANIZATIONS.—Under regulations prescribed by the Secretary or his delegate, the taxes imposed by this section shall not apply to any liquid sold to any nonprofit volunteer firefighting or rescue organization (as defined in section 4221(d)(7)) for its exclusive use.".

(d) Paragraph (2) of section 6416(b) of such Code (relating to special cases in which tax payments considered overpayments) is amended—

(1) by inserting after subparagraph (D) the following new subparagraph:

"(E) sold to a nonprofit volunteer firefighting or rescue organization for its exclusive use;"; and

(2) by adding at the end thereof the following new sentence: "Subparagraph (E) shall not apply in the case of an article in respect of which tax was paid under section 4161 or 4181.".

(e) The amendments made by this section shall apply with respect to articles sold by the manufacturer after the date of the enactment of this Act.

SEC. 2. (a) Section 4253 of the Internal Revenue Code of 1954 (relating to exemptions from the tax on communication services) is amended by adding at the end thereof the following new subsection:

"(h) NONPROFIT VOLUNTEER FIREFIGHTING OR RESCUE ORGANIZATIONS.—The tax imposed by section 4251 shall not apply with respect to payment received for services furnished to a nonprofit volunteer firefighting or rescue organization (as defined in section 4221(d)(7)).".

(b)(1) Subject to the provisions of paragraph (2), the amendment made by subsection (a) shall apply with respect to amounts

paid after the date of the enactment of this Act for services rendered after such date.

(2) The amendment made by subsection (a) shall not apply with respect to amounts paid pursuant to bills rendered on or before the date of the enactment of this Act. In the case of amounts paid pursuant to bills rendered after such date for services for which no bill was rendered on or before such date, such amendment shall apply except with respect to such services as were rendered more than 2 months before such date. In the case of services rendered more than 2 months before such date, the provisions of subchapter B of chapter 33 of the Internal Revenue Code of 1954 in effect at the time such services were rendered shall apply to the amounts paid for such services.

H.R. 15055

A bill to amend the Internal Revenue Code of 1954 to provide a deduction for clothing purchased and used by taxpayers serving in volunteer firefighting organizations

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. CLOTHING EXPENSES FOR VOLUNTEER FIREMEN.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who serves as a qualified member of a volunteer firefighting organization, there shall be allowed as a deduction firefighting-related clothing expenses paid or incurred by him during the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED MEMBER.—The term 'qualified member' means any individual who for a 6-month period during the taxable year was an active member (as determined by regulations prescribed by the Secretary or his delegate) in any volunteer firefighting organization defined in paragraph (2).

"(2) VOLUNTEER FIREFIGHTING ORGANIZATION.—The term 'volunteer firefighting organization' means any organization—

"(A) which is organized and operated to provide firefighting services for persons in a community which otherwise has no such services during the period in which such organization provides such services;

"(B) which mets the minimum standards for such organizations—

"(i) established by each State in which such organization provides such service; or

"(ii) if the State has no such standards, established by the Secretary or his delegate;

"(C) which charges no amount for its firefighting services in excess of an amount determined by regulations prescribed by the Secretary or his delegate; and

"(D) which is described in section 501 (c) (4) and is exempt from taxation under section 501(a).

"(3) FIREFIGHTING-RELATED CLOTHING EXPENSES.—The term 'firefighting-related clothing expenses' means amounts paid by the taxpayer for clothing reasonably necessary and directly related to providing firefighting services with the volunteer firefighting organization of which the taxpayer is a qualied member.".

(b) The table of sections of such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 220. Clothing expenses for volunteer firemen.

"Sec. 221. Cross references."

SEC. 2. Section 62 of the Internal Revenue Code of 1954 (relating to the definition of adjusted gross income) is amended by inserting before the last sentence thereof the following new paragraph:

"(13) CLOTHING EXPENSES FOR VOLUNTEER FIREMEN.—The deduction allowed by section 220 (relating to clothing expenses of volunteer firemen)."

SEC. 3. The amendments made by the first two sections of this Act shall apply to taxable years ending after the date of the enactment of this Act.

CONFERENCE REPORT ON H.R. 8410

Mr. POAGE submitted the following conference report and statement on the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1391)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 57, 58, and 59.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55, and agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: On page 1 of the Senate engrossed amendments, strike out the comma on line 10 and all that follows down through line 3 on page 2; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with amendments, as follows: Restore the matter proposed to be stricken out by the Senate amendment.

On page 3, line 3, of the House engrossed bill, strike out "$100,000" and insert "$10,000".

And the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: On page 2, line 11, of the Senate engrossed amendments, strike out "(b)" and insert "(c)".

And the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: Restore the matter proposed to be stricken out by the Senate amendment and immediately thereafter insert "purchasing livestock"; and the Senate agree to the same

Amendment numbered 56: That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with amendments, as follows: Strike out the matter proposed to be stricken by the Senate amendment.

On page 9 of the House engrossed bill after line 20, insert the following:

"(d) On or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year for the purposes authorized in the Packers and Stockyards Act, 1921, as amended."

And the Senate agree to the same.

W. R. POAGE,
JOHN MELCHER,
BOB BERGLAND,
TOM HARKIN,
JACK HIGHTOWER,
BERKLEY BEDELL,
GLENN ENGLISH,
KEITH G. SEBELIUS,
CHARLES THONE,
STEVE SYMMS,
Managers on the Part of the House.

HERMAN E. TALMADGE,
WALTER D. HUDDLESTON,
GEORGE MCGOVERN,
HUBERT H. HUMPHREY,
DICK CLARK,
ROBERT DOLE,
CARL T. CURTIS,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Except for technical, clerical, and conforming changes, the differences between the two Houses and the adjustments made in the committee of conference are noted below.

AMENDMENT NO. 1.—SMALL PACKERS EXEMPT FROM BONDING

The House bill amends the Act of July 12, 1943, 7 U.S.C. 204, to extend to packers the discretionary authority of the Secretary of Agriculture (presently applicable only to market agencies and dealers) to require reasonable bonds. However, the bill exempts from this requirement those packers whose average annual purchases do not exceed $1,000,000.

The Senate amendment retains this provision but reduces from $1,000,000 to $500,000 the level of average annual livestock purchases below which a packer must fall in order to qualify for the exemption.

The House receded.

AMENDMENT NO. 6—DEFINITION OF THE TERM "PACKER"

The House bill amends the definition of the term "packer" contained in section 201 of the Packers and Stockyards Act, 7 U.S.C. 191, to extend its coverage to include any person engaged in the business of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer or distributor in commerce. The House bill also adds to section 201 the proviso that nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in section 406 of the Act.

The Senate amendment retains the expanded definition of the term "packer" but deletes the proviso with reference to the jurisdiction of the Federal Trade Commission and adds language which authorizes the Secretary to exclude as packers, such general food brokers, dealers, or distributors as he determines not necessary to carry out the purposes of the Packers and Stockyards Act.

The committee of conference agreed to ac-

cept the provision of the House bill with an amendment. The proviso with reference to the jurisdiction of the Federal Trade Commission was deleted as redundant in view of the provisions of section 406 of the Packers and Stockyards Act.

The conferees recognized the desirability of providing the Secretary with the flexibility to meet changing methods of marketing meat and meat food products. However, the conferees intend that those brought within the jurisdiction of the Secretary under the expanded definition of "packer" not be burdened with unnecessary regulation by the Federal Government. Too often, regulation has taken the form of requiring unnecessary reports or actions. The conferees expressed their intent that reports or actions only be required with respect to wholesale dealers, brokers, and distributors where the Secretary determines that there is a real need in seeing that the Packers and Stockyards Act is being complied with and then only to the extent the Secretary deems necessary for that purpose. If the Secretary is considering a matter in a geographic area or involving a particular type of business, or other criteria, reports should be required only of those persons which are necessary. If the matter only involves one wholesale dealer, broker, or distributor, reports should only be required of that person.

AMENDMENT NO. 11.—ADMINISTRATIVE CIVIL PENALTIES UPON PACKERS, STOCKYARD OWNERS, MARKET AGENCIES AND DEALERS

The House bill amends section 203(b) of the Packers and Stockyards Act, 7 U.S.C. 193 (b) (which authorizes the Secretary of Agriculture after notice and hearing to order a packer to cease and desist from continuing any violation of title II of the Act) and section 312(b) of the Act, 7 U.S.C. 213(b) (which authorizes the Secretary of Agriculture after notice and hearing to order any stockyard owner, market agency, or dealer to cease and desist from engaging in or using any unfair, unjustly discriminatory, or deceptive practice or device, etc.) to add at the end of both sections a new provision granting to the Secretary authority after notice and hearing to assess a civil penalty of not more than $100,000 for each violation.

The Senate amendment deletes this provision of the House bill in its entirety.

The committee of conference agreed to accept the House provision with an amendment reducing the maximum civil penalty from $100,000 to $10,000.

AMENDMENT NO. 14.—SECRETARY MAY ORDER PACKERS TO CEASE AND DESIST PURCHASING LIVESTOCK WHILE INSOLVENT

The House bill amends the Act of July 12, 1943, to authorize the Secretary, if after notice and hearing he finds any packer is insolvent, to issue an order requiring such packer to cease and desist from purchasing livestock "while insolvent, or while insolvent except under such conditions as the Secretary may prescribe to effectuate the purposes of the Act."

The Senate amendment retains this provision but deletes the words "while insolvent" the second time they appear and inserts immediately thereafter the words "purchasing livestock".

The committee of conference agreed to accept the House provision and the language inserted by the Senate amendment.

AMENDMENT NO. 31.—PROMPT PAYMENT BY PACKER TO SELLER'S "REPRESENTATIVE"

The House bill adds to the Packers and Stockyards Act a new section 409 which requires that each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized agent the full amount of the purchase price.

The Senate amendment retains this provision but deletes the word "agent" and substitutes the word "representative".

The House receded.

AMENDMENT NO. 39.—PROMPT PAYMENT BY PACKER WHERE SELLER OR DULY AUTHORIZED REPRESENTATIVE NOT PRESENT

The House bill provides in new section 409 that, if the seller or his duly authorized representative is not present to demand payment at the point of transfer of possession, the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, etc.

The Senate amendment retains this provision but deletes the requirement that the seller or his duly authorized representative "demand" payment and provides instead that the packer, market agency, or dealer shall wire transfer funds or place a check in the United States mail if the seller or his duly authorized agrent is not present to "receive" payment at the point of transfer of possession.

The House receded.

AMENDMENT NO. 48.—SMALL PACKERS EXEMPT FROM TRUST PROVISIONS

The House bill adds to the Packers and Stockyards Act a new section 206 which provides that all livestock purchased by a packer in cash sales, and all inventories of, or receivbles or proceeds from meat, meat food products, or livestock products derived therefrom, shall be held by such packer in trust for the benefit of all unpaid cash in trust for the benefit of all unpaid cash sellers of such livestock until full payment has been received by such unpaid sellers. However, the House bill exempts from the provisions of this section any packer whose average annual purchases do not exceed $1,000,000.

The Senate amendment retains this provision but reduces from $1,000,000 to $500,000 the level of average annual livestock purchases below which a packer must fall in order to qualify for the exemption.

The House receded.

AMENDMENTS NO. 50 AND 51.—PRESERVATION OF TRUST BY UNPAID SELLER

The House bill provides in new section 206 that the unpaid seller shall lose the benefit of such trust if he has not preserved it by giving written notice to the packer and to the Secretary within fifteen days after the final date for making payment under new section 409 (if no payment instrument has been received) or within five business days after he has received notice that the payment instrument promptly presented for payment has been dishonored.

The Senate amendments retain this provision but extend the period within which an unpaid seller must preserve his trust from fifteen to thirty days (Amdt. No. 50) in the case of a seller who has received no payment instrument, and from five business days to fifteen business days (Amdt. No. 51) in the case of a seller who receives notice of dishonor of a payment instrument promptly presented for payment.

The House receded.

AMENDMENT NO. 54.—PREEMPTION PROVISIONS

The House bill adds to the Packers and Stockyards Act a new section 410 which provides that no requirement of any State or territory of the United States, or any subdivision thereof, or the District of Columbia, with respect to bonding of packers or prompt payment by packers for livestock purchases may be enforced upon any packer operating in compliance with the bonding provision under the Act of July 12, 1943, and prompt payment provisions of section 409 of the Packers and Stockyards Act.

The Senate amendment retains this provision but adds two provisos which provide (1) that this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act or regulations thereunder, and (2) that this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.

The House receded.

AMENDMENT NO. 56.—BIENNIAL AUTHORIZATION OF APPROPRIATIONS

The House bill adds to section 407 of the Packers and Stockyards Act, 7 U.S.C. 228, a new subsection which requires, beginning with the fiscal year ending September 30, 1978, biennial authorizations of appropriations to carry out that Act.

The Senate amendment deletes this provision in its entirety.

The committee of conference agreed to strike out the House provision and substitute therefor a provision requiring that on or before February 15 of each calendar year beginning with calendar year 1977, or such other date as may be specified by the appropriate committee, the Secretary of Agriculture shall testify before the Senate Committee on Agriculture and Forestry and the House Committee on Agriculture and provide justification in detail of the amount requested in the budget to be appropriated for the next fiscal year to carry out the purposes of the Packers and Stockyards Act.

W. R. POAGE,
JOHN MELCHER,
BOB BERGLAND,
TOM HARKIN,
JACK HIGHTOWER,
BERKLEY BEDELL,
GLENN ENGLISH,
KEITH G. SEBELIUS,
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HUBERT H. HUMPHREY,
DICK CLARK,
ROBERT DOLE,
CARL T. CURTIS,
HENRY BELLMON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 12169

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 94–1392)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Energy Conservation and Production Act".

CONTENTS

TITLE I—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS AND RELATED MATTERS

PART A—FEDERAL ENERGY ADMINISTRATION ACT AMENDMENTS

SHORT TITLE

SEC. 101. This title may be cited as the "Federal Energy Administration Act Amendments of 1976".

LIMITATION ON DISCRETION OF ADMINISTRATOR WITH RESPECT TO ENERGY ACTIONS

SEC. 102. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(c)(1) The Administrator shall not exercise the discretion delegated to him by the President, pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973, to submit to the Congress as one energy action any amendment to the regulation under section 4(a) of such Act, pursuant to section 12 of such Act, which amendment exempts any oil, refined petroleum product, or refined product category from both the allocation and pricing provisions of the regulation under section 4 of such Act.

"(2) Nothing in this subsection shall prevent the Administrator from concurrently submitting an energy action relating to price together with an energy action relating to allocation of the same oil, refined petroleum product, or refined product category.".

ENVIRONMENTAL PROTECTION AGENCY COMMENT PERIOD AND NOTICE OF WAIVER

SEC. 103. Paragraphs (1) and (2) of section 7(c) of the Federal Energy Administration Act of 1974 are amended to read as follows:

"(1) The Administrator shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

"(2) The review required by paragraph (1) of this subsection may be waived for a period of fourteen days if there is an emergency situation which, in the judgment of the Administrator, requires making effective the action proposed to be taken at a date earlier than would permit the Administrator of the Environmental Protection Agency the five working days opportunity for prior comment required by paragraph (1). Notice of any such waiver shall be given to the Administrator of the Environmental Protection Agency and filed with the Federal Register with the publication of notice of proposed or final agency action and shall include an explanation of the reasons for such waiver, together with supporting data and a description of the factual situation in such detail as the Administrator determines will apprise such agency and the public of the reasons for such waiver.".

GUIDELINES FOR HARDSHIP AND INEQUALITY AND HEARING AT APPEALS

SEC. 104. Section 7(i)(1)(D) of the Federal Energy Administration Act of 1974 is amended to read as follows:

"(D) Any officer or agency authorized to issue the rules, regulations, or orders described in paragraph (A) shall provide for the making of such adjustments, consistent with the other purposes of this Act, as may be necessary to prevent special hardship, inequity, or unfair distribution of burdens and shall, by rule, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, rescission of, exception to, or exemption from, such rules, regulations, and orders. Such officer or agency shall, within ninety days after the date of the enactment of the Federal Energy Administration Act Amendments of 1976, establish criteria and guidelines by which such special hardship, inequity, or unfair distribution of burdens shall be evaluated. Such officer or agency shall additionally insure that each decision on any application or petition requesting an adjustment shall specify the standards of hardship, inequity, or unfair distribution of burden by which any disposition was made, and the specific application of such standards to the facts contained in any such application or petition. If any person is aggrieved or adversely affected by a denial of a request for adjustment under the preceding sentences, he may request a review of such denial by the agency and may obtain judicial review in accordance with paragraph (2) of this subsection when such a denial becomes final. The agency shall, by rule, establish appropriate procedures, including a hearing when requested, for review of a denial, and where

deemed advisable by the agency, for considering other requests for action under this paragraph, except that no review of a denial under this subparagraph shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.".

REQUIREMENTS FOR HEARING IN THE GEOGRAPHIC AREA AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

SEC. 105. Section 7(i)(1) is amended by adding after subparagraph (E) the following new subparagraph:

"(F)(i) With respect to any rule or regulation of the Administrator the effects of which, except for indirect effects of an inconsequential nature, are confined to—

"(I) a single unit of local government or the residents thereof;

"(II) a single geographic area within a State or the residents thereof; or

"(III) a single State or the residents thereof;

the Administrator shall, in any case where he is required by law, or where he determines, to afford an opportunity for a hearing or the oral presentation of views, provide procedures for the holding of such hearing or oral presentation within the boundaries of the unit of local government, geographic area, or State described in subclauses (I) through (III), as the case may be.

"(ii) For purposes of this subparagraph—

"(I) the term 'unit of local government' means a county, municipality, town, township, village, or other unit of general government below the State level; and

"(II) the term 'geographic area within a State' means a special purpose district or other region recognized for governmental purposes within such State which is not a unit of local government.

"(iii) Nothing in this subparagraph shall be construed as requiring a hearing or an oral presentation of views where none is required by law or, in the absence of such a requirement, where the Administrator determines a hearing or oral presentation is not appropriate.".

LIMITATION ON THE ADMINISTRATOR'S AUTHORITY WITH RESPECT TO ENFORCEMENT OF REGULATIONS AND RULINGS

SEC. 106. Section 7 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(K) The Administrator or his delegate may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against any person whose sole petroleum industry operation relates to the marketing of petroleum products, for any violation of any rules or regulation if—

"(1) such civil action or order is based upon a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

"(2) such person relied in good faith upon rules, regulations, or ruling interpreting such rules or regulations, in effect on the date of the violation.".

MAINTAINING ACCOUNTS OR RECORDS FOR COMPLIANCE PURPOSES; AND ALLEVIATION OF SMALL BUSINESS REPORTING BURDENS

SEC. 107. Section 13 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(g) With respect to any person who is subject to any rule, regulation, or order promulgated by the Administrator or to any provision of law the administration of which is vested in or transferred or delegated to the Administrator, the Administrator may require, by rule, the keeping of such accounts or records as he determines are necessary or appropriate for determining compliance with such rule, regulation, order, or any applicable provision of law.

"(h) In exercising his authority under this Act and any other provision of law relating to the collection of energy information, the Administrator shall take into account the size of businesses required to submit reports with the Administrator so as to avoid, to the greatest extent practicable, overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns required to submit reports to the Administrator.".

PENALTIES FOR FAILURE TO FILE INFORMATION

SEC. 108. Section 13 of the Federal Energy Administration Act of 1974 as amended by this Act is further amended by adding at the end thereof the following new subsection:

"(i) Any failure to make information available to the Administrator under subsection (b), any failure to comply with any general or special order under subsection (c), or any failure to allow the Administrator to act under subsection (d) shall be subject to the same penalties as any violation of section 11 of the Energy Supply and Environmental Coordination Act of 1974 or any rule, regulation, or order issued under such section.".

REPORTS

SEC. 109. (a) Section 15 of the Federal Energy Administration Act of 1974 is amended—

(1) by striking out subsection (a) thereof; and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) Section 15(b) of such Act (as redesignated by subsection (a) of this section) is amended—

(1) by striking out "and" in paragraph (4) after "period;";

(2) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by inserting at the end of such subsection the following:

"(6) an analysis of the energy needs of the United States and the methods by which such needs can be met, including both tax and nontax proposals and energy conservation strategies.

In the first annual report submitted after the date of enactment of the Energy Conservation and Production Act, the Administrator shall include in such report with respect to the analysis referred to in paragraph (6) a specific discussion of the utility and relative benefits of employing a Btu tax as a means for obtaining national energy goals.".

(c) Section 15 of such Act (as amended by this section) is further amended by adding at the end thereof the following:

"(e) The analysis referred to in subsection (b)(6) shall include, for each of the next five fiscal years following the year in which the annual report is submitted and for the tenth fiscal year following such year—

"(1) the effect of various conservation programs on such energy needs;

"(2) the alternate methods of meeting the energy needs identified in such annual report and of—

"(A) the relative capital and other economic costs of each such method;

"(B) the relative environmental, national security, and balance-of-trade risks of each such method;

"(C) the other relevant advantages and disadvantages of each such method; and

"(3) recommendations for the best method or methods of meeting the energy needs identified in such annual report and for legislation needed to meet those needs.

Notwithstanding the termination of this Act, the President shall designate an appropriate Federal agency to conduct the analysis specified in subsection (b)(6).".

(d) Section 18(d) of the Federal Energy Administration Act of 1974 is amended by striking out "a report every six months" and inserting in lieu thereof "an annual report".

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 110. Section 29 of the Federal Energy Administration Act of 1974 is amended to read as follows:

"SEC. 29. (a) There are authorized to be appropriated to the Federal Energy Administration the following sums:

"(1) subject to the restrictions specified in subsection (b), to carry out the functions identified as assigned to Executive Direction and Administration of the Federal Energy Administration as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,655,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $33,086,000.

"(2) to carry out the functions identified as assigned to the Office of Energy Policy and Analysis as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $8,137,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $34,971,000.

"(3) to carry out the functions identified as assigned to the Office of Regulatory Programs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $13,238,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $62,459,000.

"(4) to carry out the functions identified as assigned to the Office of Conservation and the Environment as of January 1, 1976 (other than functions described in title II of the Energy Conservation and Production Act)—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $7,386,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $37,000,000.

"(5) to carry out the functions identified as assigned to the Office of Energy Resource Development as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $3,052,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $16,934,000.

"(6) to carry out the functions identified as assigned to the Office of International Energy Affairs as of January 1, 1976—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $300,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $1,921,000.

"(7) subject to the restriction specified in subsection (c), to carry out a program to develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy and to provide overall coordination of Federal solar energy commercialization activities—

"(A) for the period beginning July 1, 1976, and ending September 30, 1976, not to exceed $500,000; and

"(B) for the fiscal year ending September 30, 1977, not to exceed $2,500,000.

"(8) for the purpose of permitting public use of the Project Independence Evaluation system pursuant to section 31 of this Act, not to exceed the aggregate amount of the fees estimated to be charged for such use.

"(b) The following restrictions shall apply to the authorization of appropriations specified in paragraph (1) of subsection (a)—

"(1) amounts to carry out the functions

identified as assigned to the Office of Communications and Public Affairs as of January 1, 1976, shall not exceed $607,000 for the period beginning July 1, 1976, and ending September 30, 1976, and shall not exceed $2,036,000 for the fiscal year ending September 30, 1977; and

"(2) no amounts authorized to be appropriated in such paragraph may be used to carry out the functions identified as assigned to the Office of Nuclear Affairs as of January 1, 1976.

"(c) No amount authorized to be appropriated in paragraph (7) of subsection (a) may be used to carry out solar energy research, development, or demonstration activities.

COLLECTION OF INFORMATION CONCERNING EXPORTS OF COAL OR PETROLEUM PRODUCTS

SEC. 111. Section 25 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new subsection:

"(d) The Administrator shall not be required to collect independently information described in subsection (a) if he can secure the information described in subsection (a) from other Federal agencies and the information secured from such agencies is available to the Congress pursuant to a request under subsection (b).".

FEDERAL ENERGY ADMISTRATION ACT EXTENSION

SEC. 112. (a) The second sentence of section 30 of the Federal Energy Administration Act of 1974 is amended to read as follows: "This Act shall terminate December 31, 1977.".

(b) The amendment made by subsection (a) to section 30 of the Federal Energy Administration Act of 1974 shall take effect on July 30, 1976.

PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

SEC. 113. The Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following new section:

"PROJECT INDEPENDENCE EVALUATION SYSTEM DOCUMENTATION AND ACCESS

"SEC. 31. The Administrator of the Federal Energy Administration shall—

"(1) submit to the Congress, not later than September 1, 1976, full and complete structural and parametric documentation, and not later than January 1, 1977, operating documentation, of the Project Independence Evaluation System computer model;

"(2) provide access to such model to representatives of committees of the Congress in an expeditious manner; and

"(3) permit the use of such model on the computer system maintained by the Federal Energy Administration by any member of the public upon such reasonable terms and conditions as the Administrator shall, by rule, prescribe. Such rules shall provide that any member of the public who uses such model may be charged a fair and reasonable fee, as determined by the Administrator, for using such model.".

PART B—PRODUCTION ENHANCEMENT AND OTHER RELATED MATTERS

EXEMPTION OF STRIPPER WELL PRODUCTION

SEC. 121. Section 8 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(i)(1) The first sale price of stripper well crude oil shall be exempt from the regulation promulgated under section 4 of this Act as amended pursuant to the requirements of this section. For the purpose of this section, the President shall include in the computation of the actual weighted average first sale price for crude oil produced in the United States in any month subsequent to August 1976 the actual volume of stripper well crude oil produced in the United States in such subsequent month and such actual volume shall be deemed to have been sold at a first sale price equal to $11.63 per barrel plus the difference between the actual weighted average first sale price in August 1976, for crude oil, other than stripper well crude oil, produced in the United States, and the actual average first sale price in such subsequent month of all classifications of crude oil, other than stripper well crude oil, produced in the United States, weighted as if each such classification were produced in such subsequent month in the same proportion as such classification, or the most nearly comparable classification which existed on August 1, 1976, was produced in August 1976.

"(2) For the purposes of this subsection, 'stripper well crude oil' means crude oil produced and sold from a property whose maximum average daily production of crude oil per well during any consecutive 12-month period beginning after December 31, 1972, does not exceed 10 barrels.

"(3) To qualify for the exemption under this subsection, a property must be producing crude oil at the maximum feasible rate throughout the 12-month qualifying period and in accordance with recognized conservation practices.

"(4) The President may define terms used in this subsection consistent with the purposes thereof.".

ENHANCEMENT OF DOMESTIC PRODUCTION

SEC. 122. Section 8 of the Emergency Petroleum Allocation Act of 1973 (as amended by section 121 of this Act) is further amended—

(1) in subsection (d)(1), by striking out "any adjustment as a production incentive shall not permit an increase in the maximum weighted average first sale price in excess of 3 per centum per annum (compounded annually), unless modified pursuant to this section, and";

(2) in subsection (d)(3)(C), by striking out ", including production from stripper wells";

(3) in subsection (e)(1), by striking out "(A) a production incentive adjustment to the maximum weighted average first sale price in excess of the 3 per centum limitation specified in subsection (d)(1), (B)", and by striking out "such subsection, or (C) both.", and inserting in lieu thereof "subsection (d)(1).";

(4) in subsection (e)(2), by striking out "an additional adjustment as a production incentive, or", and by striking out ", or both,";

(5) in subsection (f)(1), by adding before the period at the end thereof the following: "and an analysis of the effects on price and the production of domestic crude oil resulting from the amendments made to this section by sections 121 and 122 of the Energy Conservation and Policy Act";

(6) in subsection (f)(2), by striking out "The President may" and inserting in lieu thereof "On March 15, 1977, the President may";

(7) in subsection (f)(2)(A), by striking out "or modification", and by striking out "as may have been amended pursuant to subsection (e)";

(8) in subsection (f)(5), by striking out "or modify", and by striking out "or of a modification of such adjustment"; and

(9) by adding at the end thereof the following new subsection:

"(j)(1) As soon as practicable after the date of enactment of this subsection, taking into consideration the greater flexibility provided by the amendments relating to the production incentive adjustment under section 122 of the Energy Conservation and Production Act, the President shall promulgate such amendments to the regulation under section 4(a) (relating to price) as shall (A) provide additional price incentives for bona fide tertiary enhanced recovery techniques and (B) provide for the adjustment of differentials in ceiling prices for crude oil that are the result of gravity differentials which are arbitrary, discriminatory, applied on a regional or local basis without reasonable justification, or fail substantially to reflect current relative market valuations of such differentials.

"(2) As used in this subsection, the term 'tertiary enhanced recovery techniques' means extraordinary and high cost enhancement technologies of a type associated with tertiary applications including, to the extent that such techniques would be uneconomical without additional price incentives, miscible fluid or gas injection, chemical flooding, microemulsion flooding, in situ combustion, cyclic steam injection, polymer flooding, and caustic flooding and variations of the same. The President shall have authority to further define the term by rule.".

CONSTRUCTION OF REFINERIES BY SMALL AND INDEPENDENT REFINERS

SEC. 123. (a) It is the intent of the Congress that, for the purpose of fostering construction of new refineries by small and independent refiners in the United States, the Administrator of the Federal Energy Administration shall take such action, within his authority under other law consistent with the attainment, to the maximum extent practicable, of the objectives under section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973, as the Administrator determines necessary to insure that rules, regulations, or orders issued by him do not impose unreasonable, unnecessary, or discriminatory barriers to entry for small refiners and independent refiners.

(b) Not later than April 1, 1977, the Administrator shall report to the Congress with respect to actions taken to carry out the policies in subsection (a).

(c) For the purposes of this section the terms "small refiner" and "independent refiner" have the same meaning as such terms have under the Emergency Petroleum Allocation Act of 1973.

EFFECTIVE DATE OF EPAA AMENDMENTS

SEC. 124. The amendments made to section 8 of the Emergency Petroleum Allocation Act by sections 121 and 122 of this Act shall take effect on the date of enactment of this Act.

PART C—OFFICE OF ENERGY INFORMATION AND ANALYSIS

FINDINGS AND PURPOSE

SEC. 141. (a) The Congress finds that the public interest requires that decisionmaking, with respect to this Nation's energy requirements and the sufficiency and availability of energy resources and supplies, be based on adequate, accurate, comparable, coordinated, and credible energy information.

(b) The purpose of this title is to establish within the Federal Energy Administration an Office of Energy Information and Analysis and a National Energy Information System to assure the availability of adequate, comparable, accurate, and credible energy information to the Federal Energy Administration, to other Government agencies responsible for energy-related policy decisions, to the Congress, and to the public.

OFFICE OF ENERGY INFORMATION AND ANALYSIS

SEC. 142. The Federal Energy Administration Act of 1974 is amended by inserting "PART A—FEDERAL ENERGY ADMINISTRATION" after the enacting clause and by adding at the end thereof the following:

"PART B—OFFICE OF ENERGY INFORMATION AND ANALYSIS

"ESTABLISHMENT OF OFFICE OF ENERGY INFORMATION AND ANALYSIS

"SEC. 51. (a)(1) There is established within the Federal Energy Administration an Office of Energy Information and Analysis (herein-

after in this Act referred to as the 'Office') which shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Director shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.

"(b) The Administrator shall delegate (which delegation may be on a nonexclusive basis as the Administrator may determine may be necessary to assure the faithful execution of his authorities and responsibilities under law) the authority vested in him under section 11 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act and the Director may act in the name of the Administrator under section 12 of the Energy Supply and Environmental Coordination Act of 1974 and section 13 of this Act for the purpose of obtaining enforcement of the authorities delegated to him.

"(c) As used in this Act the term 'energy information' shall have the meaning described in section 11 of the Energy Supply and Environmental Coordination Act of 1974.

"NATIONAL ENERGY INFORMATION SYSTEM

"SEC. 52. (a) It shall be the duty of the Director to establish a National Energy Information System (hereinafter referred to in this Act as the 'System'), which shall be operated and maintained by the Office. The System shall contain such information as is required to provide a description of and facilitate analysis of energy supply and consumption within and affecting the United States on the basis of such geographic areas and economic sectors as may be appropriate to meet adequately the needs of—

"(1) the Federal Energy Administration in carrying out its lawful functions;

"(2) the Congress; and

"(3) other officers and employees of the United States in whom have been vested, or to whom have been delegated, energy-related policy decisionmaking responsibilities.

"(b) At a minimum, the System shall contain such energy information as is necessary to carry out the Administration's statistical and forecasting activities, and shall include, at the earliest date and to the maximum extent practical subject to the resources available and the Director's ordering of those resources to meet the responsibilities of his Office, such energy information as is required to define and permit analysis of—

"(1) the institutional structure of the energy supply system including patterns of ownership and control of mineral fuel and nonmineral energy resources and the production, distribution, and marketing of mineral fuels and electricity;

"(2) the consumption of mineral fuels, nonmineral energy resources, and electricity by such classes, sectors, and regions as may be appropriate for the purposes of this Act;

"(3) the sensitivity of energy resource reserves, exploration, development, production, transportation, and consumption to economic factors, environmental constraints, technological improvements, and substitutability of alternate energy sources;

"(4) the comparability of energy information and statistics that are supplied by different sources;

"(5) industrial, labor, and regional impacts of changes in patterns of energy supply and consumption;

"(6) international aspects, economic and otherwise, of the evolving energy situation; and

"(7) long-term relationships between energy supply and consumption in the United States and world communities.

"ADMINISTRATIVE PROVISIONS

"SEC. 53. (a) The Director of the Office shall receive compensation at the rate now or hereafter prescribed for offices and positions at level IV of the Executive Schedule as specified in section 5315 of title 5, United States Code.

"(b) To carry out the functions of the Office, the Director, on behalf of the Administrator, is authorized to appoint and fix the compensation of such professionally qualified employees as he deems necessary, including up to ten of the employees in grade GS–16, GS–17, or GS–18 authorized by section 7 of this Act.

"(c) The functions and powers of the Office shall be vested in or delegated to the Director, who may from time to time, and to the extent permitted by law, consistent with the purposes of this Act, delegate such of his functions as he deems appropriate. Such delegation may be made, upon request, to any officer or agency of the Federal Government.

"(d)(1) The Director shall be available to the Congress to provide testimony on such subjects under his authority and responsibility as the Congress may request, including but not limited to energy information and analyses thereof.

"(2) Any request for appropriations for the Federal Energy Administration submitted to the Congress shall identify the portion of such request intended for the support of the Office, and a statement of the differences, if any, between the amounts requested and the Director's assessment of the budgetary needs of the Office.

"ANALYTICAL CAPABILITY

"SEC. 54. (a) The Director shall establish and maintain the scientific, engineering, statistical, or other technical capability to perform analysis of energy information to—

"(1) verify the accuracy of items of energy information submitted to the Director; and

"(2) insure the coordination and comparability of the energy information in possession of the Office and other Federal agencies.

"(b) The Director shall establish and maintain the professional and analytic capability to evaluate independently the adequacy and comprehensiveness of the energy information in possession of the Office and other agencies of the Federal Government in relation to the purposes of this Act and for the performance of the analyses described in section 52 of this Act. Such analytic capability shall include—

"(1) expertise in economics, finance, and accounting;

"(2) the capability to evaluate estimates of reserves of mineral fuels and nonmineral energy resources utilizing alternative methodologies;

"(3) the development and evaluation of energy flow and accounting models describing the production, distribution, and consumption of energy by the various sectors of the economy and lines of commerce in the energy industry;

"(4) the development and evaluation of alternative forecasting models describing the short- and long-term relationships between energy supply and consumption and appropriate variables: and

"(5) such other capabilities as the Director deems necessary to achieve the purposes of this Act.

"PROFESSIONAL AUDIT REVIEW OF PERFORMANCE OF OFFICE

"SEC. 55. (a) The procedures and methodology of the Office shall be subject to a thorough annual performance audit review. Such review shall be conducted by a Professional Audit Review Team which shall prepare a report describing its investigation and reporting its findings to the President and to the Congress.

"(b) The Professional Audit Review Team shall consist of at least seven professionally qualified persons who shall be officers or employees of the United States and of whom at least—

"one shall be designated by the Chairman of the Council of Economic Advisers;

"one shall be designated by the Commissioner of Labor Statistics;

"one shall be designated by the Administrator of Social and Economic Statstics;

"one shall be designated by the Chairman of the Securities and Exchange Commission;

"one shall be designated by the Chairman of the Federal Trade Commission;

"one shall be designated by the Chairman of the Federal Power Commission; and

"one, who shall be the Chairman of the Professional Audit Review Team, shall be designated by the Comptroller General.

"(c) The Director and the Administrator shall cooperate fully with the Professional Audit Review Team and notwithstanding any other provisions of law shall make available to the Team such data, information, documents, and services as the Team determines are necessary for successful completion of its performance audit review.

"(d) Except as authorized by law, any person who—

"(1) obtains, in the course of exercising the functions of the Professional Audit Review Team, information which constitutes a trade secret or confidential commercial information, the disclosure of which could result in significant competitive injury to the person to which such information relates; and

"(2) willfully discloses such information;

shall be fined not more than $40,000, or imprisoned not more than one year, or both.

"COORDINATION OF ENERGY INFORMATION ACTIVITIES

"SEC. 56. (a) In carrying out the purposes of this Act the Director shall, as he deems appropriate review the energy information gathering activities of Federal agencies with a view toward avoiding duplication of effort and minimizing the compliance burden on business enterprises and other persons.

"(b) In exercising his responsibilities under subsection (a) of this section, the Director shall recommend policies which, to the greatest extent practicable—

"(1) provide adequately for the energy information needs of the various departments and agencies of the Federal Government, the Congress, and the public;

"(2) minimize the burden of reporting energy information on businesses, other persons, and especially small businesses;

"(3) reduce the cost to Government of obtaining information; and

"(4) utilize files of information and existing facilities of established Federal agencies.

"(c)(1) At the earliest practicable date after the date of enactment of this section, each Federal agency which is engaged in the gathering of energy information as a part of an established program, function, or other activity shall promptly provide the Administrator with a report on energy information which—

"(A) identifies the statutory authority upon which the energy information collection activities of such agency is based;

"(B) lists and describes the energy information needs and requirements of such agency; and

"(C) lists and describes the categories, definitions, levels of detail, and frequency of collection of the energy information collected by such agency.

Such agencies shall cooperate with the Administrator and provide such other descriptive information with respect to energy information activities as the Administrator may request. The Administrator shall prepare a report on his activities under this

subsection, which report shall include recommendations with respect to the coordination of energy information activities of the Federal Government. Such report shall be available to the Congress, and shall be transmitted to the President and to the Energy Resources Council for use in preparation of the plan required under subsection (c) of section 108 of the Energy Reorganization Act of 1974.

"REPORTS

"SEC. 57. (a) The Director shall make periodic reports and may make special reports to the Congress and the public, including but not limited to—

"(1) such reports as the Director determines are necessary to provide a comprehensive picture of the quarterly, monthly, and, as appropriate, weekly supply and consumption of the various nonmineral energy resources, mineral fuels, and electricity in the United States; the information reported may be organized by company, by States, by regions, or by such other producing and consuming sectors, or combinations thereof, and shall be accompanied by an appropriate discussion of the evolution of the energy supply and consumption situation and such national and international trends and their effects as the Director may find to be significant; and

"(2) an annual report which includes, but is not limited to, a description of the activities of the Office and the National Energy Information System during the preceding year; a summary of all special reports published during the preceding year; a summary of statistical information collected during the preceding year; short-, medium-, and long-term energy consumption and supply trends and forecasts under various assumptions; and, to the maximum extent practicable, a summary or schedule of the amounts of mineral fuel resources, nonmineral energy resources, and mineral fuels that can be brought to market at various prices and technologies and their relationship to forecasted demands.

"(b)(1) The Director, on behalf of the Administrator, shall insure that adequate documentation for all statistical and forecast reports prepared by the Director is made available to the public at the time of publication of such reports. The Director shall periodically audit and validate analytical methodologies employed in the preparation of periodic statistical and forecast reports.

"(2) The Director shall, on a regular basis, make available to the public information which contains validation and audits of periodic statistical and forecast reports.

"(c) Prior to publication, the Director may not be required to obtain the approval of any other officer or employee of the United States with respect to the substance of any statistical or forecasting technical reports which he has prepared in accordance with law.

"ENERGY INFORMATION IN POSSESSION OF OTHER FEDERAL AGENCIES

"SEC. 58. (a) In furtherance and not in limitation of any other authority, the Director, on behalf of the Administrator, shall have access to energy information in the possession of any Federal agency except information—

"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

"(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

"(b) In the event that energy information in the possession of another Federal agency which is required to achieve the purposes of this Act is denied the Director or the Administrator pursuant to paragraph (1) or paragraph (2) of subsection (a) of this section, the Administrator, or the Director, on behalf of the Administrator, shall take appropriate action, pursuant to authority granted by law, to obtain said information from the original sources or a suitable alternate source. Such source shall be notified of the reason for this request for information.

"CONGRESSIONAL ACCESS TO INFORMATION IN POSSESSION OF THE OFFICE

"SEC. 59. The Director shall promptly provide upon request any energy information in the possession of the Office to any duly established committee of the Congress. Such information shall be deemed the property of such committee and may not be disclosed except in accordance with the rules of such committee and the Rules of the House of Representatives or the Senate and as permitted by law.".

EFFECTIVE DATE

SEC. 143. The amendments made by this part C of the Federal Energy Administration Act of 1947 shall take effect 150 days after the date of enactment of this Act, except that section 56(c) of the Federal Energy Administration Act of 1974 (as added by this part) shall take effect on the date of enactment of this Act.

PART D—AMENDMENTS TO OTHER ENERGY-RELATED LAW

APPLIANCE PROGRAM

SEC. 161. (a) Section 325(a)(1)(A) of the Energy Policy and Conservation Act is amended to read as follows:

"(a)(1)(A) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (1) through (10) of section 322(a). Not later than 90 days after the date of enactment of the Energy Conservation and Production Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of covered product.".

(b) Section 325(a)(2) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following:

"(2) The Administrator shall direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11), (12), and (13) of section 322(a). Not later than one year after the date of enactment of this Act, the Administrator shall, by rule, prescribe an energy efficiency improvement target for each such type of product.".

ENERGY RESOURCES COUNCIL REPORTS

SEC. 162. (a) Section 108(b) of the Energy Reorganization Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) prepare a report on national energy conservation activities which shall be submitted to the President and the Congress annually, beginning on July 1, 1977, and which shall include—

"(A) a review of all Federal energy conservation expenditures and activities, the purpose of each such activity, the relation of the activity to national conservation targets and plans, and the success of the activity and the plans for the activity in future years;

"(B) an analysis of all conservation targets established for industry, residential, transportation, and public sectors of the economy, whether the targets can be achieved or whether they can be further improved, and the progress toward their achievement in the past year;

"(C) a review of the progress made pursuant to the State energy conservation plans under sections 361 through 366 of the Energy Policy and Conservation Act and other similar efforts at the State and local level, and whether further conservation can be carried on by the States or by local governments, and whether further Federal assistance is required;

"(D) a review of the principal conservation efforts in the private sector, the potential for more widespread implementation of such efforts and the Federal Government's efforts to promote more widespread use of private energy conservation initiatives; and

"(E) an assessment of whether existing conservation targets and goals are sufficient to bridge the gap between domestic energy production capacity and domestic energy needs, whether additional incentives or programs are necessary or useful to close that gap further, and a discussion of what mandatory measures might be useful to further bring domestic demand into harmony with domestic supply.

The Chairman of the Energy Resource Council shall coordinate the preparation of the report required under paragraph (5).".

(b) Section 108 of the Energy Reorganization Act of 1974 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by adding after subsection (b) the following new subsection:

"(c) The President, through the Energy Resources Council, shall—

"(1) prepare a plan for the reorganization of the Federal Government's activities in energy and natural resources, including, but not limited to, a study of—

"(A) the principal laws and directives that constitute the energy and natural resource policy of the United States;

"(B) prospects of developing a consolidated national energy policy;

"(C) the major problems and issues of existing energy and natural resource organizations;

"(D) the options for Federal energy and natural resource organizations;

"(E) an overview of available resources pertinent to energy and natural resource organization;

"(F) recent proposals for a national energy and natural resource policy for the United States; and

"(G) the relationship between energy policy goals and other national objectives;

"(2) submit to Congress—

"(A) no later than December 31, 1976, the plan prepared pursuant to subsection (c)(1) and a report containing his recommendations for the reorganization of the Federal Government's responsibility for energy and natural resource matters together with such proposed legislation as he deems necessary or appropriate for the implementation of such plans or recommendations; and

"(B) not later than April 15, 1977, such revisions to the plan and report described in subparagraph (A) of this paragraph as he may consider appropriate; and

"(3) provide interim and transitional policy planning for energy and natural resource matters in the Federal Government.".

EXTENSION OF ENERGY RESOURCES COUNCIL

SEC. 163. Section 108(e) of the Energy Reorganization Act of 1974, as redesignated by subsection (b)(1) of this section, is amended by striking out "two years after such effective date," and inserting in lieu thereof "not later than September 30, 1977,".

DEVELOPMENT OF UNDERGROUND COAL MINES

SEC. 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

"(4) the term 'developing new underground coal mine' includes expansion of any

existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mines which had previously been closed.".

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

FINDINGS

SEC. 201. (a) The Congress finds that improvement in electric utility rate design has great potential for reducing the cost of electric utility services to consumers and current and projected shortages of capital, and for encouraging energy conservation and better use of existing electrical generating facilities.

(b) It is the purpose of this title to require the Federal Energy Administration to develop proposals for improvement of electric utility rate design and transmit such proposals to Congress; to fund electric utility rate demonstration projects; to intervene or participate, upon request, in the proceedings of utility regulatory commissions; and to provide financial assistance to State offices of consumer services to facilitate presentation of consumer interests before such commissions.

DEFINITIONS

SEC. 202. As used in this title:

(1) The term "Adminstrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "electric utility" means any person, State agency, or Federal agency which sells electric energy.

(3) The term "Federal agency" means any agency or instrumentality of the United States.

(4) The term "State agency" means a State, political subdivision thereof, or any agency or instrumentality of either.

(5) The term "State utility regulatory commission" means (A) any utility regulatory commission which is a State agency or (B) the Tennessee Valley Authority.

(6) The term "State" means any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States.

(7) The term "utility regulatory commission" means any State agency or Federal agency which has authority to fix, modify, approve, or disapprove rates for the sale of electric energy by any electric utility (other than by such agency).

ELECTRIC UTILITY RATE DESIGN PROPOSALS

SEC. 203. (a) The Administrator shall develop proposals to improve electric utility rate design. Such proposals shall be designed to encourage energy conservation, minimize the need for new electrical generating capacity, and minimize costs of electric energy to consumers, and shall include (but not be limited to) proposals which provide for the development and implementation of—

(1) load management techniques which are cost effective;

(2) rates which reflect marginal cost of service, or time of use of service, or both;

(3) ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel; and

(4) rates (or other regulatory policies) which encourage electric utility system reliability and reliability of major items of electric utility equipment.

(b) The proposals prepared under subsection (a) shall be transmitted to each House of Congress not later than 6 months after the date of enactment of this Act, for review and for such further action as the Congress may direct by law. Such proposals shall be accompanied by an analysis of—

(1) the projected savings (if any) in consumption of petroleum products, natural gas, electric energy, and other energy resources,

(2) the reduction (if any) in the need for new electrical generating capacity, and of the demand for capital by the electric utility industry, and

(3) changes (if any) in the cost of electric energy to consumers,

which are likely to result from the implementation nationally of each of the proposals transmitted under this subsection.

RATE DESIGN INNOVATION AND FEDERAL ENERGY ADMINISTRATION INTERVENTION

SEC. 204. The Administrator may—

(1) fund (A) demonstration projects to improve electric utility load management procedures and (B) regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission, or of any participant in any proceeding before a State utility regulatory commission which relates to electric utility rates or rate design, intervene and participate in such proceeding, and

(3) on request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened or participated under paragraph (2), intervene and partiicpate in such action.

GRANTS FOR OFFICES OF CONSUMER SERVICES

SEC. 205. (a) The Administrator may make grants to States, or otherwise as provided in subsection (c), under this section to provide for the establishment and operation of offices of consumer services to assist consumers in their presentations before utility regulatory commissions. Any assistance provided under this section shall be provided only for an office of consumer services which is operated independently of any such utility regulatory commission and which is empowered to—

(1) make general factual assessments of the impact of proposed rate changes and other proposed regulatory actions upon all affected consumers;

(2) assist consumers in the presentation of their positions before utility regulatory commissions; and

(3) advocate, on its own behalf, a position which it determines represents the position most advantageous to consumers, taking into account developments in rate design reform.

(b) Grants pursuant to subsection (a) of this section shall be made only to States which furnish such assurances as the Administrator may require that funds made available under such section will be in addition to, and not in substitution for, funds made available to offices of consumer services from other sources.

(c) Assistance may be provided under this section to an office of consumer services established by the Tennessee Valley Authority, if such office is operated independently of the Tennessee Valley Authority.

REPORTS

SEC. 206. Not later than the last day in December in each year, the Administrator shall transmit to the Congress a report with respect to activities conducted under this title and recommendations as to the need for and types of further Federal legislation.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 207. (a) There are authorized to be appropriated to carry out this title (other than section 205) for the period beginning July 1, 1976, and ending September 30, 1977, not to exceed $13,056,000, of which not more than $1,000,000 may be assigned for purposes of section 204 (2) and (3).

(b) There are authorized to be appropriated to carry out section 205 for such period not to exceed $2,000,000.

TITLE III—ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SHORT TITLE

SEC. 301. The title may be cited as the "Energy Conservation Standards for New Buildings Act of 1976".

FINDINGS AND PURPOSES

SEC. 302. (a) The Congress finds that—

(1) large amounts of fuels and energy are consumed unnecessarily each year in heating, cooling, ventilating, and providing domestic hot water for newly constructed residential and commercial buildings because such buildings lack adequate energy conservation features;

(2) Federal performance standards for newly constructed buildings can prevent such waste of energy, which the Nation can no longer afford in view of its current and anticipated energy shortage;

(3) the failure to provide adequate energy conservation measures in newly constructed buildings increases long-term operating costs that may affect adversely the repayment of, and security for, loans made, insured, or guaranteed by Federal agencies or made by federally insured or regulated instrumentalities; and

(4) State and local building codes or similar controls can provide an existing means by which to assure, in coordination with other building requirements and with a minimum of Federal interference in State and local transactions, that newly constructed buildings contain adequate energy conservation features.

(b) The purposes of this title, therefore, are to—

(1) redirect Federal policies and practices to assure that reasonable energy conservation features will be incorporated into new commercial and residential buildings receiving Federal financial assistance;

(2) provide for the development and implementation, as soon as practicable, of performance standards for new residential and commercial buildings which are designed to achieve the maximum practicable improvements in energy efficiency and increases in the use of nondepletable source of energy; and

(3) encourage States and local governments to adopt and enforce such standards through their existing building codes and other construction control mechanisms, or to apply them through a special approval process.

DEFINITIONS

SEC. 303. As used in this title:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this title.

(2) The term "building" means any structure to be constructed which includes provision for a heating or cooling system, or both, or for a hot water system.

(3) The term "building code" means a legal instrument which is in effect in a State or unit of general purpose local government, the provisions of which must be adhered to if a building is to be considered to be in conformance with law and suitable for occupancy and use.

(4) The term "commercial building" means any building other than a residential building, including any building developed for industrial or public purposes.

(5) The term "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the executive branch of the Federal Government, including the United States Postal Service, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

(6) The term "Federal building" means any building to be constructed by, or for the use of, any Federal agency which is not legally subject to State or local building codes or similar requirements.

(7) The term "Federal financial assistance" means (A) any form of loan, grant, guarantee, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance (other than general or special revenue sharing or formula grants made to States) approved by any Federal officer or agency; or (B) any loan made or purchased by any bank, savings and loan association, or similar institution subject to regulation by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration.

(8) The term "National Institute of Building Sciences" means the institute established by section 809 of the Housing and Community Development Act of 1974.

(9) The term "performance standards" means an energy consumption goal or goals to be met without specification of the methods, materials, and processes to be employed in achieving that goal or goals, but including statements, of the requirements, criteria and evaluation methods to be used, and any necessary commentary.

(10) The term "residential building" means any structure which is constructed and developed for residential occupancy.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory and possession of the United States.

(13) The term "unit of general purpose local government" means any city, county, town, municipality, or other political subdivision of a State (or any combination thereof), which has a building code or similar authority over a particular geographic area.

PROMULGATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

SEC. 304. (a)(1) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall develop and publish in the Federal Register for public comment proposed performance standards for new commercial buildings. Final performance standards shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(2) As soon as practicable, but in no event later than 3 years after the date of enactment of this title, the Secretary, only after consultation with the Administrator and the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, shall develop and publish in the Federal Register for public comment proposed performance standards for new residential buildings. Final performance standards for such buildings shall be promulgated within 6 months after the date of publication of the proposed standards, and shall become effective within a reasonable time, not to exceed 1 year after the date of promulgation, as specified by the Secretary.

(3) In the development of performance standards, the Secretary shall utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements.

(b) All performance standards promulgated pursuant to subsection (a) shall take account of, and make such allowance or particular exception as the Secretary determines appropriate for, climatic variations among the different regions of the country.

(c) The Secretary, in consultation with the Administrator, the Secretary of Commerce, the Administrator of the General Services Administration, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall periodically review and provide for the updating of performance standards promulgated pursuant to subsection (a).

(d) The Secretary, if he finds that the dates otherwise specified in this section for publication of proposed, or for promulgation of final, performance standards under subsection (a)(1) or (a)(2) cannot practicably be met, may extend the time for such publication or promulgation, but no such extension shall result in a delay of more than 6 months in promulgation.

APPLICATION OF ENERGY CONSERVATION PERFORMANCE STANDARDS FOR NEW BUILDINGS

SEC. 305. (a) Subject to the provisions of subsection (c) and after the effective date of final performance standards for new commercial and residential buildings pursuant to section 304(a), no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State, unless—

(1) such State has certified, in accordance with regulations of the Secretary, that—

(A) the unit of general purpose local government which has jurisdiction over such area has adopted and is implementing a building code, or other construction control mechanism, which meets or exceeds the requirements of such final performance standards, or

(B) such State has adopted and is implementing, on a statewide basis or with respect to such area, a building code or other laws or regulations which provide for the effective application of such final performance standards;

(2) such new building has been determined, pursuant to any applicable approval process described in subsection (b), to be in compliance with such final performance standards; or

(3) such new building is to be located in any area in which the construction of new buildings is not of a magnitude to warrant the costs of implementing final performance standards, as determined by the Secretary after receiving a request for such a determination (and material justifying such request) from the State in which the area is located; except that the Secretary may rescind such a determination whenever the Secretary finds that the amount of construction of new buildings has increased in such area to an extent that such costs are warranted.

The Secretary shall review and conduct such investigations as are deemed necessary to determine the accuracy of such certifications and shall provide for the periodic updating thereof. The Secretary may reject, disapprove, or require the withdrawal of any such certification after notice to such State and an opportunity for a hearing.

(b)(1) The provisions of this subsection shall not apply to any area subject to the jurisdiction of a unit of general purpose local government or of a State described in subsection (a)(1), and the provisions of this subsection and the approval process applicable under this subsection shall cease to apply to any area at such time as the Secretary receives a certification under subsection (a)(1) with respect to such area.

(2) The Secretary shall have overall responsibility for the effective application of the applicable approval process described in this subsection in any area not exempted therefrom pursuant to paragraph (1).

(3) As used in this section, the term "approval process" means a mechanism and procedure for the consideration and approval of an application to construct a new building and which involves (A) determining whether such proposed building would be in compliance with the final performance standards for new buildings promulgated under section 304, and (B) administration by the level and agency of government specified by the Secretary pursuant to paragraph (4).

(4) The level and agency of government which shall administer the approval process described in this subsection is—

(A) first, the agency which grants building permits on behalf of the unit of general purpose local government which has jurisdiction over the area in which new construction is proposed, if such agency is willing and able to administer such approval process;

(B) second, if the agency described in subparagraph (A) is not willing and able to administer such approval process, any other agency of the unit of general purpose local government described in such paragraph which has authority to administer such approval process, if such agency is willing and able to administer such approval process; and

(C) third, if no agency described in subparagraphs (A) and (B) is willing and able to administer such approval process, any agency of the State in which new construction is proposed which has authority to administer such approval process, if such agency is willing and able to administer such approval process.

(c) The President shall transmit the final performance standards for new buildings to both Houses of Congress upon the date of promulgation of such standards pursuant to section 304(a), for review by the Congress under this subsection to determine whether the sanction set forth in the introductory clause to subsection (a) is necessary and appropriate to assure that such standards are in fact applied to all new buildings. Such sanction shall be deemed approved as necessary for such purpose (and shall thereafter be enforced, directly and indirectly, by each applicable person and governmental entity) if the use of such sanction is approved by a resolution of each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act; except that for purposes of this section the 60 calendar days described in section 552(b) and (c)(2) of such Act shall be lengthened to 90 calendar days.

FEDERAL BUILDINGS

SEC. 306. The head of each Federal agency responsible for the construction of any Federal building shall adopt such procedures as may be necessary to assure that any such construction meets or exceeds the applicable final performance standards promulgated pursuant to this title.

GRANTS

SEC. 307. (a) The Secretary may make grants to States and units of general purpose local government to assist them in meeting the costs of adopting and implementing performance standards or of administering State certification procedures or any applicable approval process to carry out the provisions of section 305.

(b) There is authorized to be appropriated for the purpose of carrying out this section, not to exceed $5,000,000 for the fiscal year ending September 30, 1977. Any amount appropriated pursuant to this subsection shall remain available until expended.

TECHNICAL ASSISTANCE

SEC. 308. The Secretary (directly, by contract, or otherwise) may provide technical assistance to States and units of general pur-

pose local government to assist them in meeting the requirements of this title.

CONSULTATION WITH INTERESTED AND AFFECTED GROUPS

SEC. 309. In developing and promulgating performance standards and carrying out other functions under this title, the Secretary shall consult with appropriate representatives of the building community (including representatives of labor and the construction industry, engineers, and architects), with appropriate public officials and organizations of public officials, and with representatives of consumer groups. For purposes of such consultation, the Secretary shall, to the extent practicable, make use of the National Institute of Building Sciences. The Secretary may also establish one or more advisory committees as may be appropriate. Any advisory committee or committees established pursuant to this section shall be subject to the provisions of the Federal Advisory Committee Act.

SUPPORT ACTIVITIES

SEC. 310. The Secretary, in cooperation with the Administrator, the Secretary of Commerce utilizing the services of the Director of the National Bureau of Standards, and the heads of other appropriate Federal agencies, and the National Institute of Building Sciences, shall carry out any activities which the Secretary determines may be necessary or appropriate to assist in the development of performance standards under section 304 (a) and to facilitate the implementation of such standards by State and local governments. Such activities shall be designed to assure that such standards are adequately analyzed in terms of energy efficiency, stimulation of use of nondepletable sources of energy, institutional resources, habitability, economic cost and benefit, and impact upon affected groups.

MONITORING OF STATE AND LOCAL ADOPTION OF ENERGY CONSERVATION STANDARDS FOR BUILDINGS

SEC. 311. The Secretary, with the advice and assistance of the National Institute of Building Sciences, shall—

(1) monitor the progress made by the States and their political subdivisions in adopting and enforcing energy conservation standards for new buildings;

(2) identify any procedural obstacles or technical constraints inhibiting implementation of such standards;

(3) evaluate the effectiveness of such prevailing standards; and

(4) within 12 months after the date of enactment of this title, and semiannually thereafter, report to the Congress on (A) the progress of the States and units of general purpose local government in adopting and implementing energy conservation standards for new buildings, and (B) the effectiveness of such standards.

TITLE IV—ENERGY CONSERVATION AND RENEWABLE RESOURCE ASSISTANCE FOR EXISTING BUILDINGS

SHORT TITLE

SEC. 401. This title may be cited as the "Energy Conservation in Existing Buildings Act of 1976".

FINDINGS AND PURPOSE

SEC. 402. (a) The Congress finds that—

(1) the fastest, most cost-effective, and most environmentally sound way to prevent future energy shortages in the United States, while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-source energy measures with respect to dwelling units, nonresidential buildings, and industrial plants;

(2) current efforts to encourage and facilitate such measures are inadequate as a consequence of—

(A) a lack of adequate and available financing for such measures, particularly with respect to individual consumers and owners of small businesses;

(B) a shortage of reliable and impartial information and advisory services pertaining to practicable energy conservation measures and renewable-resource energy measures and the cost savings that are likely if they are implemented in such units, buildings, and plants; and

(C) the absence of organized programs which, if they existed, would enable consumers, especially individuals and owners of small businesses, to undertake such measures easily and with confidence in their economic value;

(3) major programs of financial incentives and assistance for energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants would—

(A) significantly reduce the Nation's demand for energy and the need for petroleum imports;

(B) cushion the adverse impact of the high price of energy supplies on consumers, particularly elderly and handicapped low-income persons who cannot afford to make the modifications necessary to reduce their residential energy use; and

(C) increase, directly and indirectly, job opportunities and national economic output;

(4) the primary responsibility for the implementation of such major programs should be lodged with the governments of the States; the diversity of conditions among the various States and regions of the Nation is sufficiently great that a wholly federally administered program would not be as effective as one which is tailored to meet local requirements and to respond to local opportunities; the State should be allowed flexibility within which to fashion such programs, subject to general Federal guidelines and monitoring sufficient to protect the financial investments of consumers and the financial interest of the United States and to insure that the measures undertaken in fact result in significant energy and cost savings which would probably not otherwise occur;

(5) to the extent that direct Federal administration is more economical and efficient, direct Federal financial incentives and assistance should be extended through existing and proven Federal programs rather than through new programs that would necessitate new and separate administrative bureaucracies; and

(6) such programs should be designed and administered to supplement, and not to supplant or in any other way conflict with, State energy conservation programs under part C of title III of the Energy Policy and Conservation Act; the emergency energy conservation program carried out by community action agencies pursuant to section 222(a)(12) of the Economic Opportunity Act of 1964; and other forms of assistance and encouragement for energy conservation.

(b) It is, therefore, the purpose of this title to encourage and facilitate the implementation of energy conservation measures and renewable-resource energy measures in dwelling units, nonresidential buildings, and industrial plants, through—

(1) supplemental State energy conservation plans; and

(2) Federal financial incentives and assistance.

PART A—WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

FINDINGS AND PURPOSE

SEC. 411. (a) The Congress finds that—

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income personas, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

(b) It is, therefore, the purpose of this part to develop and implement a supplementary weatherization assistance program to assist in achieving a prescribed level of insulation in the dwellings of low-income persons, particularly elderly and handicapped low-income persons, in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

DEFINITIONS

SEC. 412. As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (B) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act of 1976 or (C) who is receiving benefits under chapter 14 or 15 of title 38, United States Code.

(6) The term "Indian", "Indian tribe", and "tribal organization" have the meaning prescribed for such terms by paragraphs (4), (5), and (6) respectively, of section 102 of the Older Americans Act of 1965.

(7) The term "low-income" means that income in relation to family size which (A) is at or below the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act or applicable State or local law.

(8) The term "State" means each of the States and the District of Columbia.

(9) The term "weatherization materials" means items primarily designed to improve the heating or cooling efficiency of a dwelling unit, including, but not limited to, ceiling, wall, floor, and duct insulation, storm windows and doors, and caulking and weatherstripping, but not including mechanical equipment valued in excess of $50 per dwelling unit.

WEATHERIZATION PROGRAM

SEC. 413. (a) The Administrator shall develop and conduct, in accordance with the purpose and provisions of this part, a weatherization program. In developing and conducting such program, the Administrator

may, in accordance with this part and regulations promulgated under this part, make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person.

(b)(1) The Administrator, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Direction of the ACTION Agency, and the heads of such other Federal departments and agencies as the Administrator deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part, proposed regulations to carry out the provisions of this part. The Administrator shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment. The development of regulations under this part shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions—

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation; and

(B) designed to insure that (i) the benefits of weatherization assistance in connection with leased dwelling units will accrue primarily to low-income tenants; (ii) the rents on such dwelling units will not be raised because of any increase in the value thereof due solely to weatherization assistance provided under this part; and (iii) no undue or excessive enhancement will occur to the value of such dwelling units.

(c) If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Administrator which meets the requirements set forth in section 414, any unit of general purpose local government of sufficient size (as determined by the Administrator), or a community action agency carrying out programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part) for carrying out projects under this part within the geographical area which is subject to the jurisdiction of such government or is served by such agency. If any such application submitted by a unit of general purpose local government proposes that the allocation requirement and the priority for an applicable community action agency, as set forth under section 415(b)(2)(B), be determined to be no longer applicable, the Administrator, as part of the notice and public hearing procedure carried out under section 418 with respect to such application, shall be responsible for making the necessary determination under the proviso in section 415(b)(2)(B). A State may, in accordance with regulations promulgated under this part, submit an amended application.

(d)(1) Notwithstanding any other provision of this part, in any State, in which the Administrator determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part) that the low-income members of an Indian tribe are not receiving benefits under this part that are equivalent to the assistance provided to other low-income persons in such State under this part, and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be allocated to such State under this part not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Administrator on the basis of this determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part.

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Administrator an application meeting the requirements set forth in section 414.

(e) Notwithstanding any other provision of law, the Administrator may transfer to the Director sums appropriated under this part to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964, which further the purpose of this part.

FINANCIAL ASSISTANCE

SEC. 414. (a) The Administrator shall provide financial assistance, from sums appropirated for any fiscal year under this part, only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations promulgated pursuant to section 413 and (2) to carry out this section. The Administrator shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

(A) The number of dwelling units to be weatherized.

(B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.

(C) The type of weatherization work to be done in the various settings.

(D) Such other factors as the Administrator may determine necessary in order to carry out the purpose and provisions of this part.

(b) The Administrator shall not provide financial assistance under this part unless the applicant has provided reasonable assurances that it has—

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units; and

(3) established policies and procedures designed to assure that financial assistance provided under this part will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part, including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to the Comprehensive Employment and Training Act of 1973, to work under the supervision of qualified supervisors and foremen, and (B) for complying with the limitations set forth in section 415.

LIMITATIONS

SEC. 415. (a) Financial assistance provided under this part shall, to the maximum extent practicable as determined by the Administrator, be used for the purchase of weatherization materials, except that not to exceed 10 percent of any grant made under this part may be used for the administration of weatherization projects under this part.

(b) The Administrator shall insure that financial assistance provided under this part will—

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 or to other appropriate and qualified public or nonprofit entities in such State or area so that—

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors;

(B)(i) funds to be allocated for carrying out weatherization projects under this part in the geographical area served by the emergency energy conservation program carried out by a community action agency under section 222(a)(12) of the Economic Opportunity Act of 1964 will be allocated to such agency, and (ii) priority in the allocation of such funds for carrying out such projects under this part will be given such a community action agency in so much of the geographical area served by it as is not served by the emergency energy conservation program it is carrying out: *Provided*, That such allocation requirement and such priority shall no longer apply if the Governor of a State preparing an application for financial assistance under this part makes a determination, on the basis of the public hearing required by paragraph (1) of this subsection, or if the Administrator makes a determination, on the basis of a public hearing pursuant to section 413(c), that the emergency energy conservation program

carried out by such agency has been ineffective in meeting the purpose of this part or is clearly not of sufficient size, and cannot in timely fashion develop the capacity to support the scope of the project to be carried out in such area with funds under this part; and

(C) due consideration will be given to the results of periodic evaluations of the projects carried out under this part in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418.

(c) The cost of the weatherization materials provided with financial assistance under this part shall not exceed $400 in the case of any dwelling unit unless the State policy advisory council, established pursuant to section 414(b)(1), provides for a greater amount with respect to specific categories of units or materials.

MONITORING, TECHNICAL ASSISTANCE, AND EVALUATION

SEC. 416. The Administrator, in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part through methods provided for in section 417(a), through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Administrator shall also carry out periodic evaluations of the program authorized by this part and projects receiving financial assistance under this part. The Administrator may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed 10 percent of the sums appropriated for such year under this part.

ADMINISTRATIVE PROVISIONS

SEC. 417. (a) The Administrator, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Administrator and the Director to carry out their functions under this part.

(b) Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part shall keep such records as the Administrator may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) The Administrator, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance under this part that are pertinent to the financial assistance received under this part.

(d) Payments under this part may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

APPROVAL OF APPLICATIONS AND ADMINISTRATION OF STATE PROGRAMS

SEC. 418. (a) The Administrator shall not finally disapprove any application submitted under this part, or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c), as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Administrator may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Administrator, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part or regulations promulgated under this part, he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part until the Administrator is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

JUDICIAL REVIEW

SEC. 419. (a) If any applicant is dissatisfied with the Administrator's final action with respect to the application submitted by it under section 414 or with a final action under section 418, such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator. The Administrator thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Administrator, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Administrator to take further evidence, and the Administrator may thereupon make new or modified findings of fact and may modify his previous action. The Administrator shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Administrator or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

NONDISCRIMINATION

SEC. 420. (a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part.

(b) Whenever the Administrator determines that a recipient of financial assistance under this part has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Administrator shall—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

ANNUAL REPORT

SEC. 421. The Administrator and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter through 1979, a report to the Congress and the President describing the weatherization assistance program carried out under this part or any other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416.

AUTHORIZATION OF APPROPRIATIONS

SEC. 422. There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, not to exceed $55,000,000 for the fiscal year ending September 30, 1977, not to exceed $65,000,000 for the fiscal year ending September 30, 1978, and not to exceed $80,000,000 for the fiscal year ending September 30, 1979, such sums to remain available until expended.

PART B—STATE ENERGY CONSERVATION PLANS

DEFINITIONS

SEC. 431. Section 366 of the Energy Policy and Conservation Act is amended by (1) redesignating paragraphs (1) and (2) as paragraphs (7) and (8), respectively; and (2) inserting after "As used in this part—" the following new paragraphs:

"(1) The term 'appliance' means any article, such as a room air-conditioner, refrigerator-freezer, or dishwasher, which the Administrator classifies as an appliance for purposes of this part.

"(2) The term 'building' means any structure which includes provision for a heating or cooling system, or both, or for a hot water system.

"(3) The term 'energy audit' means any process which identifies and specifies the energy and cost savings which are likely to be realized through the purchase and installation of particular energy conservation measures or renewable-resource energy measures and which—

"(A) is carried out in accordance with rules of the Administrator; and

"(B) imposes—

"(i) no direct costs, with respect to individuals who are occupants of dwelling units in any State having a supplemental State energy conservation plan approved under section 367, and

"(ii) only reasonable costs, as determined by the Administrator, with respect to any person not described in clause (i).

Rules referred to in subparagraph (A) may include minimum qualifications for, and provisions with respect to conflicts of interest of, persons carrying out such energy audits.

"(4) The term 'energy conservation measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to be likely to improve the efficiency of energy use and to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(A) the useful life of the modification involved, as determined by the Administrator, or

"(B) 15 years after the purchase and installation of such measure,

whichever is less. Such term does not include (i) the purchase or installation of any appliance, (ii) any conversion from one fuel or source of energy to another which is of a type which the Administrator, by rule, determines is ineligible on the basis that such type of conversion is inconsistent with national policy with respect to energy conservation or reduction of imports of fuels, or (iii) any measure, or type of measure, which the Administrator determines does not have as its primary purpose an improvement in efficiency of energy use.

"(5) The term 'industrial plant' means any fixed equipment or facility which is used in connection with, or as part of, any process or system for industrial production or output.

"(6) The term 'renewable-resource energy measure' means a measure which modifies any building or industrial plant, the construction of which has been completed prior to the date of enactment of the Energy Conservation and Production Act, if such measure has been determined by means of an energy audit or by the Administrator, by rule under section 365(e)(1), to—

"(A) involve changing, in whole or in part, the fuel or source of the energy used to meet the requirements of such building or plant from a depletable source of energy to a nondepletable source of energy; and

"(B) be likely to reduce energy costs (as calculated on the basis of energy costs reasonably projected over time, as determined by the Administrator) in an amount sufficient to enable a person to recover the total cost of purchasing and installing such measure (without regard to any tax benefit or Federal financial assistance applicable thereto) within the period of—

"(i) the useful life of the modification involved, as determined by the Administrator, or

"(ii) 25 years after the purchase and installation of such measure,

whichever is less.

Such term does not include the purchase or installation of any appliance.".

SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

SEC. 432. (a) Part C of title 3 of the Energy Policy and Conservation Act is amended by adding at the end thereof the following new section:

"SUPPLEMENTAL STATE ENERGY CONSERVATION PLANS

"SEC. 367. (a)(1) The Administrator shall, within 6 months after the date of enactment of the Energy Conservation and Production Act, prescribe guidelines with respect to measures required to be included in, and guidelines for the development, modification, and funding of, supplemental State energy conservation plans. Such guidelines shall include the provisions of one or more model supplemental State energy conservation plans with respect to the requirements of this section.

"(2) In prescribing such guidelines, the Administrator shall solicit and consider the recommendations of, and be available to consult with, the Governors of the States as to such guidelines. At least 60 days prior to the date of final publication of such guidelines, the Administrator shall publish proposed guidelines in the Federal Register and invite public comments thereon.

"(3) The Administrator shall invite the Governor of each State to submit to the Administrator a proposed supplemental State energy conservation plan which meets the requirements of subsection (b) and any guidelines applicable thereto.

"(4) The Administrator may prescribe rules applicable to supplemental State energy conservation plans under this section pursuant to which—

"(A) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section; and

"(B) such plan under this section may be administered; as if such plan was a part of the State energy conservation plan program under section 362. Such rules shall not have the effect of delaying funding of the program under section 362.

"(5) Section 363(b)(2)(A), the last sentence of section 363(b)(2), section 363(b)(3), and section 363(c) shall apply to the supplemental State energy conservation plans to the same extent as such provisions apply to State energy conservation plans.

"(6) The Administrator may grant Federal financial assistance pursuant to this section for the purpose of assisting any State in the development of any supplemental State energy conservation plan or in the implementation or modification of such a plan or part thereof which has been submitted to and approved by the Administrator pursuant to this section.

"(b)(1) Each proposed supplemental State energy conservation plan to be eligible for Federal financial assistance under this section shall include—

"(A) procedures for carrying out a continuing public education effort to increase significantly public awareness of—

"(i) the energy and cost savings which are likely to result from the implementation (including implementation through group efforts) of energy conservation measures and renewable-resource energy measures; and

"(ii) information and other assistance (including information as to available technical assistance) which is or may be available with respect to the planning, financing, installing, and with respect to monitoring the effectiveness of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures;

"(B) procedures for insuring that effective coordination exists among various local, State, and Federal energy conservation programs within and affecting such State, including any energy extension service program administered by the Energy Research and Development Administration;

"(C) procedures for encouraging and for carrying out energy audits with respect to buildings and industrial plants within such State; and

"(D) any procedures, programs, or other actions required by the Administrator pursuant to paragraph (2).

"(2) The Administrator may promulgate guidelines under this section to provide that, in order to be eligible for Federal assistance under this section, a supplemental State energy conservation plan shall include, in addition to the requirements of paragraph (1) of this subsection, one or more of the following:

"(A) the formation of, and appointment of qualified individuals to be members of, a State energy conservation advisory committee. Such a committee shall have continuing authority to advise and assist such State and its political subdivisions, with respect to matters relating to energy conservation in such State, including the carrying out of such State's energy conservation plan, the development and formulation of any improvements or amendments to such plan, and the development and formulation of procedures which meet the requirements of subparagraphs (A), (B), and (C) of subsection (b)(1). The applicable guidelines shall be designed to assure that each such committee carefully considers the views of the various energy-consuming sectors within the State and of public and private groups concerned with energy conservation;

"(B) an adequate program within such State for the purpose of preventing any unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures;

"(C) procedures for the periodic verification (by use of sampling or other techniques), at reasonable times, and under reasonable conditions, by qualified officials designated by such State of the purchase and installation and actual cost of energy conservation measures and renewable-resource energy measures for which financial assistance was obtained under section 509 of the Housing and Urban Development Act of 1970, or section 451 of the Energy Conservation and Production Act; and

"(D) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures.

"(c) There are authorized to be appropriated for supplemental State energy conservation plans which are approved under this section $25,000,000 for fiscal year 1977, $40,000,000 for fiscal year 1978, and $40,000,000 for fiscal year 1979.".

(b) Section 363(b)(2) of the Energy Policy and Conservation Act is amended by adding at the end thereof the following:

"No such plan shall be disapproved without notice and an opportunity to present views.".

(c) Section 363(c) of the Energy Policy and Conservation Act is amended by (1) striking out "project or program" and "projects or programs" in the first sentence and inserting in lieu thereof "plan, program, projects, measures, or systems" in each case; and (2) striking out "examination" in the second sentence and inserting in lieu thereof "examination, at reasonable times and under reasonable conditions.".

(d) Section 365 of the Energy Policy and Conservation Act is amended—

(1) by redesignating subsection (d) as subsection (f);

(2) by adding immediately after subsection (c) the following two new subsections:

"(d) The Federal Trade Commission shall (1) cooperate with and assist State agencies which have primary responsibilities for the protection of consumers in activities aimed at preventing unfair and deceptive acts or practices affecting commerce which relate to the implementation of measures likely to conserve, or improve efficiency in the use of, energy, including energy conservation measures and renewable-resource energy measures, and (2) undertake its own program, pursuant to the Federal Trade Commission Act, to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of any such measures.

"(e) Within 90 days after the date of enactment of this subsection, the Administrator shall—

"(1) develop, by rule after consultation with the Secretary of Housing and Urban Development, and publish a list of energy conservation measures and renewable-resource energy measures which are eligible (on a national or regional basis) for financial assistance pursuant to section 509 of the Housing and Urban Development Act of 1970 or section 451 of the Energy Conservation and Production Act;

"(2) designate, by rule, the types of, and requirements for, energy audits."; and

(3) in subsection (f), as redesignated by paragraph (1), by inserting "(other than section 367)" after "part".

PART C—NATIONAL ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION PROGRAM FOR EXISTING DWELLING UNITS

ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

SEC. 441. Title V of the Housing and Urban Development Act of 1970 is amended by adding the following new section at the end thereof:

"ENERGY CONSERVATION AND RENEWABLE-RESOURCE DEMONSTRATION

"SEC. 509. (a) The Secretary shall undertake a national demonstration program designed to test the feasibility and effectiveness

of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renewable-resource energy measures in existing dwelling units. The Secretary shall carry out such demonstration program with a view toward recommending a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

"(b) The Secretary is authorized to make financial assistance available pursuant to this section in the form of grants, low-interest-rate loans, interest subsidies, loan guarantees, and such other forms of assistance as the Secretary deems appropriate to carry out the purposes of this section. Assistance may be made available to both owners of dwelling units and tenants occupying such units.

"(c) In carrying out the demonstration program required by this section, the Secretary shall—

"(1) provide assistance in a wide variety of geographic areas to reflect differences in climate, types of dwelling units, and income levels of recipients in order to provide a national profile for use in designing a program which is to be operational and effective nationwide;

"(2) evaluate the appropriateness of various financial incentives for different income levels of owners and occupants of existing dwelling units;

"(3) take into account and evaluate any other financial assistance which may be available for the installation or implementation of energy conservation and renewal-resource energy measures;

"(4) make use of such State and local instrumentalities or other public or private entities as may be appropriate in carrying out the purposes of this section in coordination with the provisions of part C of title III of the Energy Policy and Conservation Act;

"(5) consider, with respect to various forms of assistance and procedures for their application, (A) the extent to which energy conservation measures and renewable-resource energy measures are encouraged which would otherwise not have been undertaken, (B) the minimum amount of Federal subsidy necessary to achieve the objectives of a national program, (C) the costs of administering the assistance, (D) the extent to which the assistance may be encumbered by delays, redtape, and uncertainty as to its availabiliy with respect to any particular applicant, (E) the factors which may prevent the assistance from being available in certain areas or for certain classes of persons, and (F) the extent to which fraudulent practices can be prevented; and

"(6) consult with the Administrator and the heads of such other Federal agencies as may be appropriate.

"(d)(1) The amount of any grant made pursuant to this section shall not exceed the lesser of—

"(A) with respect to an approved energy conservation measure, (i) $400, or (ii) 20 per centum of the cost of installing or otherwise implementing such measure; and

"(B) with respect to an approved renewable-resource energy measure, (i) $2,000, or (ii) 25 per centum of the cost of installing or otherwise implementing such measure.

The Secretary may, by rule, increase such percentages and amounts in the case of an applicant whose annual gross family income for the preceding taxable year is less than the median family income for the housing market area in which the dwelling unit which is to be modified by such measure is located, as determined by the Secretary. The Secretary may also modify the limitations specified in this paragraph if necessary in order to achieve the purposes of this section.

"(2) No person shall be eligible for both financial assistance under this section and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

"(e) The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure's meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.

"(f) In carrying out the demonstration program required by this section, the Secretary is authorized to delegate responsibilities to, or to contract with, other Federal agencies or with such State or local instrumentalities or other public or private bodies as the Secretary may deem desirable. Such demonstration program shall be coordinated, to the extent practicable, with the State energy conservation plans as described in, and implemented pursuant to, part C of title III of the Energy Policy and Conservation Act.

"(g) The Secretary shall submit an interim report to the Congress not later than 6 months after the date of enactment of this section (and every 6 months thereafter until the final report is made under this subsection) indicating the progress made in carrying out the demonstration program required by this section and shall submit a final report to the Congress, containing findings and legislative recommendations, not later than 2 years after the date of enactment of this section. As part of each report made under this subsection, the Secretary shall include an evaluation, based on the criteria described in subsection (h), of each demonstration project conducted under this section.

"(h) Prior to undertaking any demonstration project under this section, the Secretary shall specify and report to the Congress the criteria by which the Secretary will evaluate the effectiveness of the project and the results to be sought.

"(i) As used in this section:

"(1) The term 'Administrator' means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this section.

"(2) The term 'approved', with respect to an energy conservation measure or a renewable-resource energy measure, means any such measure which is included on a list of such measures which is published by the Administrator of the Federal Energy Administration pursuant to section 365(e)(1) of the Energy Policy and Conservation Act. The Administrator may, by rule, require that an energy audit be conducted as a condition of obtaining assistance under this section for a renewable-resource energy measure.

"(3) The terms 'energy audit', 'energy conservation measure', and 'renewable-resource energy measure' have the meanings prescribed for such terms in section 366 of the Energy Policy and Conservation Act.

"(j) There is authorized to be appropriated, for purposes of this section, not to exceed $200,000,000. Any amount appropriated pursuant to this subsection shall remain available until expended.".

PART D—ENERGY CONSERVATION AND RENEWABLE RESOURCE OBLIGATION GUARANTEES PROGRAM

SEC. 451. (a)(1) The Administrator may, in accordance with this section and such rules as he shall prescribe after consultation with the Secretary of the Treasury, guarantee and issue commitments to guarantee the payment of the outstanding principal amount of any loan, note, bond, or other obligation evidencing indebtedness, if—

(A) such obligation is entered into or issued by any person or by any State, political subdivision of a State, or agency and instrumentality of either a State or political subdivision thereof; and

(B) the purpose of entering into or issuing such obligation is the financing of any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in any building or industrial plant owned or operated by the person or State, political subdivision of a State, or agency or instrumentality of either a State or political subdivision thereof, (i) which enters into or issues such obligation, or (ii) to which such measure is leased.

(2) No guarantee or commitment to guarantee may be issued under this subsection with respect to any obligation—

(A) which is a general obligation of a State; or

(B) which is entered into or issued for the purpose of financing any energy conservation measure or renewable-resource energy measure which is to be installed or otherwise implemented in a residential building containing 2 or fewer dwelling units.

(3) Before prescribing rules pursuant to this subsection, the Administrator shall consult with the Administrator of the Small Business Administration in order to formulate procedures which would assist small business concerns in obtaining guarantees and commitments to guarantee under this section.

(b) No obligation may be guaranteed, and no commitment to guarantee an obligation may be issued, under subsection (a), unless the Administrator finds that the measure which is to be financed by such obligation—

(1) has been identified by an energy audit to be an energy conservation measure or a renewable-resource energy measure; or

(2) is included on a list of energy conservation measures and renewable-resource energy measures which the Administrator publishes under section 365(e)(1) of the Energy Policy and Conservation Act.

Before issuing a guarantee under subsection (a), the Administrator may require that an energy audit be conducted with respect to an energy conservation measure or a renewable-resource energy measure which is on a list described in paragraph (2) and which is to be financed by the obligation to be guaranteed under this section. The amount of any obligation which may be guaranteed under subsection (a) may include the cost of an energy audit.

(c)(1) The Administrator shall limit the availability of a guarantee otherwise authorized by subsection (a) to obligations entered into by or issued by borrowers who can demonstrate that financing is not otherwise available on reasonable terms and conditions to allow the measure to be financed.

(2) No obligation may be guaranteed by the Administrator under subsection (a) unless the Administrator finds—

(A) there is a reasonable prospect for the repayment of such obligation; and

(B) in the case of an obligation issued by a person, such obligation constitutes a general obligation of such person for such guarantee.

(3) The term of any guarantee issued under subsection (a) may not exceed 25 years.

(4) The aggregate outstanding principal amount which may be guaranteed under subsection (a) at any one time with respect to obligations entered into or issued by any borrower may not exceed $5,000,000.

(d) The original principal amount guaranteed under subsection (a) may not exceed 90 percent of the cost of the energy conservation measure or the renewable-resource energy measure financed by the obligation guaranteed under such subsection; except that such amount may not exceed 25 percent of the fair market value of the building or industrial plant being modified by such

energy conservation measure or renewable-resource energy measure. No guarantee issued, and no commitment to guarantee, which is issued under subsection (a) shall be terminated, canceled, or otherwise revoked except in accordance with reasonable terms and conditions prescribed by the Administrator, after consultation with the Secretary of the Treasury and the Comptroller General, and contained in the written guarantee or commitment to guarantee. The full faith and credit of the United States is pledged to the payment of all guarantees made under subsection (a). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

(e)(1) No guarantee and no commitment to guarantee may be issued under subsection (a) unless the Administrator obtains any information reasonably requested and such assurances as are in his judgment (after consultation with the Secretary of the Treasury and the Comptroller General) reasonable to protect the interests of the United States and to assure that such guarantee or commitment to guarantee is consistent with and will further the purpose of this title. The Administrator shall require that records be kept and made available to the Administrator or the Comptroller General, or any of their duly authorized representatives, in such detail and form as are determined necessary to facilitate (A) an effective financial audit of the energy conservation measure or renewable-resource energy measure investment involved, and (B) an adequate evaluation of the effectiveness of this section. The Administrator and the Comptroller General, or any of their duly authorized representatives, shall have access to pertinent books, documents, papers, and records of any recipient of Federal assistance under this section.

(2) The Administrator may collect a fee from any borrower with respect to whose obligation a guarantee or commitment to guarantee is issued under subsection (a); except that the Administrator may waive any such fee with respect to any such borrower or class of borrowers. Fees shall be designed to recover the estimated administrative expenses incurred under this part; except that the total of the fees charged any such borrower may not exceed (A) one percent of the amount of the guarantee, or (B) one-half percent of the amount of the commitment to guarantee, whichever is greater. Any amount collected under this paragraph shall be deposited in the miscellaneous receipts of the Treasury.

(f)(1) If there is a default by the obligor in any payment of principal due under an obligation guaranteed under subsection (a), and if such default continues for 30 days, the holder of such obligation or his agent has the right to demand payment by the Administrator of the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation. Such payment may be demanded within such period as may be specified in the guarantee or related agreements, which period shall expire not later than 90 days from the date of such default. If demand occurs within such specified period, then not later than 60 days from the date of such demand, the Administrator shall pay to such holder the unpaid principal of such obligation, consistent with the terms of the guarantee of such obligation; except that (A) the Administrator shall not be required to make any such payment if he finds, prior to the expiration of the 60-day period beginning on the date on which the demand is made, that there was no default by the obligor in the payment of principal or that such default has been remedied, and (B) no such holder shall receive payment or be entitled to retain payment in a total amount which together with any other recovery (including any recovery based upon any security interest) exceeds the actual loss of principal by such holder.

(2) If the Administrator makes payment to a holder under paragraph (1), the Administrator shall thereupon—

(A) have all of the rights granted to him by law or agreement with the obligor; and

(B) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement applicable to the guaranteed obligation.

(3) The Administrator may, in his discretion, take possession of, complete, recondition, reconstruct, renovate, repair, maintain, operate, remove, charter, rent, sell, or otherwise dispose of any property or other interests obtained by him pursuant to this subsection. The terms of any such sale or other disposition shall be as approved by the Administrator.

(4) If there is a default by the obligor in any payment due under an obligation guaranteed under subsection (a), the Administrator shall take such action against such obligor or any other person as is, in his discretion, necessary or appropriate to protect the interests of the United States. Such an action may be brought in the name of the United States or in the name of the holder of such obligation. Such holder shall make available to the Administrator all records and evidence necessary to prosecute any such suit. The Administrator may, in his discretion, accept a conveyance of property in full or partial satisfaction of any sums owed to him. If the Administrator receives, through the sale of property, an amount greater than his cost and the amount paid to the holder under paragraph (1), he shall pay such excess to the obligor.

(g)(1) The aggregate outstanding principal amount of obligations which may be guaranteed under this section may not at any one time exceed $2,000,000,000. No guarantee or commitment to guarantee may be issued under subsection (a) after September 30, 1979.

(2) There is authorized to be appropriated for the payment of amounts to be paid under subsection (f), not to exceed $60,000,000. Any amount appropriated pursuant to this paragraph shall remain available until expended.

(h) All laborers and mechanics employed in construction, alteration, or repair which is financed by an obligation guaranteed under subsection (a) shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Administrator shall not gaurantee any obligation under subsection (a) without first obtaining adequate assurance that these labor standards will be maintained during such construction, alteration, or repair. The Secretary of Labor shall, with respect to the labor standards in this subsection, have the authority and functions set forth in Reorganization Plan Number 14 of 1950 and section 276c of title 40, United States Code.

(i) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The terms "energy audit", "energy conservation measure", "renewable-resource energy measure", "building", and "industrial plant" have the meanings prescribed for such terms in section 366 of the Federal Energy Policy and Conservation Act.

PART E—MISCELLANEOUS PROVISIONS

EXCHANGE OF INFORMATION

SEC. 461. The Administrator shall (through conferences, publications, and other appropriate means) encourage and facilitate the exchange of information among the States with respect to energy conservation and increased use of nondepletable energy sources.

REPORT BY THE COMPTROLLER GENERAL

SEC. 462. (a) For each fiscal year ending before October 1, 1979, the Comptroller General shall report to the Congress on the activities of the Administrator and the Secretary under this title and any amendments to other statutes made by this title. The provisions of section 12 of the Federal Energy Administration Act of 1974 (relating to access by the Comptroller General to books, documents, papers, statistics, data, records, and information in the possession of the Administrator or of recipients of Federal funds) shall apply to data which relate to such activities.

(b) Each report submitted by the Comptroller General under subsection (a) shall include—

(1) an accounting, by State, of expenditures of Federal funds under each program authorized by this title or by amendments made by this title;

(2) an estimate of the energy savings which have resulted thereby;

(3) a thorough evaluation of the effectiveness of the programs authorized by this title or by amendments made by this title in achieving the energy conservation or renewable resource potential available in the sectors and regions affected by such programs;

(4) a review of the extent and effectiveness of compliance monitoring of programs established by this title or by amendments made by this title and any evidence as to the occurrence of fraud with respect to such programs; and

(5) the recommendations of the Comptroller General with respect to (A) improvements in the administration of programs authorized by this title or by amendments made by this title, and (B) additional legislation, if any, which is needed to achieve the purposes of this title.

(c) As used in this part:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this part.

(2) The term "Comptroller General" means the Comptroller General of the United States.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the House bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the House bill, insert the following:

An Act to amend the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act; to provide an incentive for domestic production; to provide for electric utility rate design initiatives; to provide for energy conservation standards for new buildings; to provide for energy conservation assistance for existing buildings and industrial plants; and for other purposes.

And the Senate agree to the same.

Titles I, II, IV, and V—
HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,

PHILIP R. SHARP,
WILLIAM M. BRODHEAD,
BOB ECKHARDT,
RICHARD L. OTTINGER,
ROBERT KRUEGER,
TOBY MOFFETT,
ANDREW MAGUIRE,
CLARENCE J. BROWN,
JOHN HEINZ,
Titles III and IV—
HENRY REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
Managers on the Part of the House.

ABE RIBICOFF,
JOHN GLENN,
CHARLES H. PERCY,
JACOB JAVITS,
BILL BROCK,
Titles III, IV, and V—
WILLIAM PROXMIRE,
ALAN CRANSTON,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
JOHN TOWER,
JAMES B. PEARSON,
CLIFFORD P. HANSEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12169) to amend the Federal Energy Administration Act of 1974 to provide for authorizations of appropriations to the Federal Energy Administration, to extend the duration of authorities under such Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Like the Senate amendment, the conference substitute is a broad energy bill which addresses both procedural and substantive energy matters involving the regulatory responsibilities of the FEA. An overview of the more significant aspects of the conference substitute follows:

SUMMARY OF THE CONFERENCE AGREEMENT

At the outset, a general description of the House bill, the Senate amendment, and the Conference substitute may be useful. As passed by the House, the bill was largely confined to a simple extension of and authorization of appropriations for the Federal Energy Administration Act of 1974 (FEA Act). The House-passed bill, in addition to an 18-month extension of the Federal Energy Administration, included amendments to the FEA Act intended to improve Congressional oversight of the agency and to make the agency more responsive to public needs.

The Senate amendment to the House bill was far broader in scope. The Senate amendment addressed several of the same issues as had the House-passed bill. In particular, the Senate amendment extended the FEA Act for a 15-month period and made other changes in the FEA Act, several of which were designed to address deficiencies in FEA procedures. In addition, the Senate amendment dealt with a variety of energy issues related to FEA regulatory programs. These included pricing of domestic crude oil produced from stripper wells or by reason of application of enhanced recovery techniques, FEA energy information data gathering and analysis, electric utility industry rate reform, and a wide range of energy conservation measures.

Energy conservation measures

The conference substitute provides a broad range of energy conservation measures designed to take advantage of untapped opportunities for reducing the Nation's increasing dependence upon foreign energy sources by improving the efficiency with which we use energy. The energy appetite of the United States has been growing voraciously; at present growth rates, there is little hope that this appetite could be satisfied without increasing energy imports even if the most optimistic domestic energy production forecasts were realized. This unhappy conclusion does not mean that reduced energy import dependency is unattainable. Rather, it underscores the need for focusing greater attention and effort upon reducing the rate of growth of domestic energy demand and, ultimately, leveling off the Nation's energy consumption.

Since the embargo of 1973, great emphasis has been placed upon increasing domestically produced supplies of energy. A corresponding emphasis has not been placed upon enregy conservation, however. While some programs have been enacted, such as the automotive fuel economy program contained in the Energy Policy and Conservation Act, areas of great energy conservation potential remain undeveloped by existing energy conservation programs.

The energy conservation programs included in the conference substitute are intended to place needed emphasis upon reducing wasteful consumption without detracting from the nation's continuing efforts to maximize domestic energy production. These programs are the beginning of a long overdue process of increasing Federal incentives to encourage energy conservation. The conference substitute contains: Federal energy conservation performance standards for new residential and commercial buildings; a $200 million grant program to permit low-income persons to weatherize existing homes; a program at the state level designed to provide home owners and owners of public and commercial buildings with reliable information regarding the costs, savings, and benefits of energy conservation related investments; a $2 billion loan guarantee program to encourage energy conservation related investments in public and commercial buildings; and a $200 million demonstration program to identify incentives to encourage home owners to make energy conservation related investments in home improvements.

It is estimated that the Federal energy conservation performance standards for new residential and commercial buildings, if fully implemented, will alone account for energy conservation savings of up to 6 million barrels per day by 1990. Similarly it is estimated that the several programs designed to encourage investments in energy conservation improvements in existing buildings will reduce energy consumption by up to 500,000 barrels per day by 1980. Combined with savings achieved by other conservation programs and taken in conjunction with the results of programs designed to expand domestic production of energy, these savings make achievement of greater security of energy supply a more realistic and attainable goal.

Extension of the Federal Energy Administration Act of 1974 and other amendments to the FEA Act

The conference substitute provides an eighteen-month extension of the Federal Energy Administration. This period of time should provide adequate opportunity for the Congress to develop a permanent agency responsible for energy matters as a replacement for the FEA, which was originally established as an agency with a fixed and short life span.

This extension of the FEA Act is coupled with a series of amendments to that Act designed to render the agency more responsive to public needs. In particular, provision is made for improvement in FEA procedures with respect to: the standards of hardships applicable to exception and exemption requests; appeals from adverse decisions on exception and exemption requests; holding of local hearings where the effects of a rule or regulation are essentially local in character; public access to the Project Independence Evaluation System model; and the gathering of energy information from small businesses so as to alleviate unnecessary reporting burdens. The conference substitute establishes certain limitations on the Administrator's discretion. These include restraints upon retroactive application of rules and regulations under specified circumstances and upon the submission, in a single energy action, of a proposal to exempt an oil, refined petroleum product, or refined product category from both the price and the allocation provisions of the regulations under the Emergency Petroleum Allocation Act of 1973. In order to increase Congressional oversight of the agency's operations and to assure that appropriated funds are utilized consistently with Congressional intent, authorizations of appropriatons are provided on a functional basis. These authorizations of appropriations are combined with prohibitions on utilization of funds appropriated pursuant to these authorizations for certain specified purposes.

Finally, as part of the FEA Act amendments, an improved system for coordinating the gathering of energy information and energy data analysis is established within the Federal Energy Administration under a newly-created Office of Energy Information and Analysis. The purpose of these latter amendments is to insulate the energy data gathering and analysis functions of the Federal Energy Administration from the policy making responsibilities of the agency.

Enhancement of domestic crude oil production

In keeping with the need to encourage expanded domestic energy production as well as reduction in energy consumption through increased energy conservation efforts, the conference substitute amends the crude oil pricing policy established in the Energy Policy and Conservation Act (EPCA).

The Energy Policy and Conservation Act amended the Emergency Petroleum Allocation Act (EPAA) to establish a forty-month program of continued price controls on domestic crude oil. EPCA established as the benchmark for regulatory purposes a "weighted average" or "composite" price. The composite was initially set at $7.66 per barrel. The President was authorized within certain limits, to increase the composite price to:

(1) account for inflation, and thereby maintain the composite price in real dollar terms; and

(2) provide an incentive to increase production.

The limitations on the President's authority to increase the composite price included:

(1) a 3% limitation on the production incentive factor; and

(2) a 10% overall limitation on combined increases based upon the inflation adjustment and the production.

Incentive factor

Neither percent limitation was absolute, however. In fact, EPCA established a procedure whereby the President, upon making certain findings, may propose to the Congress that adjustments to the composite price in excess of the 3% and/or 10% limitations be permitted. If neither House of Congress disapproves such a proposal within a 15-day Congressional review period, the President may implement the proposal.

The crude oil pricing policy established in EPCA was formed by the concerns which dominated the Congress' consideration of this issue in its first session.

The United States was then, and continues to be, confronted by a strong and effective cartel of oil-producing nations. Neither the world market, nor the domestic market in crude oil is "free". The market price of oil is not a function of consumer/producer bargaining: It is rather a matter of agreement among the OPEC nations. The fourfold increase in world crude oil prices experienced during 1973 and 1974 bears stark witness to the absence of a "free" market.

Also of concern to the Congress during its consideration of this issue, was the state of the economy at that time.

During the third and fourth quarters of 1975, inflation, as measured by the GNP deflator, was eroding consumer purchasing power at the annual rate of 7.9 percent and 7.0 percent, respectively. Unemployment rates of 8.6 percent and 8.4 percent represented over 8 million unemployed workers. Moreover, the Gross National Product in the third quarter of 1975 showed an actual decline of –.7 percent as compared to the third quarter of 1974; the increase in the GNP during 4th quarter, 1975, over 4th quarter, 1974, was a mere 2.5 percent.

Thus, 1975 was a year of continuing poor economic condition. The economic well-being of the Nation was simultaneously threatened by rapid inflation and widespread unemployment. In significant measure, the recession which created the Nation's serious unemployment problems had been brought on by the quadrupling of oil prices in late 1973 and 1974. Similarly, the inflationary spiral which was eroding consumer purchasing power had been given strong momentum by the initial round of OPEC price increases. Once begun, that spiral was fueled by a succession of domestic and foreign oil price increases which rippled throughout the economy.

The economy had mainifestly been unable to absorb abrupt increases of great magnitude in the price of so critical a commodity as petroleum. It followed that economic health could not be restored until these past price increases had been absorbed. Moreover, because the economy had not yet adjusted to the price increases of 1973–74, it could not be expected to bear further price increases of the magnitude which would have resulted if crude oil price controls had been abruptly terminated, without unacceptably severe inflationary and unemployment consequences.

Under these circumstances, the Congress perceived it to be the primary responsibility of government to assure that economic health was restored, that unemployment rates reversed themselves and that inflationary pressures were diminished. During such a recessional period, energy policy as well as other governmental programs were constrained to proceed in a manner consistent with these overriding objectives.

As a matter of general principle, the Congress would agree that the market mechanism allows the most efficient and equitable allocation of resources. Consequently, increasing energy prices through decontrol would clearly encourage consumers to use less energy and to utilize more efficiently the energy which they must consume. At the same time, increases in energy prices would encourage producers of energy to make additions to supplies which, in turn, can be expected to exert a moderating influence on further price increases. However, these effects could not and would not have been achieved in the short term.

Both personal and industrial patterns of energy consumption require time during which to adjust. In a modern society, energy, like food and shelter, is a necessity of life. More efficient utilization of energy frequently requires capital investments which, paradoxically, are more difficult to make in view of the competing demands for consumer dollars created by higher prices for essential energy supplies. Moreover, the long lead times involved in developing energy resources mean that higher prices for oil resulting from complete decontrol would not elicit additions to supplies of significant proportion for at least 3 to 5 years. During such an interim period, such marginal additions to supply as would be likely to occur might well not justify the burden which higher prices for all oil would have imposed upon the economy.

Econometric analysis of the effects of sudden decontrol prepared during Congressional deliberation of the crude oil pricing issue confirmed the foregoing analysis and demonstrated the serious negative impacts that a large and sudden oil price increase would have had on the Nation's economy. By the end of 1977, sudden decontrol would have reduced real GNP by more than $20 billion, or more than 2 percent, relative to the level of GNP projected to occur under a continuation of the then-existing crude oil price regulations. Sudden decontrol would have caused consumer prices to rise by 1.5 percent by the end of 1977. Finally, these analyses forecast that sudden decontrol would cause the unemployment rate to increase by .8 percent by the end of 1977, representing nearly 800,000 additional unemployed workers. In summation, these forecast demonstrated that sudden decontrol and reliance upon market mechanisms—would have propelled the economy into a deeper recession and delayed economic recovery.

Given Congress' overriding concern with attainment of the objectives of economic recovery, other crude oil pricing policies were also rejected. Thus, proposals for phased 30-month and 39-month decontrol were judged inadequate to assure economic recovery. Yet, the efforts made by the Congress and the President to seek resolution of this critical issue evidences recognition of the fact that a series of short extensions of the then-existing crude oil price regulatory system was not a satisfactory solution.

Similarly tested, the crude oil pricing policy established in EPCA proved responsive to the Congressional objectives of restoring economic growth, providing expanded job opportunities to the unemployed, and relieving inflationary pressures.

Nonetheless, EPCA contemplates future price increases to encourage increased domestic production and discourage wasteful consumption. Most importantly, EPCA ties the magnitude and timing of these future price increases to the state of the economy at the time such increases occur. This is the characteristic which distinguishes EPCA: the recognition of the justification and need for future price increases tempered by a procedure which allows these increases to be absorbed by the economy without undue economic disruption. This procedure provides the necessary weaning of the Nation from a low-cost energy based economy to one based upon substantially higher-cost energy.

Enactment of EPCA resulted in imposition of stability to domestic crude oil prices. EPCA had the effect of pulling the rug from under the inflationary spiral which had beset the economy and been a contributing cause of the recession. Prices of energy and other consumer goods began to stabilize during the first quarter of 1976. The rate of inflation was halved. Other signs of economic recovery were forthcoming. The rate of unemployment plummeted by a full point, as compared to its level just 6 months earlier. Correspondingly, the Gross National Product rose at an annual rate of 7.2 percent, evidencing broad-based economic recovery.

The economic recovery experienced during the first quarter of 1976 has continued through the second quarter. GNP, unemployment, and inflation indices all indicate that the economy is responding to a number of Congressional programs, including EPCA, designed to achieve a return to economic well-being. Although unemployment continues to remain at unacceptably high levels, recovery is clearly underway.

Consistent with the concerns which led to enactment of EPCA, the conferees believe it is appropriate to assess the crude oil pricing policy of EPCA in light of present-day economic circumstances. The economy is today in far better condition than it was anticipated that it would be at the time EPCA was enacted. In short, EPCA has been more successful than expected. The conferees, by recommending modification of the EPCA crude oil pricing policy, are carrying forward the EPCA decisionmaking principle. This principle relates the timing and magnitude of future price increases to the state of the economy and reposes in the Congress primary responsibility for assessing the appropriateness of oil price increases by direct legislative initiative or Congressional veto. In the exercise of that responsibility, the conferees believe it is appropriate for the Congress at this time to consider permitting price increases in excess of those initially permitted by EPCA.

The crude oil pricing policy established in EPCA allocated price increases in the composite price of domestic oil in order to maintain crude oil prices in constant real dollar terms. Thus the composite price may be increased by an adjustment related to the GNP deflator. This adjustment assures that lost purchasing power of the dollar resulting from general inflation may be restored to producers by an offsetting crude oil price increase. In addition, EPCA permits real dollar price increases in the composite through a production incentive factor.

Economic circumstances prevailing at the time of EPCA's enactment led to the imposition of limits upon the increases permitted the production incentive factor and the combined price increases permitted by the production incentive factor, and the inflation adjustment factor. The former limitation is 3 percent while the latter limitation is 10 percent.

The 10 percent limitation was imposed as a preliminary Congressional assesment of the maximum rate of increase which could be sustained in nominal dollar terms without threatening the continuity of economic recovery. In addition, the 3 percent limitation on the production incentive adjustment was imposed as a corresponding limit on the level of real dollar increases which could be tolerated without adverse economic effect.

The operation of these limitations was synchronized to assure attainment of the Congressional objectives. Thus, if inflation occurred at a rate in excess of 7 percent, the 10 percent limitation checked the level of real dollar price increases permitted by the production incentive factor. Correspondingly, to the extent that inflation was less

than 7 percent a full 3 percent real dollar price growth could be sustained. The rationale for these twin limitations was that the ability of the economy to absorb price increases in real dollar terms was diminished if inflation was occurring at a rate in excess of 7 percent. Correspondingly, the ability of the economy to absorb the full 3 percent real dollar increase would be enhanced, if inflation were to decline below 7 percent.

At the time of the enactment of EPCA it was not anticipated that the rate of inflation would decrease as rapidly as it has to the present 3 to 4 percent level (as measured by the GNP deflator). However, this dramatic change in the inflation rate itself evidences the ability of the economy to absorb more substantial real dollar price increases than those permitted by the 3 percent limitation on the production incentive factor. Consideration of other factors, including the decline in the rate of unemployment and the steady strong growth in GNP, confirm this ability. The conferees therefore believe experience has demonstrated that it is appropriate to remove the 3 percent limitation on the production incentive factor. The practical effect of this removal will be to permit marginally greater real dollar price increases when the inflation rate is lowest, during periods in which the economy has the greatest ability to absorb inflationary pressures. The 10 percent limitation on combined price increases attributable to the inflation adjustment factor and the production incentive factor will continue to assure that real dollar price increases are diminished if the inflation rate increases. The conferees do not believe that there exists a need or justification for modification of the latter limitation at this time, although the President clearly retains the authority under EPCA to propose such a modification in the future if it can be justified.

Having determined that the 3 percent limitation on production incentive adjustment factor should be removed as no longer necessary, a secondary issue arises regarding the distribution of the allowable increases and the administrative requirements of the present regulatory system. Strong arguments may be made for initially concentrating the permitted price increases in the areas of stripper well production and production achieved through application of enhanced recovery techniques.

Prior to enactment of EPCA, stripper well production was free from Federal crude oil price controls. The resulting imposition of price ceilings upon stripper well production has increased the administrative and compliance burdens associated with implementation of EPCA. Imposition of Federal price ceilings on stripper well operators—largely small and independent producers—has required them to comply with Federal regulations, adding to the costs and administrative difficulties of operating these already marginal wells. The administrative, enforcement and compliance burdens may be unnecessary because, while 70 percent of all domestic wells are strippers, stripper well production accounted for only 12–15 percent of actual production. In addition, stripper well production is already priced at the upper tier. The conferees believe that exemption of stripper well production from price ceilings is desirable to reduce the burdens and costs imposed upon stripper well operators, as well as the administrative and compliance costs associated with implementation of EPSA. Equally important, the price increases permitted by such an exemption are likely to permit continued operation of marginally profitable stripper wells beyond the period which would be possible at current price levels.

The second form of production which the conferees believe deserves special treatment, as a result of removal of the 3 percent limitation on the production incentive factor, is production resulting from application of certain enhanced recovery techniques. A special need to encourage expanded use of high-cost, enhanced recovery techniques has led the conferees to provide that this category of production be given high priority consideration in distribution of any price increases which may be permitted by reason of the removal of the 3 percent limitation on the production incentive factor.

TITLE I—FEDERAL ENERGY ACT AMENDMENTS AND RELATED MATTERS

Limitation on discretion respecting the submission of certain energy actions

House Bill

Under existing law, the Administrator of the Federal Energy Administration, in the exercise of authority delegated to him by the President, is permitted to submit to the Congress for review a proposal which combines in a single energy action the removal of both allocation and price controls as they apply to a single oil, refined petroleum product or product category. The House bill would circumscribe this discretion so as to require that energy actions deal separately with the question of allocation and price decontrol.

Senate Amendment

No provision.

Conference Substitute

The conference substitute adopts the provision of the House bill with an amendment which makes clear that the limitation is not intended to preclude the concurrent submission to the Congress of separate energy actions which propose the removal of price and allocation controls related to the same oil, product or product category. Thus, the questions of price and allocation decontrol could pend before the Congress at the same time, but either House would have the opportunity to address itself specifically and selectively to either proposal.

EPA comment and waiver

House Bill

No provision.

Senate Amendment

The Senate amendment amended section 7(c)(2) of the FEA Act of 1974 which provides for a five-day comment period by the Environmental Protection Agency on FEA rules, regulations, or policies which affect the quality of the environment. The Senate amendment extended the comment period to 5 "working" days in order to provide for adequate time for the EPA to assess the environmental impact of any such FEA action.

Existing law authorizes the Administrator to waive the comment period for not more than 14 days if, in his judgment, there is an emergency situation requiring immediate action. The Senate amendment further provided that a notice of such waiver must be published in the Federal Register on the same day as any such action is first authorized or undertaken and must include a complete explanation of the nature of the emergency which caused him to waive the comment period.

Conference Substitute

The conferees adopt the Senate amendment with an amendment. The conference substitute amends paragraphs (1) and (2) of section 7(c) of the FEA Act of 1974. The conference substitute would require the Administrator, prior to promulgating proposed rules, regulations or policies affecting the quality of the environment, to provide a period of 5 working days for comment thereon by the Administrator of the Environmental Protection Agency. Such comments are to be published along with the public notice of the proposed action.

Second, the substitute would leave undisturbed the authority to waive the EPA prior comment requirement for a period of 14 days if the Administrator determines that there is an emergency situation which requires immediate action. The conference substitute would require notice of any such waiver to be given to the EPA Administrator and filed with the Federal Register with the notice of agency action. Further, the notice of waiver shall include a full and complete explanation, accompanied by such supporting data and description of the factual situation as will apprise EPA and the public of the reasons for such waiver.

Thus, while the conferees do not intend to restrict FEA's right to invoke the emergency provision, they do wish to impose as a condition precedent to the invocation of such waiver notice and procedural requirements designed to assure adequate documentation of the nature of the emergency justifying such action.

Office of exceptions and appeals

House Bill

No provision.

Senate Amendment

The Senate amendment to the House bill included a requirement that the FEA establish guidelines and criteria under which special hardship, inequity, or unfair distribution of burdens shall be evaluated. Further, the Senate amendment required that the agency specify the standards of hardship, inequity, or unfair distribution of burdens by which any disposition of a case was made under the Office of Exceptions and Appeals, and the specific application of such standards to the facts contained in any such application or petition. If any person was aggrieved or adversely affected by a denial of a request for adjustment, the Senate amendment provided that he may request a review of such denial by the agency and may obtain judicial review when such denial became final. In addition, the agency was required to provide a hearing, when requested, for review of the denial. The Senate amendment also provided that no review of a denial under this provision shall be controlled by the same officer denying the adjustment pursuant to this subparagraph.

Conference Substitute

The conferees accepted the Senate provisions with amendments.

The conferees intend the provisions relating to publication of criteria and guidelines to require that the FEA publish a description of standards which it has employed, in the past, in approving or denying applications for exception relief. The conferees expect that these guidelines, together with precedents contained in the published decisions and orders of the Office of Exceptions and Appeals, will assist applicants in making presentations to the agency by providing them with a statement of the grounds on which relief has been accorded in the past. It is not the intention of the conferees, however, that these provisions require the FEA to anticipate all situations in which relief may be appropriate in the future, since the exceptions process is designed in substantial measure to resolve factual situations which could not have been and were not contemplated at the time the general statutory or regulatory programs were adopted. Thus, the guidelines the FEA is required to issue will not foreclose the FEA from granting relief in the future on grounds in addition to those specified in the guidelines.

A provision adopted by the Senate, which was erroneously excluded by the Senate bill, as enrolled, would have required the FEA to establish a procedure whereby a hearing for review of a denial of relief would be held within 30 days of filing and would have provided for the making of a transcript of such

a hearing, if requested. Although the conferees have not included this requirement in the legislation, they agree with its basic purpose and expect that FEA would take such action as may be necessary to see that its purposes are achieved.

Requirements for hearings in areas affected by FEA rules and regulations

House Bill

The House bill required the Federal Energy Administration to hold local hearings in circumstances where a proposed rule or regulation was to apply to a single State, geographic area or political subdivision within a State or to the residents thereof.

Senate Amendment

No provision.

Conference Substitute

The conference substitute incorporates the House provisions with technical changes. By incorporating provisions which provide for a local hearing where the effects of a proposed rulemaking are themselves "localized", the conferees intend to assure that the Federal Energy Administration will take into consideration the particularized concerns and needs of the areas, governmental units or residents most substantially affected. This provision can be expected to make every citizen's opportunity to participate in governmental decisionmaking more meaningful and direct and should result in a more responsive and responsible exercise of governmental authority at the Federal level. The conference substitute makes clear, as did the House provision, that these provisions do not of themselves require that a hearing be held with respect to a rule or regulation which has local effect. Whether the Administrator is required to afford an opportunity for hearing would continue to be controlled by provisions of other law. The local hearing requirement would become operative in those circumstances where the Administrator is required by law to hold a hearing or where he determines in the exercise of his discretion to afford an opportunity for hearing or the oral presentation of views, provided the rule or regulation in question has only local applicability.

Limitation on the administrator's authority with respect to enforcement of rules and regulations

House Bill

The House bill prohibited the Administrator of the FEA from using his discretion to maintain a civil action or issue a remedial order against any person whose only petroleum industry operation relates to the marketing of petroleum products, where such civil action or order is based upon FEA rules, regulations, or rulings interpreting such rules and regulations, which were being applied retroactively and where such person relied in good faith upon rulings that were in effect at the time of the alleged violation.

Senate Amendment

The Senate amendment contained a similar prohibition but extended the protection of the provision to independent refiners or small refiners, as described in the Emergency Petroleum Allocation Act of 1973 for independent producers. It also prohibited the Administrator from seeking criminal penalties against such persons.

Conference Substitute

The conferees agreed to the House language with technical amendments.

It is the intent of this provision to provide relief to businesses which have been subjected to seemingly endless changes in rules and regulations by the FEA and to penalties arising from those changes made after the original effective date of such rules and regulations. Many firms, especially smaller marketers, have attempted in good faith to rely on FEA rules and regulations, but have been confronted by subsequent amendments to those rules applied retroactively. This has presented a difficult situation and has frequently subjected small marketers to severe hardships. By adopting this language, the conferees intend to relieve small marketers from an unnecessary burden. They do not intend to restrict the FEA from perfecting its rules and regulations, indeed, the conferees encourage this. However, they do not believe that such a periodic updating should cause unjust penalties to small businessmen.

The conferees do not mean for this subsection to provide marketers with the means to challenge all enforcement actions based upon arguably ambiguous rules, regulations or rulings or upon clarifying amendments thereto. It is intended to apply where the agency has officially taken one position then changes its mind and takes another. Further the conferees do not intend for this provision to limit argument or defense by any other person who may similarly be negatively affected with respect to a retroactive ruling or interpretation by the agency. The conferees do not intend for the provision to encourage the retroactive application of rules and regulations to any other class of person not similarly protected.

Amendments to information-gathering authorities

House bill

The House bill contained a direction to the Administrator of FEA, in the exercise of his authority to collect energy information, to take into account the size of businesses so as to avoid to the greatest extent practicable actions which impose overly burdensome reporting requirements on small marketers and distributors of petroleum products and other small business concerns. The House bill expressly prohibited the Administrator from engaging in surveys or polling activities or disseminating information related to public opinion, attitudes or views as determined by such surveys or polling.

Senate amendment

The Senate amendment would direct the Administrator to establish a "uniform system of standards, procedures and methods for the accounting for and measurement of certain identified energy information." The Senate amendment also amended section 13 of the Federal Energy Administration Act to incorporate a system of penalties for failures to comply with FEA rules, regulations or orders related to its information collection functions. The scope of the energy-gathering authority was redefined to specifically include foreign activities of United States firms and activities occurring in the United States conducted by foreign entities. As in the House bill, the Senate amendment directed the Administrator to alleviate small business reporting burdens. No provision of the Senate amendment related to the use of polling information or surveys.

Conference substitute

The conferees have determined not to include the direction to the Administrator to establish a uniform system of standards, procedures and methods for the accounting for and measurement of certain energy information. Instead the conferees determined to make clear that the Administrator was to have authority to require the keeping of such records or accounts as may be necessary to determine compliance with applicable rules, regulations, orders, or other provision of law. The conferees understand this to be an authority common to regulatory agencies to assure that they may be able to faithfully execute the law. It is not intended that the FEA exercise this authority to evolve and make mandatory uniform accounting practices or standards, a task which has implications which transcend the authorities and responsibilities which current law has assigned to the Administrator.

The conferees have not included the Senate language which restates the scope of the energy information-gathering authority on a determination that the inclusion of this language was unnecessary. The conferees believe that the energy information authority already vested in the Administrator is adequate to permit him to obtain information from both United States and foreign domiciled firms and that the information-gathering power may reach to obtain relevant data wherever located. The conferees have agreed to add a system of penalties for failure to comply with the Administrator's lawful demands for information, but have modified the provisions of the Senate bill so as to incorporate by reference the system of penalties already provided for in existing law relating to a failure to comply with rules, regulations or orders of the Administrator issued under authorities of the Energy Supply and Environmental Coordination Act of 1974. The conferees believe that persons required to submit information should not be placed in jeopardy of differing sanctions depending on which energy information-gathering authorities the Administrator chooses to employ (i.e., those contained in section 13 of the Federal Energy Administration Act or those provided in section 11 of the Energy Supply and Environmental Coordination Act). Accordingly the conference substitute makes parallel the enforcement mechanisms applicable to the information-gathering authorities contained in these Acts.

The conference substitute includes the provisions related to the alleviation of small business reporting burdens which were contained in identical form in both the House bill and Senate amendment. The substitute does not, however, contain the provisions of the House bill which restricted the authority of the Administrator to conduct surveys or polling activities. Instead the conferees agreed that this joint statement should admonish the Administrator against the use of any such surveys or polling information to lobby the Congress or attempt to influence Congressional policies by evidencing support of the policies of the President or a lack of support of the policy positions of any member of the Congress or positions taken by any Committee or House of the Congress.

Keeping of data related to the export of coal, crude oil, residual oil and refined petroleum products to foreign nations

House Bill

No provision.

Senate Amendment

The Senate amendment proposed to change the requirement of existing law to make permissive, rather than mandatory, the keeping on file by the Administrator of specific information concerning exports of coal, crude oil, residual oil or any refined petroleum product. The Administrator was also permitted to obtain representative samples of any such shipment.

Conference Substitute

The conferees understand that it was the intention of the Senate amendment to avoid the maintenance of a file of information by the Administrator which was duplicative of data already collected and in the hands of the Customs Bureau of the Department of Commerce. The conference substitute accordingly relieves the Administrator of the necessity to maintain a file of this information provided he can satisfy himself that the information was maintained by some other Federal agency in adequate detail, such information was freely and fully available to the Administrator upon request and, as provided in existing law, such information would in turn be available to the Congress.

Reports

House Bill

No provision.

Senate Amendment

The Senate amendment provided that the report required by section 18(d) of the FEA Act of 1974 concerning the impact of the energy shortage on the economy and employment be submitted annually, rather than semi-annually. A Senate amendment also required the Administrator to submit to Congress a comprehensive, interdisciplinary study of the energy needs of the United States and the methods by which such needs could be met. Third, a Senate amendment to the House bill required that the FEA Administrator conduct a study of the relative benefits of employing a Btu tax as a means of reaching national energy goals. Fourth, a Senate amendment required the Energy Resources Council to coordinate the preparation of reports now issued by the FEA and ERDA on a national energy policy and program.

Conference Substitute

The House recedes with respect to the Senate amendment concerning the annual submission of the report on the impact of the energy shortage on the economy and employment.

The conferees agreed, with respect to the Senate amendment concerning the interdisciplinary, comprehensive study of the energy needs of the United States and the methods by which those needs could bet met, to revise this provision so as to include such study as an analysis, within the existing FEA annual report.

The conferees agreed that the Senate amendment with respect to a Btu tax study should be included in the next FEA annual report. It is the intent of the conferees that the FEA study and report to Congress on the use of this tax and other energy taxes, as a means of attainment of an acceptably low level of energy imports by 1985. The conferees agreed that the following elements were to be included in this analysis: (1) energy taxes based on (a) an across the board tax on the use of non-renewable forms of energy to be levied at the mine-mouth, wellhead, or port-of-entry; and (b) taxes designed to correct existing price distortions arising from uninternalized social costs, including, for example, costs of reliance upon insecure foreign sources of supply, and costs of adverse environmental impact; and distortions arising from regulation of prices, (2) refund of taxes on the basis of a uniform payment to each adult.

The analysis should evaluate the impact of such taxes on: (1) the economy, including the general price level and energy prices, employment, government revenue, and distribution of income and relative purchasing power; (2) the supply of and demand for energy; (3) the degree of reliance on insecure foreign sources of supply; (4) reduction of adverse social costs, including environmental, health and safety costs; and (5) the degree to which the need for FEA regulatory programs would thereby be diminished or eliminated.

The Senate receded from its amendment which required the Energy Resources Council to coordinate the two reports now being prepared by the FEA and ERDA, believing that such a requirement might inhibit the free exchange of views.

Authorization of appropriations

House bill

The House bill contained an authorization of appropriations for the FEA for the current Transitional Quarter and for the next fiscal year, as specified below. The House subjected these funds to the restrictions that no more than $607,000 for the transitional quarter and $2,036,000 for fiscal year 1977 could be used for the Office of Communications and Public Affairs, and that no funds could be used for the Office of Nuclear Affairs or the functions assigned to that office as of January 1, 1976. The total level of authorizations for the Transition Quarter was $43,379,200 and for fiscal year 1977 was $172,411,800.

Senate amendment

The Senate adopted restrictions similar to the House provision in its authorization amendment. The authorization levels were at a slightly lower budget level in almost all cases. The Senate authorization for the Office of Conservation and Environment was set at $40,596,000. The Senate also contained an authorization for Federal solar energy commercialization activities at $500,000 for the transition quarter and $2,500,000 for fiscal year 1977. The total level of authorizations for the Senate amendment was $38,193,000 for the Transition Quarter from July 1, 1976 to September 30, 1976, and for administration of the Act for fiscal year 1977, $185,757,000.

TABLE I

	Senate version		House version	
	Transition quarter [1]	*Fiscal year 1977* [1]	*Transition quarter* [1]	*Fiscal year 1977* [1]
Executive Direction & Administration	$8,596,000	$31,554,000	$8,655,000	$33,086,000
Office of Energy Policy and Analysis	8,000,000	34,472,000	8,137,000	34,971,000
Office of Regulatory Programs	11,600,000	47,800,000	13,238,000	62,459,000
Office of Conservation and Environment	7,400,000	40,596,000	7,386,000	12,596,000
Electric Utility Demonstration Project	----------	----------	----------	13,056,000
Office of Energy Resource Development	2,800,000	14,914,000	3,052,000	16,934,000
Office of International Energy Affairs	300,000	1,921,000	300,000	1,921,000
Federal solar energy commercialization activities	500,000	2,500,000	----------	----------

[1] Need to exceed.

Conference Substitute

The Senate receded and accepted the House figures with two exceptions. First, the House and Senate conferees agreed to accept a compromise figure of $37,000,000 for the Office of Conservation and Environment. Second, the House receded to the Senate authorization for solar commercialization projects. The higher House figures were accepted by the Senate to cover activities in the following areas: compliance and enforcement; energy resource development; executive direction and administration; and policy and analysis. The higher House figures were accepted in order to encourage a more intensive compliance effort on the part of the FEA than has characterized their activities in the past; and in order to intensify the agency's effort to bring about conversion of oil and gas-fired electrical generation plants to coal.

The conferees agreed to a Senate amendment for FEA to continue to carry out the policy and planning functions associated with promoting accelerated utilization and widespread commercialization of solar energy, and also with providing overall coordination of Federal solar energy commercialization activities. Further, the amendment added an explicit restriction banning use of such funds authorizing FEA for conduction solar research, development, and demonstration (R, D&D). The conferees believe that the explicit language of the Senate amendment addresses House concerns that contributed to the deletion of the solar energy measure on the House floor. For example, the Senate amendment explicitly bans any use of funds by FEA for solar research, development or demonstration. Further the conferees recognize that a multiagency approach to accelerated commercialization may be necessary.

The conferees expect that Congress shall receive, in a timely manner, the results and recommendations of FEA's solar commercialization program to "develop the policies, plans, implementation strategies, and program definitions for promoting accelerated utilization and widespread commercialization of solar energy." Of particular interest, the conferees expect that Congress will receive, in the shortest feasible period of time, results and recommendations regarding: a "national plan for the accelerated commercialization of solar energy" to include workable options for achieving on the order of 1 million barrels per day of oil equivalency in energy savings by 1985 from a combined total of all solar technology; studies and analyses addressing mitigation of economic, legal, environmental, and institutional constraints; development of such major commercialization projects as, but not limited to, the "Southwest Project"; the "Solar Energy Government Buildings Project", among others; development of State solar energy commercialization programs (an assurance that such programs, as they relate to the on site use of solar energy for providing electricity or thermal energy to buildings or building complexes, are closely coordinated with State energy conservation implementation programs); and the development of commercialization plans for each major solar technology.

Further the conferees expect that Congress will receive, in the shortest feasible period of time, the status and recommendations concerning FEA's efforts to encourage participation by the various agencies, and to provide overall coordination of Federal solar energy commercialization activities. As the current Federal energy structure is being reorganized into a more permanent insitution, the conferees also expect that Congress will be kept advised of options developed for institutional arrangements, Federal energy structure, and of such other appropriate parts of the Executive Branch, for accelerating the commercialization of solar energy.

For the purpose of permitting public use of the Project Independence Evaluation System, pursuant to section 31 of this Act, the conferees also agreed to authorize the aggregate amount of the fees estimated to be charged for such use to the FEA, by the public.

Federal Energy Administration Act Extension

House Provision

The House extended the FEA Act for 18 months, until December 31, 1977.

Senate Amendment

The Senate amendment extended the FEA Act for 15 months, until September 30, 1977.

Conference Substitute

The conferees accepted the House language. All the conferees were agreed on the need to provide only a short-term extension of this agency. It was the belief of the conferees that a 17-month extension allows ample time for planning and implementation of a reorganization plan for Federal respon-

sibilities for energy activities. Additionally, the extension of the FEA permits the continued implementation of programs already established which can then be readily transferred as this country moves toward a reorganization of its energy programs.

The Federal Energy Administration Act of 1974, as originally enacted, provided for the termination of FEA on June 30, 1976. On June 1, 1976, the House passed H.R. 12169, which extended this legislation for 18 months beyond the June 30th, 1976 expiration date. On June 16, the Senate passed S. 2782, which provided for a 15-month extension of the Agency. Because of these substantial differences between the House and Senate bills, the conferees were not able to complete their action on the legislation before the June 30, 1976 expiration date of the FEA Act. Therefore, on June 28th, the Senate acted favorably on S. 3625 which extended the Agency for an additional 30 days—until July 30, 1976. The House likewise acted favorably on this legislation and it was signed by the President on June 30, 1976.

The conferees completed their work on this legislation on July 30, 1976. Because the conference report could not be filed and acted upon by both Houses and presented to the President before the expiration of the Agency, the conferees added language to the bill to make the extension retroactive. It is the intent of the conferees that this retroactive provision have the effect of permitting the Organic Act to continue uninterrupted. Further, it is the intent of the conferees that the Agency, its functions (including pending regulatory matters), appointments and other personnel matters, prior obligations and programs, shall be deemed to have continued uninterrupted despite the brief period between July 30th, 1976 and the effective date of this legislation.

The conferees are aware that, because of the necessity to continue existing energy programs, the President issued Executive Order No. 11930 on July 30th establishing a Federal Energy Office (FEO) in the Executive Office of the President. The conferees do not intend to suggest that action taken during the hiatus period by the FEO and consonant with the procedures required by the FEA Act would be invalidated by this Act.

Construction of small and independent refineries

House Bill

No provision.

Senate Amendment

The Senate bill contained a provision requiring the Administrator to establish a new category of entitlements for persons in the process of constructing a new oil refinery. The Administrator was directed to establish criteria for inclusion in this category so that new refineries by small or independent refiners might be fostered and encouraged.

Conference Substitute

The conference accepted a substitute for the Senate amendment. The conferees agreed with the underlying purposes of the Senate provision, but were concerned with the scope and ramifications of the proposed Senate amendment. Accordingly, the conference substitute directs the Administrator to make a careful study of the entire issue of new refinery construction by small and independent refiners and to take action, under existing law, to remove any unnecessary, unreasonable and discriminatory barriers to entry for such persons that are created by the regulatory structure. The conferees have directed that the Administrator report to the Congress in April 1977, explaining what action has been taken pursuant to this provision. The report is also to include a discussion of the problems in this area that cannot be resolved within the existing framework and recommendations for legislative change that could remedy these difficulties.

Project independence evaluation system documentation and access

House provision

The House bill required the Federal Energy Administration to provide structural, econometric and operating documentation on the Project Independence Evaluation System Computer Model. The House required that this documentation be provided by specific date and that access to the model be made available to representatives of Congressional committees and to members of the general public, upon payment of fees covering the costs of such access.

Senate amendment

No provision.

Conference Substitute

The conferees accepted the House provision with an amendment to clarify the requirements that public access to the Model would, in fact, be required, but that any member of the public requiring access to the model would be expected to reimburse FEA for the actual cost of using the model. In accordance with language in the authorization section, any funds so received might be later appropriated to the use of FEA, as reimbursement for the costs incurred by FEA in providing these services.

Congressional review of rules, regulations, 60-day layover

House Bill

The House bill contained a provision which require that all rules and regulations likely to have a substantial impact on the nation's economy or large numbers of individuals or businesses, must be submitted to each House of Congress prior to their effective date. Further the provision stated that such rules and regulations could not take effect if disapproved by concurrent resolution of the Congress during the 60 legislative day review period.

Senate amendment

No provision.

Conference Substitute

The House receded from its provision yielding to Senate objections related to the workability and constitutionality of the provisions of the House bill.

Amendments to crude oil pricing policy

House Bill

No provision.

Senate Amendment

The Senate amendment changed in two respects the pricing policy embodied in the Energy Policy and Conservation Act signed into law this last December. First, the Senate amendment contained a statutory exclusion from price controls for stripper well production. Such volumes were also to be excluded from calculation of the weighted average composite price formula which serve as a restraint on the President's authority to increase domestic energy price over the 40 month period which began in February, 1976. Secondly, the Senate amendment proposed to exclude from price controls production which is attributable to certified enhanced recovery projects undertaken subsequent to February 1st of this year. These volumes, also, would be excluded from calculation of the weighted average composite price.

Conference Substitute

Prior to stating the agreement reached by the conferees it is useful to describe the pricing requirements of existing law. The Energy Policy and Conservation Act (EPCA) amended the Emergency Petroleum Allocation Act (EPAA) to establish a forty-month program of continued crude oil price controls.

EPCA established as the benchmark for regulatory purposes a "weighted average" or "composite" price. The composite was initially set at $7.66/bbl. The President was authorized to increase the composite price to:

(1) account for inflation, and thereby maintain the composite price in real dollar terms; and

(2) provide an incentive to increase production.

Limitations were imposed upon this authority. These limitations included:

(1) a 3% limitation on the production incentive factor; and

(2) a 10% overall limitation on combined increases based upon the inflation adjustment and the production incentive factor.

Neither percent limitation is absolute. EPCA established a procedure whereby the President, upon making certain findings, is authorized to propose to Congress that adjustments to the composite price in excess of the 3% and/or 10% limits be permitted. If neither House of Congress disapproves such a proposal within a 15-day Congressional review period, the President may implement the proposal.

The conferees have agreed to that portion of the Senate amendment which would exclude stripper well production from price controls. The substitute, however, does not remove stripper well production from the calculation of the weighted average composite price. The conferees determined that to do so would greatly amplify the effect of the exemption of stripper well production and permit unjustified price increases with respect to other classifications of domestic crude oil production. Indeed, the effect of removing stripper well production from the composite calculation would have a price impact more than three times that which would result from the simple exemption of stripper production from price controls themselves. Instead, the conferees have determined to include actual volumes of stripper well production in the composite calculation.

Stripper oil production is to be given an imputed value, however. This is done to minimize the reporting burdens which attend administration of the pricing provisions and to guard against the eventuality that future OPEC directed increases in world market prices might inexorably raise the market price of stripper well production to the point that roll backs in ceiling prices applicable to other prices of oil would be necessitated in order to stay within the composite "benchmark".

The imputed price is to be first calculated at $11.63, an approximation of today's average first sale price of stripper well production. This imputed value is to be adjusted to reflect increases in the actual average price of domestic production remaining subject to controls. It is the intent of the formula agreed upon in the conference substitute to require an upward adjustment in the imputed value to reflect increases in actual prices excluding any increase which occurs solely by reason of a shift in the relative values of upward and lower tier oil attributable to natural field decline.

The conferees are agreed that there exists great potential for augmenting domestic crude oil production through the application of enhanced recovery techniques. There is also general agreement that current economic circumstances would permit adjustments to the pricing mechanism contained in the Energy Policy and Conservation Act to give needed additional incentives for the application of high-cost enhancement techniques which today are not economical. The conferees could not, however, agree to the provisions of the Senate amendment which would permit substantial price increases for commonplace secondary enhancement techniques such as water flooding and gas displacement. Moreover, the conferees did not believe it wise to attempt to create in rigid statutory language a special classification of domestic production which would be freed of price restraints. Unlike the case of strip-

per well production, for which there is both a long legislative and administrative history, there is not common agreement as to the practicality, feasibility or cost-effectiveness of the various enhancement techniques employed throughout the industry. Also, a great deal of time, money and effort is currently being expended to develop new and more effective techniques. Accordingly, any statutory classification is likely to be either so narrowly stated as to exclude important emerging technologies or so broadly stated as to create a loophole of undiscernible proportions.

For these reasons, the conference substitute seeks to obtain the objective of providing additional price incentives for high-cost enhancement techniques by equipping the Administrator with greater flexibility to provide for such incentives within the framework of the existing price regulatory structure. In so doing, the conferees seek to maintain the integrity of the pricing policies contained in the Energy Policy and Conservation Act while at the same time providing the President with the means of targeting additional price incentives to those extraordinary and high-cost enhancement techniques commonly associated with tertiary applications which are uneconomical under today's pricing regimen. Accordingly, the conference substitute removes the 3% limitation on production incentive adjustments to afford the President a greater flexibility to respond to an improving economy by giving greater price incentives to optimize domestic production. The conferees have identified, as matter of high priority, correction of gravity differential problems in the current price regulatory mechanism and the creation of additional price incentives for the application of bona fide tertiary enhancement techniques.[1] Thus, the President is directed, taking into consideration the greater flexibility as attends the removal of the 3% limitation, to amend the regulation which pertains to the price of domestic crude oil at the earliest practicable date to provide for these Congressionally identified priorities.

As a matter of emphasis, it should be noted that the conference substitute preserves the current 10% limitation on the combined adjustments to the domestic composite price to take into account inflation and to provide incentives for optimizing domestic production. The President must, therefore, keep within the 10 percent overall limitation in making adjustments to the price control mechanism, thereby assuring that consumers and the economy in general will not be called upon to absorb abrupt increases in basis energy prices of a dimension likely to damage national economic recovery or impose particular hardship.

It is the conferees understanding that within the 10% limitation the President has adequate flexibility to provide for correction of gravity differential problems and to give further price incentives as may be necessary to encourage the application of high-cost enhancement techniques. Removal of the 3% limitation, coupled with the exclusion of stripper well production from price controls, as proposed in the conference substitute, will obviate the need for presenting to the Congress a proposal to provide for the implementation of the so-called "third phase" of the pricing policy established in the Energy Policy and Conservation Act. In keeping with this understanding, the conferees have received and hereby incorporate as an integral part of their agreement, the following letter from John A. Hill, Deputy Administrator of the Federal Energy Administration.

FEDERAL ENERGY ADMINISTRATION,
July 30, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Conferees on the Part of the House.

Hon. ARBAHAM RIBICOFF,
Chairman, Conferees on the Part of the Senate.

DEAR CHAIRMEN: In light of the amendments to the price control mechanism, as proposed in the Conference substitute to the bill H.R. 12169, (referred to as the Eckhardt amendments), it is the FEA's understanding that neither the President nor any delegate exercising authority under the Emergency Petroleum Allocation Act of 1973, will submit to the Congress in the period which begins on this date and ends March 15, 1977, an energy action to further increase the composite price of domestic crude oil, provided those amendments become law.

JOHN A. HILL,
Deputy Administrator.

Should the President sign this legislation or otherwise permit it to become law, he would, thereby, indicate his acceptance of the common understanding reflected in Mr. Hill's letter.

The President would be called upon, as under existing law, to submit a report to the Congress on February 15 concerning his administration of the price control authorities. The conference substitute requires that specific information be contained in that report concerning the use of greater flexibility which attends removal of the 3% limitation as well as the effects (on both production and price) resulting from the removal of price controls for stripper well production. This report would lay over a period of approximately 30 days or until March 15, 1977, before the Congress would be called upon to consider a proposal related to the continuation of the production incentive or one which seeks adjustment at 10%.

Prior to the deletion of the three percent limitation on price adjustments as a production incentive, section 8(e)(1) of the EPAA permitted the President to submit to the Congress an amendment to the regulations which provided for: (1) a price increase in excess of the three percent limitation on adjustments as a production incentive, (2) a price increase in excess of the 10 percent limitation on the combined effect of adjustments to take into account the impact of inflation and as a production incentive, or (3) both.

Since the three percent limitation on adjustments as a production incentive has been deleted, the corresponding provision for submitting to the Congress amendments to exceed that limitation has also been deleted. The conferees wish to make clear, however, that an amendment to exceed the overall 10 percent limitation could also, nonetheless, be submitted in a format which specified a fixed percentage adjustment for price increases as a production incentive subject to an increase in the overall 10 percent limitation. Alternatively, such a submission may specify a fixed percentage adjustment for price increases as a production incentive not subject to a fixed percentage combined adjustment limitation, but with the overall limitation determined on a quarterly basis by adding the percentage rate of inflation as measured by the adjusted GNP deflator to the fixed rate of increase specified in the amendment as a production incentive.

The conferees wish to comment specifically on that provision of the conference substitute which directs the President to take corrective action with respect to certain gravity differential problems, particularly as they relate to crude oil produced in California and Alaska.

It appears that heavy, or low gravity crude oil produced in these states—and possibly elsewhere—was on May 15, 1973 subject to a price penalty of as much as 6 cents per barrel per API degree of gravity. As a result, the price ceiling for such crude oil, determined by reference to May 15, 1973 posted prices, perpetuates this penalty. One of the factors which led this Committee to agree upon the amendment which removes the three percent limitation on price adjustments as a production incentive was the understanding that this flexibility be used by the Administrator to adjust prices for heavy California crude oil to more equitable levels. The increase in actual old crude oil prices resulting from such adjustments would properly be regarded as a production incentive price adjustment, and would, as such, meet the requirements of section 8(b)(2) of the EPAA with respect to the findings necessary to increase prices for old crude oil production.

Appliance program

House bill

No provision.

Senate amendment

The Senate amendment transferred all FEA functions under the appliance labeling and energy efficiency standards program under Part B of Title III of EPCA to the National Bureau of Standards. In addition, the deadline for prescribing energy efficiency improvement targets under section 425(a)(1) of EPCA was extended for 90 days.

Conference substitute

The conferees amended the provisions of the Senate amendment to provide as follows: The Administrator of the FEA shall direct the National Bureau of Standards to develop energy efficiency improvement targets for each covered product specified in paragraph (1) through (10) of section 322(a) of the Energy Policy and Conservation Act. The Administrator would then propose and promulgate targets for these types of products. Further, the Administrator is given an additional 90-day period after enactment of the bill to prescribe by rule the targets for each of these products. The 90-day extension is necessary in order to provide NBS adequate time to develop the targets and to allow FEA an opportunity for presentation of views and informal questioning prior to promulgation of the targets. However, the conferees feel that FEA should promulgate the targets as expeditiously as possible within the constraints of the statute.

The Administrator is also required to direct the National Bureau of Standards to develop an energy efficiency improvement target for each type of covered product specified in paragraphs (11) through (13) of section 322(a) of EPCA.

Under the substitute, FEA retains authority to propose and promulgate energy efficiency improvement targets, and in doing so, may modify any targets developed by NBS. However, it is anticipated that FEA will consider the recommendations of NBS.

In developing energy efficiency targets, NBS should observe the same constraints as are applicable to FEA in prescribing targets; namely, they should be based upon a maximum percentage improvement which it determines is economically and technologically feasible, but which in any case is not less than 20 percent.

It should be noted that section 336 of EPCA requires that the Administrator afford manufacturers and other interested persons an opportunity for an informal hearing (including an opportunity for limited informal questioning) with respect to any proposed energy efficiency improvement targets published by the Administrator. Section 336 con-

[1] The conferees wish to emphasize that the use of the term tertiary is intended to refer to techniques of a generic class. It is not intended, in a chronological sense, to imply that traditional secondary applications must first be exhausted before use of these high cost and extraordinary enhancement techniques could qualify for additional price incentives.

tains no specific provision for judicial review of these targets; however, judicial review under the Administrative Procedure Act, chapter 7 of Title 5, U.S.C., is available in accordance with the terms of that chapter.

Extension of the Energy Resources Council

House Bill

No provision.

Senate Amendment

The Senate extended the life of the Energy Resources Council until September 30, 1977.

Conference Substitute

The conferees agreed to the Senate amendment to extend the life of the Energy Resources Council until September 30, 1977. Since the House had no comparable provision extending the life of the Energy Resources Council, it was not possible within the scope of the conference to extend the termination date of that Council until December 31, 1977. However, the conferees intend that the Council should serve as a focal point for the transition planning and reorganization work until a reorganization of the Federal government's responsibilities in this area can be brought about. It was the intent of the Senate amendment to make the expiration of the Energy Resources Council coterminous with the expiration date of the Federal Energy Administration.

Energy Resource Council reports

House Bill

No provision.

Senate Amendment

The Senate adopted two provisions requiring reports from the Energy Resources Council. The first of these required that an annual energy conservation report be prepared by the Energy Resources Council with the assistance of all agencies involved in conservation-related programs, detailing (1) all such activities at the Federal, state and local levels and in the private sector; (2) what the potential conservation could be from such actions if widespread implementation were effected; and (3) what further conservation activity should be undertaken.

The Senate also adopted a requirement that the President, through the Energy Resources Council, prepare a plan for the reorganization of the Federal government's responsibilities for energy and natural resources including but not limited to, the study of principal laws and directives that constitute the energy and natural resource policy of the United States; prospects of developing a consolidated national policy; the major issues and problems of existing and natural resource organizations; the options for Federal energy and natural resource organizations; and overview of available resources pertinent to energy and natural resources organizations; recent proposals for a national energy and natural resource policy for the United States; and the relationship between energy policy goals and other national objectives. The provision required that the report be submitted to the Congress by December 31, 1976, with an update to be sent to Congress by March 1, 1977.

Conference Substitute

The conferees accepted both Senate amendments with an amendment extending the update report submission to April 15, 1977, on the reorganization of the Federal government's energy and natural resource responsibilities.

Further, in light of the strong desire to include the Senate amendment with respect to the reorganization study and analysis from the Energy Resources Council, the House rejected a Senate provision which provided for the dispersion of the functions of the Federal Energy Administration upon its determination. It was the strong belief of the conferees that an effort to move towards consolidation of the functions of energy and natural resources now carried out by the Federal government is the proper course of action.

Office of Energy Information and Analysis

House Bill

No provision.

Senate Amendment

The Senate provisions amended the Federal Energy Administration Act of 1974 to establish within the FEA an Office of Energy Information and Analysis headed by a Director appointed by the President subject to Senate confirmation. The Director would be required to have background experience appropriate to the task of managing the National Energy Information System authorized by the amendment. This system, when complete, would contain the energy information required to permit comprehensive and detailed analysis of energy-related issues by agencies of the Executive Branch, the Congress and the public.

The Senate amendment utilized only that authority to gather energy information which is part of existing law. The existing protection in law for sensitive or confidential information was also unchanged by the Senate amendment.

It was the intent of the Senate amendment that the Office be separated from the role the FEA has assumed in formulating and communicating the Administration's energy policies. The Office would serve as an objective, professional resource for both the Congress and the public as well as the FEA. As a further check on the objectivity and professionalism of the Office, the procedures of the Office would be subject to a performance audit review on an annual basis by a team of professionally qualified employees of the leading Federal statistical agencies.

Under the Senate amendment, the FEA Administrator would be required to conduct a review of Federal energy information gathering activities and develop recommendations designed to reduce burdensome and duplicative reporting of energy information. These recommendations would become part of the President's reorganization proposal required elsewhere in the Act.

The Senate amendment contemplates that, in the operation of the Office, the Director would utilize the files of energy information already being maintained by various Federal agencies to the maximum extent practicable. No information in possession of the Office could be withheld from Congress.

The Senate amendment requires the Director of the Office to make both regular periodic and special reports to the Congress and the public providing a comprehensive picture of energy supply and consumption in the United States, including a description of important trends.

The Senate amendment further required the Director of the Office to collect on an annual basis from major energy companies energy information of a financial nature relating to the economics of the energy supply. Information permitting an analysis of costs, profits, cash flow and investments by companies engaged in exploration, development, production processing and other phases of the energy industry would be collected on an annual basis and published in summary form.

To assure that the Office would be established as part of the Administration taking office in January, 1976, the Senate amendment would become effective 180 days after enactment.

Conference Substitute

The conference substitute generally follows the Senate amendment, although a number of changes were made by the Conference Committee. The most substantial of these changes is the deletion of a provision of the Senate bill which would have required the collection of energy information of a financial nature from companies in the energy industry.

With respect to the Director of the Office of Energy Information and Analysis established by the conference substitute it is the understanding of the conferees that the delegation of energy information authority to the Director of the Office by the Administrator may be on a non-exclusive basis. The conferees do not intend that the provisions of the conference substitute be construed to limit the exercise of authority with respect to energy information by the Administrator where such exercise is required to fulfill roles assigned the Administrator by statute or by delegation by the President. However, it is the intent of the conferees that the Director be given the lead energy information responsibility within the FEA and that the Office serve as a focal point for the processing and analysis of energy data and information relevant to energy policy decisionmaking. The conferees further intend that no internal institutional barriers or impediments with respect to the availability of energy data, information or related documents to the Director exist within the FEA.

The conference substitute adopts the major features of the Senate provision describing the National Energy Information System which would be established and maintained by the Office. The conferees recognize that the description of this system implies substantial tasks for the Office. The conferees expect that the Director of the Office will exercise prudent judgment in establishing priorities and in assigning the resources available to the Office with respect to the achievement of the goals set for the National Energy Information System by this Act. However, the conferees do not intend that the flexibility granted the Director in this regard and reflected in the statutory language be used as an excuse for failure to forcefully address gaps in our current knowledge of the systems which supply and consume energy, particularly with respect to the impacts of energy policies on the economy and employment and the relationships between the economics of energy supply and energy availability.

The conference substitute deletes the requirement of the Senate amendment that all analytic capabilities be maintained "within the Office". The conferees wish to permit the Director the flexibility to utilize contractual or other arrangements if the maintenance of the required capabilities can be achieved most efficiently thereby. However, the conferees wish to emphasize their clear intent that these capabilities be available to the Director on a real-time basis and that the flexibility granted by the Act not result in deficiencies in the Office with respect to the collection, processing or analysis of energy information.

The conferees expect that sensitive or confidential information, if any, contained in any Federal agency report to the Director be afforded the protection which such information would have received in the agency producing the report.

The conferees adopted the Senate provision describing the reports to be prepared by the Director with an amendment deleting the requirement of a detailed description of the extent of compliance or non-compliance by industry or other persons subject to the rules and regulations of the Office. The conferees do not intend, however, that the Director's reports on the activities of the Office necessarily refrain from commenting on any compliance problems. The conferees feel strongly that the Congres and the public should be made promptly aware of any problems in this area which may arise. However, it is not intended that a lengthy, item-by-item description of compliance activities related to energy information be required on a routine basis.

The conferees also deleted the entire Senate provision which would have required the Office to collect annually from major energy-producing companies energy information of a financial nature relating to the economics of the energy industry. The conferees do not intend that the deletion of this provision be construed as an indication of Congressional intent to limit the authority of the FEA to gather energy information. Rather, the conferees believe that adoption of a Senate provision which was closely contested in the Senate and has not been the subject of hearings and analysis in the House is premature at this time. The conferees recognize that the objective determination of the sensitivity of energy supply to economic factors is one of the goals of the National Energy Information System established by this part. The conferees also note that, with respect to persons engaged in whole or in part in the production of crude oil and natural gas, a detailed and rigorous process required by the Energy Policy and Conservation Act (P.L. 94–163) is currently under way to establish orderly and uniform standards and procedures with respect to the reporting of certain financial information. It is the wish of the conferees that the Director of the Office fully exercise his authority to gather the energy information including information of a financial nature, where such information can be obtained in useable form and is relevant to, and will assist in the clarification of, energy policy issues. However, in the absence of further Congressional study and analysis the conferees are reluctant to write into law detailed and technical requirements with respect to the collection of specific categories of energy information of a financial nature.

The conferees understand and intend that the provisions of the conference substitute in no way expand or limit the authority of the FEA to gather energy information. Similarly, it is not in any way intended that these provisions result in the unauthorized disclosure of information protected under existing law. For example, in suggesting methods by which the Director of the Office may organize the energy information presented in reports, including organization of such information on a company basis, the conferees intend only that information be disclosed to the public, in such manner and to such an extent as would be consistent with requirements of existing law respecting the protection of certain information from disclosure.

Under provisions of the conference substitute, no information in possession of the Office could be withheld from Congress on request of a duly established Committee. By providing that information so acquired is the "property" of any such Committee, the substitute makes it clear that appropriate handling of sensitive information will occur under the auspices of such Committee. This provision is not, of course, intended to suggest a taking of commercially valuable information by any Committee of the Congress.

TITLE II—ELECTRIC UTILITY RATE DESIGN INITIATIVES

Rate design proposals

House bill

No provision.

Senate Amendment

The Senate amendment required that the Administrator of the FEA develop and publish in the *Federal Register* no later than 180 days after enactment, voluntary electric utility rate structure guidelines for the purpose of encouraging electric utility companies to develop innovative rate structures. Within 90 days after publication of the guidelines, copies were required to be sent to the utility regulatory commissions along with a written request for compliance. These guidelines were to be reviewed, revised and republished at least annually.

Conference Substitute

The conferees agreed to a provision which directs the FEA Administrator to develop proposals to improve electric utility rate design. These proposals are to be transmitted to each House of Congress not later than six months after enactment of the bill for review and for such further action as the Congress may by law direct.

The conferees deleted all references to voluntary guidelines in order not to prejudge the result of further Congressional action. In particular, some of the conferees felt that the conference substitute should not exclude the possibility that the proposals could provide the basis for enactment of legislation establishing national minimum standards for electric untility rate design. Others felt that the proposals could result in legislation directing FEA to prescribe voluntary guidelines, or in no legislative action by Congress.

Further, the adopted provision describes the general objectives which the proposals should be designed to achieve; namely "to encourage energy conservation, minimize the need for new generating capacity, and minimize costs to consumers". The Administrator is specifically directed to submit four proposals:

(1) A proposal for implementation of load management techniques which are cost-effective. A load management technique is a technique to reduce maximum kilowatt demand on an electric utility. Such a technique may involve use of interruptible electrical services, energy storage devices, ripple or radio control mechanisms, load limiting devices, elimination of master metering or techniques to minimize inefficient end uses of electrical energy; as well as time-of-use pricing techniques discussed under paragraph (2). A load management technique is cost-effective if such technique is likely to reduce maximum kilowatt demand on the electric utility in question and if long-run benefits of such reduction are likely to exceed the long-run costs associated with the implementation of such technique.

(2) A proposal for implementation of rates which reflect marginal cost of service, or time-of-use of service, or both. The proposal could provide for redesign of electric utility rate structures in order to reflect marginal cost pricing principles (without increasing overall utility revenues beyond the levels necessary to produce a fair rate of return). Alternatively, the proposal could provide for peakload pricing on a daily or seasonal basis in order to reflect differences in cost attributable to daily or seasonal time of use of electric utility services.

(3) A proposal for implementation of ratemaking policies which discourage inefficient use of fuel and encourage economical purchases of fuel. Among the types of proposals the Administrator could consider in this connection would be proposals to modify fuel adjustment or other automatic adjustment clauses to provide for (A) a partial (*e.g.* 90%) pass-thru of increases and decreases in fuel costs, (B) a threshold above which fuel costs must increase (and below which they must decrease) before any automatic adjustment is triggered, or (c) a requirement of audit or review by utility regulatory commissions of fuel related transactions.

(4) A proposal for rates (or other regulatory policies) which encourage greater electric utility system reliability and reliability of major items of electric utility equipment. Such a proposal could, for example, recommend that reliability standards for major generating equipment be prescribed and that in the event that such equipment failed to meet the applicable standards, adjustments would be made in the utility rates. Or, if the Administrator finds that reliability standards are feasible and in the public interest, he may want to propose mechanisms other than changes in ratemaking practices. Alternatively, he might wish to propose changes in the design of fuel adjustment clauses which would have the effect of precluding the automatic recovery of increases in fuel costs which result from a decrease in system efficiency, as opposed from those which result from an increase in fuel prices.

Finally, he may combine any of the above proposals if he deems it to be appropriate, he may submit proposals in alternative form, and he may submit additional proposals related to matters not described above.

The Administrator is also required to transmit to Congress, at the time he transmits his proposals, an analysis of the projected benefits, if any, which are likely to result from the implementation of each of the proposals which he transmits to Congress; including projected savings in energy consumption, projected reduction in the need for new generating capacity and demand for capital, and the projected changes in the cost of electric energy.

Demonstrations and FEA intervention

House Bill

The House-passed bill authorized funds for the utility demonstration project program and for rate reform initiatives.

Senate Amendment

The Senate amendment authorized the Administrator of the FEA to provide financial assistance to State utility regulatory commissions so that they may continue or initiate electric utility rate structure and load management demonstration projects. The Administrator was further authorized to provide technical assistance to State utility regulatory commissions and to intervene in proceedings before those commissions for the purpose of promoting the implementation of the Federal guidelines.

Conference Substitute

The conference susbtitute authorizes the Administrator:

(1) to fund demonstration projects to improve electric utility load management procedures and regulatory rate reform initiatives,

(2) on request of a State, a utility regulatory commission or of any participant in any proceeding before a utility regulatory commission which relates to electric utility rates or rate design, to intervene or participate in such proceeding, and

(3) On request of any State, utility regulatory commission, or party to any action to obtain judicial review of an administrative proceeding in which the Administrator intervened under paragraph (2), to intervene or participate in such proceeding as a party.

This provision is not intended to limit any authority which FEA may otherwise have in administrative or judicial proceedings.

Office of Consumer Services

House Bill

No provision.

Senate Amendment

The Senate bill authorized the Administrator to make grants to States to provide for the establishment and operation of offices of consumer services to facilitate the presentation of consumer interests before the utility regulatory commissions. These offices are to be operated independently of the commissions. $2 million is authorized for FY '77.

Conference Substitute

The Senate provision was adopted.

Reports

House Bill

No provision.

Senate Amendment

The Senate bill required that the Administrator report annually to Congress with respect to this Title.

Conference Substitute

The Senate amendment was adopted.

Authorization

House Bill

The House-passed bill authorized $13,056,000 for the transition quarter and FY '77 for demonstration projects and rate reform initiatives, with a limitation of not to exceed $1 million for the purpose of FEA intervention and participation in regulatory actions at the State level.

Senate Amendment

The Senate authorized the appropriation of $10 million for FY '77 for the purposes of funding the demonstration projects, providing technical assistance, and intervening before regulatory commissions. $2 million is authorized (for FY '77) for offices of consumer services.

Conference Substitute

The conferees accept the House authorization figures for demonstration projects, rate reform initiatives and FEA intervention and participation. The conferees also accept the $2 million Senate authorization for offices of consumer services.

III—MATTERS RELATED TO ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

Minimum energy conservation performance standards for new buildings

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the related provisions of H.R. 8650* as that bill passed the House.

(H.R. 8650 directed the Secretary of Housing and Urban Development (after consultation with the Administrator of the FEA, the Secretary of Commerce utilizing the services of the National Bureau of Standards, and the Administrator of the General Services Administration) to develop proposed performance standards for new commercial buildings with respect to energy conservation. The proposed standards were required to be published in the Federal Register for public comment not later than 18 months after the enactment of the legislation. That bill further directed that final performance standards for such buildings should be developed and promulgated within 6 months after the publication of the proposed standards.

(H.R. 8650 also directed the Secretary of HUD (after consultation with the same officers) to develop proposed energy conservation performance standards for new residential buildings. The proposed standards were required to be published in the Federal Register for public comment not later than 3 years after enactment. Final performance standards, with respect to energy conservation for new residential buildings, were required to be developed and promulgated within 6 months after such publication.

(The Secretary was directed to utilize the services of the National Institute of Building Sciences, under appropriate contractual arrangements in the development of these performance standards, as soon as practicable after the activation of this Institute.

(The House bill, H.R. 8650, directed the Secretary, in developing and promulgating these energy conservation performance standards for new commercial and residential buildings, to take account of, and to make appropriate allowance for, climatic variations in various regions of the nation. The Secretary was also directed to consider (1) the probable effect of any standard promulgated on the cost of new residential or commercial buildings, and (2) the benefit to be derived from such standard. In addition, the Secretary was directed to periodically review and provide for the updating of the standards promulgated under these provisions (after consultation with the same officers and other Federal officials).

(The House bill (H.R. 8650) authorized the Secretary to extend any of the time requirements specified for proposed or final energy conservation standards so long as no such extension resulted in delaying by more than 6 months the date specified for the promulgation of any final energy conservation performance standards).

Senate amendment

The Senate amendment was the same as the provisions in H.R. 8650, as per the House, except as follows:

(1) Proposed performance standards for new commercial buildings were required to be published for comment not later than 3 years after the enactment of the legislation, but that 3 year period could be extended by 6 months.

(2) The final and promulgated energy conservation performance standards for new commercial buildings and for new residential buildings were required to become effective within a reasonable time after the date of promulgation of the standards, as specified by the Secretary of HUD, but the effective date could not be more than 1 year after the date of promulgation.

(3) The Secretary of HUD was not required, as in the House bill, to utilize the services of the National Institute of Building Sciences.

Conference substitute

The conferees adopted the Senate amendment with an amendment which requires the Secretary of HUD to utilize the services of the National Institute of Building Sciences as in H.R. 8650 as passed by the House.

Application of performance standards to new construction

House bill

No provision in H.R. 12169.

(No provision in H.R. 8650 as that bill passed the House.)

Senate amendment

The Senate amendment prohibited any Federal officer or agency from approving any financial assistance for the construction of any building in an area of a State unless that State had certified (1) that the unit of general purpose local government having jurisdiction over that area had adopted and was implementing a building code or similar requirement that met or exceeded the applicable energy conservation performance standards promulgated by the Secretary of HUD under this legislation, or (2) that a State code or requirement providing for the enforcement of these performance standards had been adopted and was being implemented on a statewide basis or in that area.

In the event that any State had not developed, by the effective date of these energy conservation performance standards, a procedure for certifying local codes or requirements and had not adopted and started to implement a State code or requirement, the Secretary of HUD could grant a temporary approval (for a period not to exceed 1 year) to a local code or other requirement which was proposed by a unit of general purpose local government.

The Senate amendment specifically directed each Federal instrumentality responsible for supervising, regulating, or insuring banks, savings and loan associations, or similar institutions to adopt certain regulations to implement the foregoing sanctions. Under these regulations, each such supervised, regulated, or insured institution was prohibited from making or purchasing loans for the construction or financing of any building, after the effective date of applicable energy conservation performance standards, unless such buildings were to be located in areas in which Federal officers and agencies could approve financial assistance for building construction.

As part of its certification to the Secretary of HUD, a State could recommend that specific units of general purpose local government within that State be excluded from the requirements of these standards on the basis that the amount of new construction in areas subject to such units was not sufficient to warrant the costs of implementing the standards or of providing for the inspections necessary to assure compliance. The Secretary was authorized, in his discretion, to exclude such a unit without affecting the State's certification.

The Secretary was directed by regulation, to provide for the periodic updating of the certifications by the States under this provision, and was further directed to conduct reviews and investigations as necessary to determine the accuracy of such certifications. The Senate amendment authorized the Secretary to reject or disapprove any such certification or to require that it be withdrawn provided that he first afforded the State involved a reasonable opportunity for a hearing.

Conference substitute

The conference substitute modifies the Senate amendment and the conferees adopted the Senate amendment with an amendment which provides as follows:

After the final performance standards are prepared under this legislation the President shall transmit such standards to the Congress for review to determine whether the sanction provided in the legislation shall become effective, no Federal financial assistance shall be made available or approved with respect to the construction of any new commercial or residential building in any area of any State unless such new building satisfies the performance standards. This sanction will not apply until both Houses of Congress find, pursuant to application of expedited review procedures and approve a resolution that this sanction is necessary and appropriate to assure that such standards are in fact applied to all new buildings.

Upon adoption of a concurrent resolution the performance standards are satisfied for a new building in any area of any State if the Secretary has received a certification from that State (in accordance with regulations to be promulgated by the Secretary of HUD) (1) that the unit of general purpose local government which has jurisdiction over that area has adopted and is implementing a building code or other code which meets or exceeds the final performance standards or (2) that the State itself has adopted and is implementing (statewide or as to that area) a building code or other laws or regulations which provide for the effective application of these final performance standards.

The sanction will also not apply to the construction of a new building if that building has been determined, pursuant to any applicable approval process, to be in compliance with the final performance standards. The term "approval process" is defined to mean a mechanism and procedure for the consideration of an application to construct a new building which involves determining compliance with such standards and which is administered by the level and agency of government specified by the Secretary in accordance with designated minorities. Priority number one would be the agency which grants building permits within the applicable unit of general purpose local government. If this agency is unable to, or will not administer such a process, the second priority is any other agency of the same local government. The third priority for administration is an agency of the applicable State's government.

*The House and Senate passed differing versions of H.R. 8650, the Energy Conservation in Buildings Act of 1975. Title III of H.R. 12169, as passed by the Senate, contained the provisions of title II of H.R. 8650, as passed by the Senate.

Application of Performance Standards to Federal Buildings

House bill

No provision in H.R. 12169.

(No provision in H.R. 8650 as that bill passed the House.)

Senate amendment

The Senate amendment required the head of each Federal agency responsible for the construction of any Federal buildings to adopt such procedures as would be necessary to assure that any such construction was in compliance with or exceeded the applicable energy conservation performance standards promulgated by the Secretary of HUD under this legislation.

Conference substitute

The conference substitute contains the Senate provision.

Grants to States for Energy Conservation Standards for New Buildings

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the related provisions of H.R. 8650 as that bill passed the House. H.R. 8650 authorized the Secretary of Housing and Urban Development to make grants to States and to local government units to assist them in implementing, through building codes, energy conservation standards approved by the Secretary. The House bill authorized the appropriation of not to exceed $10,000,000 for this purpose.)

Senate Amendment

The Senate amendment authorized the Secretary of HUD to make grants to States to assist them to meet the costs of developing standards or State certification procedures required as part of the process for application of the final energy conservation performance standards for new buildings. The Senate amendment authorized the appropriation of not to exceed $5,000,000 for this purpose in fiscal year 1977.

Conference Substitute

The conferees adopted the Senate amendment with an amendment which makes units of general purpose local governments eligible for such grants.

TECHNICAL ASSISTANCE TO STATES

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the relevant provisions of H.R. 8650 as that bill passed the House. H.R. 8650 authorized the Secretary of HUD to provide technical assistance to States and to local government units with respect to implementation of energy conservation standards for new buildings.)

Senate Amendment

The Senate amendment authorized the Secretary (by contract or otherwise) to provide technical assistance to State and local governments to assist them in meeting the requirements of this title.

Conference Substitute

The conferees adopted the Senate provision.

Consultation in the development and promulgation of performance standards

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the provisions of H.R. 8650 as that bill passed the House. H.R. 8650 required the Secretary of HUD to consult with appropriate representatives of the building community (including labor, the construction industry, engineers, and architects) with appropriate public officials and organizations thereof, and with representatives of consumer groups in developing and in promulgating energy conservation performance standards for new buildings and in carrying out his other functions under this title. To the extent feasible, the Secretary was also directed to make use, to consult with the National Institute of Building Sciences. If the Secretary established any advisory committees for this purpose, those committees were made subject to the Federal Advisory Committee Act.)

Senate amendment

The Senate amendment was essentially the same as the provision in H.R. 8650 as passed by the House.

Conference substitute

This provision of the Senate amendment is included in the conference substitute.

Research and demonstration activities

House bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the provisions of H.R. 8650 as that bill passed the House. H.R. 8650 directed the Secretary of Housing and Urban Development to carry out any research and demonstration activities which the Secretary finds to be necessary (1) to assist in the development of energy conservation performance standards for new commercial and residential buildings and (2) to facilitate the implementation of such standards by State and local governments. The Secretary was required to conduct such activities in cooperation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, the Director of the National Bureau of Standards, and the National Institute of Building Sciences. The bill provided that these activities were to be designed to assure adequate analysis of such performance standards in terms of energy use, economic cost and benefit, and other specified factors.)

Senate Amendment

The Senate amendment provision was the same as the corresponding provision of H.R. 8650 as passed by the House except that the Secretary was directed to conduct such activities in cooperation with the Federal Energy Administration but not with the National Institute of Building Sciences.

Conference Substitute

The conferees adopted the Senate amendment with an amendment which directs the Secretary to conduct such activities in cooperation with the National Institute of Building Sciences and other appropriate Federal agencies.

IV—MATTERS RELATED TO ENERGY CONSERVATION ASSISTANCE FOR EXISTING BUILDINGS

Part A—Weatherization assistance for low-income persons

House Bill

No provision in H.R. 12169.

(For the purpose of informing members, the following describes the relevant provisions of H.R. 8650 as that bill passed the House, H.R. 8650 provided for the development and implementation of weatherization programs to insulate the dwellings of low-income persons in order to conserve energy and to assist the persons least able to afford increased energy costs. The Administrator of the Federal Energy Administration was authorized to make grants to the Governors of the States (including the Mayor of the District of Columbia) and to transfer funds to the Commissioner of Indian Affairs to assist in the carrying out of programs designed to provide for weatherization (i.e. improvement in the thermal efficiency of a dwelling) of dwellings of low-income persons (defined as persons having income at or below the poverty level determined in accordance with criteria established by the Office of Management and Budget), particularly of such persons who are 65 or older or who are handicapped by a disability.

(Within 90 days after enactment of the legislation, and after consultation with the Secretaries of HUD, HEW, Labor, and other appropriate Federal officials the Administrator was directed to develop and publish criteria upon which to evaluate applications for such assistance; the criteria could include the amount of fuel to be conserved, the number of dwellings to be weatherizeed under the program, the areas to be served and their climatic conditions, the type of work to be done, the amount of non-Federal resources to be applied in the case of an application from a State, mechanisms under the program for obtaining the services of volunteers, and priorities among weatherization recipients and types of dwellings. Rents on dwelling units could not be raised because of the increased value of such units resulting solely from weatherization assistance under this provision. The Federal funds received could only be used for the purchase of weatherization materials (e.g. ceiling insulation, storm windows, caulking, and weatherstripping, but not mechanical equipment), except that a State or governmental agency could use no more than 10 percent of its grant for the administrative costs of its weatherization program. The Administrator was directed to provide, by regulation, that no weatherization programs under this provision duplicated any existing effective weatherization program being carried out by the Community Services Administration through community action agency programs in the same area. The Administrator of FEA was also required to monitor the operation of these weatherization programs through reporting requirements or onsite inspections to assure effectiveness, and he was authorized to provide technical assistance to any program funded under this provision. The Administrator was authorized to obtain necessary information and grant recipients were required to keep necessary records.

(H.R. 8650 directed the Administrator to suspend additional Federal grant payments upon a finding that a weatherization program was not in substantial compliance with the provisions of its application for assistance, as approved. H.R. 8650 also provided for audit by the Comptroller General; the issuance of necessary or appropriate rules, regulations, and orders by the Administrator; notice and an opportunity for a hearing before any final disapproval of any weatherization program application; judicial review of final actions by the Administrator; a prohibition on discrimination on the ground of race, color, national origin, or sex; a plan for evaluating the effectiveness of the weatherization program; and an annual report to the President and the Congress on the results of the weatherization programs receiving Federal assistance under this provision.

(H.R. 8650 authorized appropriations for weatherization assistance in the following amounts: $55,000,000 for fiscal year 1976, $55,000,000 for fiscal year 1977, and $55,000,000 for fiscal year 1978, with such sums to remain available until expended.)

Senate Amendment

The Senate amendment was in substance the same as the House bill, except for the following major items:

(1) The term "weatherization" was not used; the provision was entitled "residential insulation assistance for low-income persons" and Federal financial assistance was authorized to assist in carrying out projects designed to improve insulation and energy conservation in dwellings in which the head of household was a low-income person, particularly such dwellings in which persons

who are 60 or older or who are handicapped by disability are residing.

(2) The term "low-income" was defined to mean that individual or family income which does not exceed 50 percent of the median income for individuals or families in the particular geographical area.

(3) If a State did not submit an application meeting statutory requirements within 150 days after enactment, a community action agency under the Economic Opportunity Act of 1964 could do so, in lieu of such State, with respect to residential insulation projects in the geographical area served by it.

(4) A State applying for financial assistance under the Senate amendment was required to designate or create a State agency or institution which has (or which has a policy advisory council which has) special qualifications and sensitivity with respect to solving the problems of low-income persons, and which is broadly representative of organizations and agencies providing services to low-income persons in such State. That agency or institution was required to be the sole agency for administration, coordination, and allocation of funds with respect to residential insulation programs for low-income persons in such State.

(5) The Senate amendment provided for joint concurrence on regulations by FEA and the Community Services Administration (CSA). The Senate bill also provided for joint monitoring and evaluation of projects by FEA and CSA.

(6) Grant funds would be allocated to community action agencies presently conducting a residential insulation assistance program funded under section 222(a)(12) of the Economic Opportunity Act of 1964 (unless there was a finding by the State, after a public hearing, that such program was ineffective or of insufficient size to carry out the proposed program for a given area).

(7) Standards for insulation materials and conservation methods would be approved by the National Bureau of Standards.

(8) The Administrator of FEA was required to insure that not less than 50 percent of the sums appropriated for residential insulation assistance under this provision was to be allocated by him to community action agencies.

(9) The Senate amendment authorized appropriations for residential insulation assistance for low-income persons in the following amounts: $55,000,000 for fiscal year 1977; $65,000,000 for fiscal year 1978; and $80,000,000 for fiscal year 1979.

Conference Substitute

The conferees adopted the Senate amendment with an amendment which provides for:

(1) The term "low-income" means that income in relation to family size which is at or below the poverty level in accordance with criteria established by the Office of Management and Budget or on the basis of which assistance payments have been paid under titles IV or XVI of the Social Security Act or applicable State or local law during the preceding 12 months.

(2) The term "weatherization" is used, as under House bill H.R. 8650, and the term "weatherization materials" is defined to mean items designed primarily to improve the heating or cooling efficiency of a dwelling (such as ceiling, wall, floor, and duct insulation; storm windows and doors; and caulking and weatherstripping; and mechanical equipment up to $50 in value per dwelling unit involved); and the cost of materials cannot exceed $400 per dwelling unit unless a higher amount is provided for by the State policy advisory council with respect to categories of dwellings or materials.

(3) If a State does not submit an application meeting requirements within 90 days after the publication of final regulations with respect to this program, a unit of general purpose local government or a community action agency may submit an application, in lieu of such State, with respect to weatherization projects in the geographical area served by such unit or agency. A State may also amend its application in accordance with regulations of the Administrator.

(4) Weatherization grants may be made directly to Indian tribal organizations or other similar qualified entities, to serve the low-income members of an Indian tribe, upon the making of certain determinations.

(5) The 50 percent requirement with respect to community action agencies is not retained because of the conferees' expectation that such agencies conducting effective emergency energy conservation programs would probably in due course receive a high proportion of the total appropriation in the fair application of the funding priorities established in the bill.

(6) The provision for CSA concurrence on regulations is deleted and CSA monitoring and reporting on programs is limited to those programs carried out by community action agencies. The substitute, however, provides for full coordination between the FEA Administrator and the Director of CSA in the development of the regulations. The conferees intend that the process of full coordination with the Director of CSA in the development and promulgation of the regulations will include full involvement of CSA staff in developing the regulations, and the submission of proposed interim and final regulations to the CSA Director, in such a way as to give the Director adequate time to submit pre-publication comments to the FEA Administrator.

(7) Each State is required to submit a State plan for allocating funds within the State based on certain general factors, and the public hearing requirement is revised by substituting a requirement for a single public hearing on that plan.

(8) Standards for insulation materials and conservation methods are to be prescribed in coordination with the National Bureau of Standards.

State energy conservation implementation programs

House Bill

No provision.

Senate amendment

The Senate amendment provided Federal financial assistance for "State energy conservation implementation programs" established by the States in accordance with statutory requirements and approved by the Administrator of FEA, in accordance with guidelines to be established by the Administrator within 120 days after enactment of the legislation. These guidelines were required to be consistent and coordinated with the guidelines prescribed by the Administrator under part C of title III of the Energy Policy and Conservation Act with respect to "State energy conservation plans".

In order for a State to be eligible for Federal financial assistance, the Senate amendment required that a State energy conservation implementation program provide for the following:

(1) a State energy conservation advisory committee with broad community representation;

(2) coordination among various Federal, State, and local energy conservation programs, with assurance that financial assistance under this legislation supplements, and does not supplant, the expenditure of other Federal, State, or local funds for the same purposes;

(3) an effective public education effort with respect to the energy and cost savings possible through conservation, and assistance available for conservation activities under this and other acts and programs;

(4) procedures for learning of energy conservation advances and for encouraging the utilization of such advances;

(5) a reliable system of energy audits to identify cost-effective energy conservation measures in housing and nonresidential buildings. Such audits are to be available at no direct cost to homeowners, and at reasonable cost to owners of nonresidential buildings;

(6) protection for consumers against unfair and deceptive acts or practices related to the implementation of energy conservation measures;

(7) procedures for periodic verification (i) of findings by lending institutions pursuant to the granting of energy conservation loans, and (ii) that energy conservation measures for which financial assistance is made available under this legislation are fully implemented;

(8) procedures for encouraging and facilitating the participation of energy consumers in energy conservation cooperatives, established to provide to members information and technical assistance with respect to energy conservation; and

(9) appropriate enforcement provisions to facilitate a State's efforts to carry out an energy conservation implementation program.

Most of these requirements involve steps or procedures relating to the implementation of "energy conservation measures". That term was defined in the Senate amendment to mean an investment, action, or procedure which was designed to modify any existing housing, nonresidential building, or industrial plant and which was likely to improve the efficiency of energy use and reduce energy costs sufficiently to be cost-effective if it either (a) had as its primary purpose an improvement in the efficiency of energy use in such housing, building, or plant, or (b) was a renewable-resource energy measure. The term "renewable-resource energy measure" was defined to mean any such investment, action, or procedure which involves a shift from a depletable (e.g. fossil fuel) to a nondepletable (e.g. solar, wind) source of energy in housing, nonresidential buildings, or industrial plants.

The Administrator of FEA was required, in addition to the promulgation of guidelines, to describe and set forth the provisions of one or more model State energy conservation implementation programs; to prescribe rules for approving certain energy audits; to consult with the Governors of the States in developing the guidelines and model programs; to invite each Governor (at the earliest practicable date after the effective date of the guidelines) to develop and submit a proposal for an energy conservation implementation program for his State; and to promptly review each such proposal submitted. The Adminstrator was authorized to approve and fund any such proposed State program if he found that it met the foregoing requirements.

The FTC was required to cooperate with, and assist State agencies, as it has traditionally done, in the area of consumer protection as it relates to the implementation of energy conservation measures. In addition, where appropriate, the FTC was required to undertake its own law enforcement actions under its existing powers to prevent unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures.

The Federal share of the cost incurred by a State in carrying out an approved implementation program was not to exceed 90 percent after fiscal year 1977. The Administrator was required to establish rules for disbursing such assistance to the States; these rules had to include a provision prohibiting a denial of funding unless the State involved

received notice and an opportunity for an agency hearing. No State could receive, in any fiscal year, more than 10 percent of the sums authorized to be appropriated under this provision. The Senate amendment also provided for financial auditing and for performance evaluation by the Comptroller General.

The Senate amendment authorized appropriations for State energy conservation implementation programs in the following amounts: not to exceed $25,000,000 for fiscal year 1977, not to exceed $50,000,000 for fiscal year 1978, and not to exceed $50,000,000 for fiscal year 1979, with such sums to remain available until expended.

Conference Substitute

The conferees adopted the Senate amendment with an amendment. As adopted it provides for the following:

(1) The term "supplemental State energy conservation plan" is used in place of "State energy conservation implementation program".

(2) Definitions of "energy audit", "building", and "industrial plant" have been added, and the definition of "renewable-resource energy measure" has been separated from that of "energy conservation measure". Specific language has also been added to these later two definitions to clarify the following points:

(A) the construction of any building or industrial plant modified by an energy conservation measure or a renewable-resource energy measure must have been completed as of the date of enactment;

(B) energy costs, as reasonably projected over time by the Administrator, are to be used in calculating the Energy cost savings likely to result from implementation of such measures;

(C) the Administrator is authorized to exclude from the definition of energy conservation measure, by rule, any conversion from one fuel or energy source to another if he finds that such conversion is not consistent with national policy with respect to energy conservation and reduction of fuel imports;

(D) the cost of an energy conservation or renewable-resource energy measure is to mean "total" cost, including the cost of materials, labor, and interest; however, it is to be computed without regard to any tax benefit or any other applicable Federal financial assistance, including assistance under the bill;

(E) a renewable-resource energy measure must "involve changing, in whole or in part * * * from a depletable source of energy to a nondepletable source of energy."

(3) With respect to energy audits, the conferees intend to allow the Administrator maximum flexibility in determining the manner and form of such audits. The Administrator may by rule, require different types of audits to be used, depending on the use to be made of such audits.

(4) Certain of the requirements of an implementation program under the Senate amendment are not included in the conference substitute and certain of the requirements are not required to be included in a supplemental energy conservation plan for it to be approved and funded unless the Administrator of FEA, by rule, requires such inclusion. Under the conference substitute, the following requirements are mandatory: (a) procedures for carrying out a continuing public education effort to increase public awareness of the energy and cost savings which are likely to result from the implementation of energy conservation measures and renewable-resource energy measures, and of available information and other assistance with respect to the planning, financing, installing, and effectiveness-monitoring of such measures; (b) procedures for insuring effective coordination among various local, State, and Federal energy conservation programs within and affecting the State, including any energy extension service program administered by ERDA; (c) procedures for encouraging and carrying out energy audits which meet certain standards; and (d) any programs, procedures, or actions on the list of contingent requirements which the Administrator may impose. Under the conference substitute, the following are contingent requirements which may be imposed at the discretion of the Administrator; (i) establishment and maintenance of an adequately empowered State energy conservation advisory committee; (ii) an adequate program within the State for preventing unfair or deceptive acts or practices affecting commerce which relate to the implementation of energy conservation measures and renewable-resource energy measures; (iii) procedures for the periodic verification of the complete implementation, and actual cost of such measures; and (iv) assistance for individuals and other persons to undertake cooperative action to implement energy conservation measures and renewable-resource energy measures. Among the groups to be considered for membership on a State's energy conservation advisory committee are the following: political subdivisions of the State; organized labor; small businesses; commercial, banking, manufacturing, and agricultural interests; professional engineers, architects, contractors, and associations thereof; colleges and universities; the low-income community; and organizations and groups concerned with consumer protection or environmental protection, or which have significant capacity and demonstrated willingness to assist in developing and carrying out a State energy conservation plan.

(5) To assure coordination and avoid duplication of reporting and auditing requirements, the provisions are included as amendments to the appropriate provisions of part C of title III of the Energy Policy and Coordination Act.

The Administrator is also specifically authorized to prescribe rules under which (a) a State may apply for and receive assistance for a supplemental State energy conservation plan under this section, and (B) such a supplemental plan may be administered, as if such supplemental plan were part of a State energy conservation plan under section 362 of the Energy Policy and Conservation Act, except that any such rules must not have the effect of delaying funding of the program established under section 362 of EPCA. The prescription of such rules is not mandated, but the possibility of such prescription is included to provide flexibility to the FEA Administrator in order to simplify administrative procedures associated with the State energy conservation plans under EPCA and the supplemental plans under this legislation.

The conferees wish to emphasize their firm intention that the establishment of guidelines and regulations for, and the implementation of, the supplemental State energy conservation program authorized under this title shall in no way impede the progress of the ongoing program of State energy conservation programs authorized under part C of Title III of the Energy Policy and Conservation Act (P.L. 94–163).

A state may, under the conference substitute as under the Senate amendment, meet the requirements of this provision and receive Federal funding whether or not it has an approved State energy conservation plan under EPCA as it existed prior to these amendments. But coordination with existing State energy conservation plans is improved under the conference substitute. Under the provisions of the substitute, a State is given an option to continue solely with the existing EPCA program (in which case it is eligible for assistance from the existing authorization), to meet only the requirements of the new program (in which case it is eligible for assistance from the new authorization under this legislation) or to meet the requirements of both programs (in which case it may receive funding under both authorizations).

(6) The Funds for the new supplemental State energy conservation plans are authorized as follows: not to exceed $25,000,000 for fiscal year 1977, not to exceed $40,000,000 for fiscal year 1978, and not to exceed $40,000,000 for fiscal year 1979, with such sums to remain available until expended.

Energy Conservation Assistance For Existing Dwelling Units

House Bill

No provision.

Senate Amendment

The Senate amendment amended section 2(a) of the National Housing Act to provide that home improvement loans under that section would be authorized for energy conservation measures and renewable-resource energy measures, as defined in the provision on State energy conservation implementation programs.

The Senate amendment also amended section 2 of the National Housing Act by adding at the end thereof a new subsection which provided for the granting of Federal financial assistance by the Secretary of Housing and Urban Development with respect to the financing of energy conservation measures to be implemented in existing housing. Under this provision, the Secretary of HUD was required to make a grant to any lending institution in an amount which is the lesser of $400 or 20 percent of the principal of any loan made by that institution to finance an energy conservation measure (other than a renewable-resource energy measure) which is identified in accordance with an approved State energy conservation implementation program or which is included on a list of energy conservation measures published by the Administrator of FEA. The Secretary was required to make a similar grant with respect to a loan made by such an institution to finance a renewable-resource energy measure, but in that case the amount of the grant was the lesser of $2,000 or 25 percent of the principal of the loan. An additional payment was required to be made, on a matching basis with the State involved, if the Secretary found that the cost of implementing energy conservation measures in that particular State was so high (because of its isolated geographic location or other unique features) that substantial implementation of such measures was unlikely in the absence of additional financial incentives; the total which the Secretary could expend in any fiscal year on such supplemental assistance could not exceed $2 million. The amount of a payment to a lending institution would be credited to the borrower through a reduced principal amount of the loan.

The Senate amendment prohibited the making of such a grant with respect to an energy conservation loan entered into by a person whose individual or family income exceeded 200 percent of the median family income in the housing market area in which such person maintained his principal place of residence. No assistance could be provided to finance a renewable-resource energy measure unless the measure was identified by an energy audit (1) carried out in accordance with an approved State energy conservation implementation program or (2) approved by rule by the Administrator.

The Senate amendment also provided that a person would not be eligible for financial assistance under this provision if he received a credit against income tax for the same energy conservation measure investment, and vice versa.

A person who received the benefit of a grant under this provision was barred from receiving any additional financial assistance under this provision for an additional energy conservation measure.

The Senate amendment authorized the following amounts to be appropriated for purposes of making these grants to lending institutions to subsidize and encourage the implementation of energy conservation measures in existing housing: not to exceed $100,000,000 for fiscal year 1977; not to exceed $200,000,000 for fiscal year 1978; and not to exceed $200,000,000 for fiscal year 1979; with no more than $10 million, $30 million, and $40 million to be used to subsidize renewable-resource energy measures.

Conference substitute

The conferees adopted the Senate amendment with an amendment which the amounts authorized, and directs the Secretary of Housing and Urban Development to carry out the program as a national energy conservation demonstration program for existing dwelling units. The program will become a new section 509 of title V of the Housing and Urban Development Act of 1970. The program consists of the following basic elements:

(1) The Secretary is directed to undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renewable-resource energy measures in existing dwelling units. The Secretary is to carry out such demonstration program with a view toward recommending to the Congress within 2 years of enactment a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

(2) The Secretary is authorized to make financial assistance available in the form of grants, low interest rate loans, interest subsidies, loan guarantees, and other appropriate forms of assistance.

(3) In carrying out the demonstration program the Secretary is directed to:

(*a*) consider a wide variety of types of dwelling units and income levels,

(*b*) consider various financial incentives for different income levels,

(*c*) consider other financial assistance which may be available,

(*d*) make use of other public and private organizations in carrying the program,

(*e*) develop procedures to make the program cost-effective and efficient and to prevent fraud,

(*f*) consult with the Administrator of FEA and the heads of other Federal agencies as may be appropriate.

The conferees expect that the Secretary will coordinate the national energy conservation demonstration program with the supplemental State energy conservation plans to be undertaken by the States pursuant to part B of this title.

(4) The amount of a grant to an individual is the same as in the Senate amendment except that the percentage of subsidy and maximum amount of each grant may be increased by the Secretary, by rule, for applicants with a gross family income below the median family income in the housing market area in which they reside.

(5) The conference substitute follows the Senate amendment by providing that no person shall be eligibile for both financial assistance under this program and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

(6) The Secretary is authorized to limit financial assistance under the program to measures that meet standards for reliability and efficiency for the purpose of protecting consumers.

(7) The Secretary is authorized to delegate responsibilities under this demonstration program to other Federal, State, or local agencies or other public or private bodies.

(8) The Secretary is directed to report to the Congress on progress in carrying out the program at 6-month intervals and shall submit a final report to Congress containing findings and legislative recommendations not later than 2 years after the enactment of this section.

(9) There is authorized for purposes of this section $200,000,000 to remain available until expended.

The conferees expect the Secretary to propose a national program to reduce significantly the consumption of energy in existing dwelling units as rapidly as possible but certainly no later than the conclusion of the demonstration program 2 years after the enactment of this part.

Energy conservation assistance for small business concerns

House Bill

No provision.

Senate Amendment

The Senate amendment amended section 7 of the Small Business Act by adding at the end thereof a new subsection with respect to energy conservation loans for small business concerns. The Small Business Administration was required to pay a lending institution which makes an authorized loan to a small business concern an amount not to exceed $5,000 or 20 percent of the principal amount of the loan, whichever was less. The amount paid by the Administration would be applied to reduce the principal amount of the loan. Such loans were only authorized by the Senate amendment with respect to an energy conservation measure (including a renewable-resource energy measure) which the lending institution found to be consistent with the provisions of an approved State energy conservation program or which was included on a list of measures published by the Administrator of the Federal Energy Administration, and only with respect to an energy conservation measure which was identified by an energy audit carried out in accordance with a State program or which was approved by rule by the Administrator of FEA. (The amount of the loan could include the cost of such audit.)

If the Small Business Administration made a finding in writing that the cost of implementing energy conservation measures in any specified State was so high (because of isolated geographic location or any other unique feature) that substantial energy conservation implementation was unlikely to take place in the absence of additional financial incentives, the amount required to be paid by the Administration was to be increased, by no more than 50 percent, provided that the State involved paid an amount equal to this Federal increment. No more than an aggregate amount of $2,000,000 could be used for such incremental assistance.

The Senate amendment also made conforming amendments to other provisions of the Small Business Act and granted $300,000,000 in additional loan guarantee authority to the Small Business Administration. The total amount which the Senate amendment authorized the Administration to pay to lending institutions under this provision was limited to an amount not to exceed $60,000,000.

Conference substitute

The Senate recedes. However, in the administration of the loan guarantee program under part D of the conference substitute the Administrator is specifically directed to consider the needs of small businesses.

Energy conservation obligation guarantees

House Bill

No provision.

Senate Amendment

The Senate amendment authorized the Administrator of the Federal Energy Administration to provide financial assistance, in the form of loan guarantees, to eligible borrowers for the following purposes:

(1) To advance achievement of the industrial energy efficiency targets established under part D of title III of the Energy Policy and Conservation Act.

(2) To improve energy efficiency in industries not subject to such targets but which consume a significant amount of energy.

(3) To improve energy efficiency in publicly owned properties and in properties owned by nonprofit entities.

(4) To improve energy efficiency in other sectors of the economy, to the extent obligational authority remained.

The Administrator was authorized to guarantee, and to enter into commitments to guarantee, lenders against loss of principal or interest on loans, bonds, debentures, notes, obligations issued by a State or instrumentality or political subdivision thereof or other obligations issued by an eligible borrower. The term "eligible borrower" was defined to mean the owner of an industrial plant or a commercial building a corporation or subsidiary, a nonprofit institution, or any other person or government entity identified by the Administrator, by rule, if such owner, corporation, institution, or other person or entity will use the funds made available by the guarantee to finance energy conservation measures (including renewable-resource energy measures).

The Senate amendment prohibited the Administrator from guaranteeing any obligation unless the energy conservation measure on which the proceeds of the guaranteed obligation would be used had been identified by an energy audit which was carried out in accordance with an approved State energy conservation implementation program or which was approved by the Administrator by rule.

The Administrator was directed to limit the availability of such a guarantee to obligations which would result in cost-effective energy conservation measure investments and to eligible borrowers demonstrating that, absent such guarantees, such investments would not be made.

The Senate amendment limited the amount of an obligation which could be guaranteed by the Administrator to 90 percent of the cost of the energy conservation measure with respect to which the loan or other obligation was made or entered into.

The Senate amendment authorized the Administrator to guarantee obligations having a face value of up to $2 billion in fiscal year 1977 or an additional $2 billion in fiscal year 1978. A total of not to exceed $60,000,000 was authorized to be appropriated for fiscal year 1977, and not to exceed $60,000,000 was authorized to be appropriated for fiscal year 1978, to pay any obligations of the United States in case of a default on a guaranteed obligation. These amounts would remain available until expended.

The Senate amendment also contained provisions with respect to the incontestability of a guaranteed obligation (except as to fraud or material misrepresentation); required record-keeping, financial audits, and performance evaluations; time and form of payment in the event that the obligor defaulted on a guaranteed obligation and the rights of the United States following payment upon such default; the taxability of interest on a guaranteed obligation; the authority of the Administrator to borrow from the Secretary of the Treasury under specified circumstances; calculation of the probability of default ratio on such obligations; and labor wage standards for construction, alteration, or re-

pair work performed under an obligation guaranteed under this provision.

The Senate amendment required that at least 40 percent of the obligational authority authorized be used to support obligations issued by States and political subdivisions thereof and by privately owned nonprofit institutions.

Conference Substitute

The conference substitute follows the Senate amendment, except as follows:

(1) Obligations can be guaranteed by the Administrator (subject to certain limitations) if they are entered into by any person, State, political subdivision of a State, or agency or instrumentality of either, for the purpose of financing any energy conservation measure or renewable-resource energy measure, and if the measures so financed are installed or otherwise implemented in buildings or industrial plants owned or operated by the person or governmental entity which enters into or issues such an obligation or to which such measure is leased.

Among those eligible to receive an obligation guarantee would be nonprofit institutions such as universities or hospitals, general purpose units of local government, persons leasing energy conservation or renewable-resource energy measures to such institutions or units of government, and other persons, particularly small businesses, that could not finance such measures in the absence of such guarantees. However, a general obligation of a State may not be guaranteed.

The Administrator is prohibited from guaranteeing obligations for energy conservation measures or renewable-resource energy measures, entered into or issued for the purpose of installing such measures in residential buildings containing two or fewer dwelling units.

In addition, the rules prescribed by the Administrator pursuant to this part should be coordinated with the national demonstration program for existing dwelling units established under Part C so as to preclude any person from receiving assistance under both parts C and D for the same energy conservation measure or renewable-resource energy measure.

(2) Before prescribing rules pursuant to the issuance of obligation guarantees, the Administrator shall consult with the Small Business Administration so as to facilitate the use of loan guarantees by small businesses. In carrying out this part, he should give special consideration to the needs of small businesses.

(3) The guarantee does not include a guarantee of the payment of interest on the obligation involved.

(4) The amount of the guarantee may not exceed 25 percent of the fair market value of the building or industrial plant being modified by the energy conservation measures or renewable-resource energy measures so financed.

(5) The amount of an obligation guarantee issued with respect to any obligor may not exceed $5 million. In the case of obligors which are businesses, the Administrator's rules under this part would apply to $5 million limitation to aggregates of guarantees issued with respect to the obligor and all his affiliates. In the case of nonprofit institutions and public agencies, the Administrator's rules, or his policies in issuing guarantees, should be designed to reach a similar result.

(6) The Administrator is authorized to collect for administrative expenses under this part from the borrower a fee, not to exceed 1 percent of the amount of a guarantee or 0.5 percent of the amount of a commitment to guarantee, whichever is greater. The Administrator is also given discretion to waive such a fee, if in his judgment, such a fee is not consistent with the purposes of this part.

(7) The term of a guarantee may not exceed 25 years, and no guarantee or commitment to guarantee may be issued after September 30, 1979.

(8) The language on the following items is deleted:

(a) taxability of interest on a guaranteed obligation,

(b) calculation of the probability of default ratio on such obligations, and

(c) the requirement that at least 40 percent of the obligational authority be used to support obligations issued by States and political subdivisions thereof and by privately owned nonprofit institutions.

(9) The total obligational authority is $2 billion.

(10) The amount authorized to be appropriated for the payment of defaults on guaranteed obligations is $60,000,000.

The conferees did not include the provision that interest on guaranteed indebtedness should be subject to Federal income tax, even though such interest would otherwise be tax exempt, because such a provision would have involved the jurisdiction of committees not a part of the conference. The conferees anticipate that the jurisdictional committees will take early action on legislation including in gross income interest on obligations guaranteed under this part. The Administrator should not guarantee these tax-exempt obligations during the period required to enact this legislation.

Exchange of energy conservation information

House Bill

No provision.

Senate Amendment

The Senate amendment directed the Administrator of the Federal Energy Administration to encourage and facilitate an exchange of information and ideas with respect to energy conservation among the various States, through conferences, publications, and other appropriate means.

The Senate amendment required States with State energy conservation implementation programs to collect the information developed as a result of energy audits conducted pursuant to such programs and to make that information available to the Administrator. The Administrator was not authorized to disclose any such information which was a trade secret or other matter described in section 552(b)(4) of title 5, United States Code, if the disclosure could cause significant competitive damage, except that such information could be disclosed to committees of the Congress upon request.

The Senate amendment also directed the Administrator of FEA to make available to the States any information subject to his control which could be useful to the States in carrying out State energy conservation implementation programs. The States were prohibited from imposing any reporting requirement which would result in the receipt of formation which had been or would be reported to the Administrator under regulations already in force when this legislation is enacted.

Conference Substitute

The conference substitute follows the Senate amendment except that the requirement that the Administrator make all useful information available to the States and the prohibition on State reporting requirements which could result in duplication are not included in the conference substitute. In addition, the provisions of the Senate amendment respecting trade secrets and similar matter are deleted. The release of trade secrets and other information is governed by the Freedom of Information Act.

Annual report on energy conservation implementation

House Bill

No provision.

Senate Amendment

The Senate amendment directed the Administrator of FEA to prepare and submit to the Congress and the President an annual report on the State energy conservation implementation programs and on the energy conservation measures for which financial assistance is provided under this statute and other statutes amended by this title. Particular items were specified for inclusion in each such report.

Conference Substitute

The conference substitute joins the reporting requirement as to the supplementary State energy conservation plans with the existing requirement of an annual report on State energy conservation plans under part C of title III of the Energy Policy and Conservation Act. Annual reports on energy conservation financial assistance for dwelling units and for small business concerns will be included in the regular annual report of the lead agency involved with this program; the Department of Housing and Urban Development.

Report by the Comptroller General

House Bill

No provision.

Senate Amendment

The Senate amendment directed the Comptroller General of the United States to report to the Congress annually on the activities of the Administrator of FEA under title IV, and authorized the Comptroller General to use the authority granted under section 12 of the FEA Act of 1974. Each such report was required to include at least each of the following: (1) an accounting of Federal expenditures; (2) an estimate of the energy savings resulting from such expenditures; (3) a thorough evaluation of the effectiveness of the various programs established by title IV of the Senate amendment in achieving the existing potential for conservation in the sectors and regions affected by the programs; (4) a review of the extent and effectiveness of compliance monitoring of such programs and the evidence of fraud with respect to such programs; and (5) recommendations for administrative improvements and additional legislation, if any.

Conference Substitute

The conference substitute follows the Senate amendment, except that the report requires an evaluation of the activities of the Secretary of Housing and Urban Development under this title as well.

Titles I, II, IV, and V—
HARLEY O. STAGGERS,
JOHN D. DINGELL,
TIMOTHY E. WIRTH,
PHILIP R. SHARP,
WILLIAM M. BRODHEAD,
BOB ECKHARDT,
RICHARD L. OTTINGER,
ROBERT KRUEGER,
TOBY MOFFETT,
ANDREW MAGUIRE,
CLARENCE J. BROWN,
JOHN HEINZ,

Titles III and IV—
HENRY REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,

Managers on the Part of the House.

ABE RIBICOFF,
JOHN GLENN,
CHARLES H. PERCY,
JACOB JAVITS,
BILL BROCK,

Titles III, IV, and V—
WILLIAM PROXMIRE,
ALAN CRANSTON,
WARREN G. MAGNUSON,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,
JOHN TOWER,
JAMES B. PEARSON,
CLIFFORD P. HANSEN,

Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. CRANE) to revise and extend his remarks and include extraneous material:)

Mr. CRANE, for 5 minutes, today.

(The following Members (at the request of Mr. SHARP) to revise and extend their remarks and include extraneous matter:)

Mr. COTTER, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. DODD, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. SOLARZ, for 30 minutes, today.
Mr. BURKE of Massachusetts, for 5 minutes, today.
Mr. METCALFE, for 5 minutes, today.
Ms. ABZUG, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HARSHA, and to include extraneous matter during 5-minute rule in Committee of the Whole today during consideration of Nuclear Fuel Assurance Act.

Mr. HEINZ to revise and extend his remarks during general debate in the Committee of the Whole today on H.R. 10498 immediately following the remarks of Mr. PREYER.

Mr. BROWN of California to revise and extend his remarks and include extraneous material immediately following Mr. WAXMAN today in the Committee of the Whole on H.R. 10498.

(The following Members (at the request of Mr. JEFFORDS) and to include extraneous matter:)

Mr. JOHNSON of Colorado.
Mr. DERWINSKI.
Mr. BROWN of Ohio.
Mr. DU PONT.
Mr. SHUSTER.
Mrs. PETTIS.
Mr. FORSYTHE.
Mr. PAUL in two instances.
Mr. SARASIN.
Mr. DEL CLAWSON.
Mr. ASHBROOK in three instances.
Mr. DICKINSON.
Mr. ABDNOR.
Mr. MITCHELL of New York.
Mr. CRANE.
Mr. RHODES.
Mr. FRENZEL in two instances.
Mr. CONTE.
Mr. GILMAN.
Mr. ROUSSELOT in two instances.

(The following Members (at the request of Mr. SHARP) and to include extraneous matter:)

Mr. ROUSH.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. HOWARD in two instances.
Mr. SANTINI in two instances.
Mr. JACOBS.
Mr. BENNETT.
Mr. HARRINGTON.
Mr. MCDONALD in two instances.
Mr. FARY.
Mr. RANGEL in five instances.
Mr. AMBRO in two instances.
Mr. WIRTH.
Mr. DRINAN.
Mr. SOLARZ.
Mr. HEFNER.
Mr. DAN DANIEL.
Mr. ECKHARDT.
Mr. ROSENTHAL in two instances.
Mr. LONG of Louisiana.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 537. An act to improve judicial machinery by amending the requirement for a three-judge court in certain cases and for other purposes;

S. 1526. An act to make additional funds available for purposes of certain public lands in northern Minnesota, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on August 3, 1976 present to the President, for his approval, a bill of the House of the following title:

H.R. 5360. An act to increase benefits provided to American civilian internees in Southeast Asia.

THE LATE HONORABLE JERRY LITTON

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I offer a privileged resolution.

The Clerk read the resolution, as follows:

H. RES. 1461

Resolved, That the House has heard with profound sorrow of the death of the Honorable JERRY LITTON, a Representative from the State of Missouri.

Resolved, That a committee of 80 Members of the House with such Members of the Senate as may be joined be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect the House do now adjourn.

The resolution was agreed to.

The SPEAKER pro tempore (Mr. MCFALL). The Chair appoints as members of the funeral delegation the following Members on the part of the House: Mr. BOLLING, Mr. O'NEILL, Mrs. SULLIVAN, Mr. RANDALL, Mr. ICHORD, Mr. HUNGATE, Mr. BURLISON of Missouri, Mr. CLAY, Mr. SYMINGTON, Mr. TAYLOR of Missouri, Mr. POAGE, Mr. DIGGS, Mr. FINDLEY, Mr. HARSHA, Mr. UDALL, Mr. FRASER, Mr. PHILLIP BURTON, Mr. DE LA GARZA, Mr. FOLEY, Mr. VIGORITO, Mr. REES, Mr. JONES of North Carolina, Mr. WAMPLER, Mr. BIESTER, Mr. GUDE.

Mrs. HECKLER of Massachusetts, Mr. RAILSBACK, Mr. STUCKEY, Mr. WHALEN, Mr. DAN DANIEL, Mr. MANN, Mr. SEBELIUS, Mr. JONES of Tennessee, Mr. MELCHER, Mr. BERGLAND, Mr. DELLUMS, Mr. MCKINNEY, Mr. MATHIS, Mr. MAZZOLI, Mr. PEYSER, Mr. THONE, Mr. BROWN of California, Mr. BOWEN, Mr. BRECKINRIDGE, Mr. ROBERT W. DANIEL, Jr., Mr. GINN, Mr. JOHNSON of Colorado, Mr. MADIGAN, Mr. ROSE, Mr. SYMMS.

Mr. THORNTON, Mr. BALDUS, Mr. BEDELL, Mr. ENGLISH, Mr. FITHIAN, Mr. GRASSLEY, Mr. HAGEDORN, Mr. HARKIN, Mr. HARRIS, Mr. HIGHTOWER, Mr. HUBBARD, Mr. JEFFORDS, Mr. JENRETTE, Mr. KELLY, Mr. KREBS, Mr. MCHUGH, Mrs. MEYNER, Mr. MOORE, Mr. NOLAN, Mr. NOWAK, Mr. RICHMOND, Mr. SHARP, Mr. SIMON, Mr. WEAVER, Mr. FAUNTROY.

The Clerk will report the remaining resolution.

The Clerk read as follows:

Resolved, That as a further mark of respect the House do now adjourn.

The resolution was agreed to.

ADJOURNMENT

Accordingly (at 5 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, August 5, 1976, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3752. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting seven plans for works of improvement in various watersheds, none of which involves a project with a structure which provides more than 4,000 acre-feet of total storage capacity, pursuant to section 5 of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1005); to the Committee on Agriculture.

3753. A letter from the Chairman, National Commission for Manpower Policy, transmitting the third interim report of the Commission, entitled "Addressing Continuing High Levels of Unemployment"; to the Committee on Education and Labor.

3754. A letter from the Administrator, Agency for International Development, Department of State, transmitting notice of his intention to obligate Middle East special requirements fund is for the Sinai support mission, pursuant to section 903(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3755. A letter from the Secretary of Transportation, transmitting a report on preliminary standards, classification, and designation of lines of class I railroads in the United States, pursuant to section 503(b) of the Railroad Revitalization and Regulatory Reform Act of 1976; to the Committee on Interstate and Foreign Commerce.

3756. A letter from Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of April 1976, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970,

as amended; to the Committee on Interstate and Foreign Commerce.

3757. A letter from the Vice President for Government Affairs, National Passenger Corporation, transmitting a report covering the month of June 1976 on the average number of passengers per day on board each train operated and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

3758. A letter from the Acting Director, Office of Management and Budget, Executive Office of the President, transmitting five plans for works improvement in various watersheds, each of which involves a project with at least one structure which provides more than 4,000 acre-feet of total storage capacity, pursuant to section 5 of the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1005); to the Committee on Public Works and Transportation.

3759. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, submitting a report on San Juan Harbor, P.R. (H. Doc. No. 94–574); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

3760. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Tariff Act of 1930 to raise the monetary ceiling for nonjudicial forfeiture of any vessel, vehicle, merchandise, or baggage seized under the customs laws, and for other purposes; to the Committee on Ways and Means.

3761. A letter from the Administrator, Federal Energy Office, transmitting a report on the exploration, development, and production of Naval Petroleum Reserve No. 4, pursuant to section 164 of Public Law 94–163; jointly, to the Committees on Interstate and Foreign Commerce, Interior and Insular Affairs, and Armed Services.

RECEIVED FROM THE COMPTROLLER GENERAL

3751. A letter from the Comptroller General of the United States, transmitting a report on the current capabilities, problems, and status of the Navy's F–14A/Phoenix weapon system; jointly, to the Committees on Government Operations, and Armed Services.

3762. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the Federal Aviation Administration's financial disclosure system; jointly, to the Committees on Government Operations, and the Judiciary.

3763. A letter from the Comptroller General of the United States, transmitting a report on the need for tighter controls over payments for laboratory services under medicare and medicaid; jointly, to the Committees on Government Operations, Ways and Means, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HÉBERT: Committee on Armed Services. House Joint Resolution 519. Joint resolution to provide for the appointment of George Washington to the grade of general of the Armies of the United States (Rept. No. 94–1388). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 1462. Resolution providing for agreeing to the Senate amendment with an amendment to H.R. 8532. An Act to amend the Clayton Act to permit State attorneys general to bring certain antitrust actions, and for other purposes (Rept. No. 94–1389). Referred to the House Calendar.

Mr. MADDEN: Committee on Rules. House Resolution 1463. Resolution providing for the consideration of H.R. 13372. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes (Rept. No. 94–1390). Referred to the House Calendar

Mr POAGE: Committee on Agriculture. Conference report on H.R. 8410 (Rept. No. 94–1391). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 12169 (Rept. No. 94–1392). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. ABZUG (for herself, Mr. BADILLO, Mr. EDGAR, Mr. FRASER, Mr. HARRINGTON, Mr. MITCHELL of Maryland, Mr. ROSENTHAL, Mr. SCHEUER, Mr. STARK, and Mr. WAXMAN):

H.R. 15038. A bill to amend chapter 17 of title 38, United States Code, to direct the Administrator of Veterans' Affairs to initiate and carry out a special psychiatric, psychological, and counseling program for veterans of the Vietnam era, especially former prisoners of war, and their dependents who are experiencing psychological problems as the result of the military service performed by such veterans; to the Committee on Veterans' Affairs.

By Ms. ABZUG (for herself, Mr. BADILLO, Mr. DOWNEY of New York, Mr. DRINAN, Mr. HANNAFORD, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HINSHAW, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. SIMON, Ms. SPELLMAN, Mr. RICHMOND, and Mr. WAXMAN):

H.R. 15039. A bill to amend title XVI of the Social Security Act to provide that payments of tuition, fees, or other training costs by any person for a mentally retarded adult individual attending a school for the retarded shall not be treated as income of such individual in determining his or her eligibility for supplemental security income benefits; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mr. BADILLO, Ms. BURKE of California, Mr. CARNEY, Mr. HARRINGTON, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. OTTINGER, Mr. RICHMOND, Mr. ROYBAL, Mr. SIMON, Mr. JAMES V. STANTON, and Mr. WAXMAN):

H.R. 15040. A bill to provide certain benefits for persons who are unemployed as a result of certain Federal actions for the improvement of environmental quality or because of the administration of Federal laws relating to the regulation or control of nuclear energy; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mr. MATSUNAGA, Mr. STARK, and Mr. YOUNG of Georgia):

H.R. 15041. A bill to amend titles IV, XI, and XIX of the Social Security Act to increase the Federal matching rate for purposes of reimbursement to States under the programs of aid to needy families with children and medical assistance; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. AUCOIN:

H.R. 15042. A bill to amend the Internal Revenue Code of 1954 to provide that heads of households (whether or not married) may produce 200 gallons of wine per year for use by the household without payment of Federal tax; to the Committee on Ways and Means.

By Mr. CRANE (for himself, Mr. STEPHENS, Mr. KEMP, Mr. KINDNESS, Mr. BRINKLEY, Mr. DERWINSKI, Mr. WHITEHURST, Mr. KETCHUM, Mr. LAGOMARSINO, Mr. DAVIS, Mr. ROSE, Mr. PAUL, Mr. CONLAN, Mr. SYMMS, Mr. ROUSSELOT, Mr. ARCHER, Mr. MILLER of Ohio, Mr. COLLINS of Texas, Mr. ROBINSON, and Mr. MATHIS):

H.R. 15043. A bill to guarantee the right of all Americans to quality medical care, and other purposes; jointly to the Committees on Interstate and Foreign Commerce, Ways and Means, and Rules.

By Mr. HILLIS (for himself and Mr. MYERS of Indiana):

H.R. 15044. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JACOBS:

H.R. 15045. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; and for other purposes; to the Committee on Interstate and Foeign Commerce.

By Ms. KEYS (for herself, Mr. JACOBS, Mr. SCHEUER, Mr. PEPPER, Mr. OTTINGER, Mr. MINETA, Mr. HARRIS, Ms. CHISHOLM, Mr. EDWARDS of California, Mr. STARK, Mr. MOSS, Mr. SIMON, Ms. SPELLMAN, Mr. OBERSTAR, and Mr. LUNDINE):

H.R. 15046. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review, and related activties authorized thereunder; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Ms. KEYS (for herself, Mr. ST GERMAIN, Ms. HECKLER of Massachusetts, Mr. FRASER, Mr. HOWE, Mr. LAFALCE, Mr. MOAKLEY, Mr. WIRTH, Mr. JENRETTE, Mr. FASCELL, Mr. SARBANES, Mr. BEARD of Rhode Island, Mr. CONTE, Mr. YATES, Mr. MATSUNAGA, Mr. DAVIS, and Mr. HYDE):

H.R. 15047. A bill to amend part B of title XI of the Social Security Act to assure appropriate participation by professional registered nurses in the peer review, and related activities authorized thereunder; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. McKINNEY (for himself, Mr. ANDERSON of Illinois, Mr. DUNCAN of Tennessee, Mr. GUDE, Mr. LAFALCE, Mr. MCCLORY, Mr. SARASIN, Mr. THOMPSON, and Mr. BOB WILSON):

H.R. 15048. A bill to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of the individual's principal residence; to the Committee on Ways and Means.

By Mr. McDONALD (for himself and Mr. PAUL):

H.R. 15049. A bill to repeal titles XV and XVI of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

By Mr. ROGERS (for himself, Mr. SATTERFIELD, Mr. FLORIO, Mr. CARNEY, Mr. CARTER, Mr. BROYHILL, Mr. HEINZ, and Mr. MADIGAN):

H.R. 15050. A bill to amend the Public Health Service Act to authorize the establishment and implementation of a national influenza immunization program and to provide an exclusive remedy for persons injured as a result of inoculation with vaccine under such program; to the Committee on Interstate and Foreign Commerce.

By Mr. NEAL (for himself, Ms. ABZUG, Mr. ADAMS, Mr. BINGHAM, Mr. PHILLIP BURTON, Mr. CARR, Mr. CONYERS, Mr. DE LUGO, Mr. ECKHARDT, Mr. EDGAR, Mr. EDWARDS of California, Mr. FRASER, Mr. GIBBONS, Mr. GUDE, Mr. HAYES of Indiana, Mr. HYDE, Mr. LAGOMARSINO, Mr. MAGUIRE, Mr. MILLER of California, Mrs. MINK, Mr. MOFFETT, Mr. OTTINGER, Mr. PRITCHARD, Mr. ROYBAL, and Mr. SCHEUER):

H.R. 15051. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. NEAL (for himself, Mr. RONCALIO, Mr. SEIBERLING, Mr. SIMON, Mrs. SPELLMAN, Mr. STARK, Mr. STEELMAN, Mr. STUDDS, Mr. TSONGAS, and Mr. WAXMAN):

H.R. 15052. A bill to amend the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271), and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. OTTINGER:

H.R. 15053. A bill to authorize the Administrator of the National Fire Prevention and Control Administration to make grants to volunteer fire departments which are unable to purchase necessary firefighting equipment because of the increased cost of such equipment as the result of inflation; to the Committee on Banking, Currency and Housing.

H.R. 15054. A bill to amend the Internal Revenue Code of 1954 to provide a deduction for clothing purchased and used by taxpayers serving in volunteer firefighting organizations; to the Committee on Ways and Means.

H.R. 15055. A bill to amend the Internal Revenue Code of 1954 to exempt nonprofit volunteer firefighting or rescue organizations from the Federal excise taxes on gasoline, diesel fuel, and certain other articles and services; to the Committee on Ways and Means.

By Mr. ROBINSON:

H.R. 15056. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommuniactions industry rendering services in interstate and foreign commerce; to grant additional authority to the Federal Communications Commission to authorize mergers of carriers when deemed to be in the public interest; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE (for himself, Mr. BUCHANAN, Mr. BURGENER, Mr. DON H. CLAUSEN, Mr. FORSYTHE, Mr. FRENZEL, Mr. GOLDWATER, Mr. HILLIS, Mr. LAGOMARSINO, Mr. MILLER of Ohio, Mrs. PETTIS, Mr. QUIE, Mr. REGULA, Mr. SCHNEEBELI, and Mr. J. WILLIAM STANTON):

H.R. 15057. A bill to amend the Mineral Leasing Act of 1920, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ST GERMAIN:

H.R. 15058. A bill to amend section 8 of the United States Housing Act of 1937 for the purpose of reducing the amount of rent required to be paid by elderly families residing in dwelling units assisted by Federal contributions authorized by such section; to the Committee on Banking, Currency and Housing.

By Mr. BERGLAND:

H.R. 15059. A bill to amend the Emergency Livestock Credit Act of 1974; to the Committee on Agriculture.

By Mr. FORSYTHE:

H.R. 15060. A bill to reaffirm the intent of Congress with respect to the structure of the common carrier telecommunications industry rendering services in interstate and foreign commerce; to reaffirm the authority of the States to regulate terminal and station equipment used for telephone exchange service; to require the Federal Communications Commission to make certain findings in connection with Commission actions authorizing specialized carriers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROUSSELOT:

H.R. 15061. A bill to amend chapter 49 of title 10, United States Code, to prohibit union organization in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. SNYDER (for himself, Mr. HARSHA, Mr. DON H. CLAUSEN, Mr. WALSH, Mr. CLEVELAND, Mr. SHUSTER, Mr. GINN, Mr. COCHRAN, Mr. MILFORD, Mr. MINETA, Mr. TAYLOR of Missouri, Mr. BREAUX, Mr. JOHNSON of California, Mr. WRIGHT, Mr. GOLDWATER, Mr. ANDERSON of California, Mr. HAGEDORN, and Mr. RONCALIO):

H.R. 15062. A bill to terminate the study of water resources development opportunities in the Beargrass Creek Basin, Jefferson County, Ky.; to the Committee on Public Works and Transportation.

By Mr. ADDABBO:

H. Res. 1459. Resolution concerning committee hearings on the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

By Mr. MOAKLEY:

H. Res. 1460. Resolution disapproving the deferral of budget authority; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ABDNOR presented a bill (H.R. 15063) for the relief of Song Chan Ki, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 8911

By Mr. RANGEL:

Page 26, after line 16, insert the following new section (and redesignate the succeeding section accordingly):

INCREASE IN SSI BENEFITS TO REFLECT CERTAIN EXPENSES

SEC. 17. Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"INCREASE IN BENEFITS TO REFLECT CERTAIN EXPENSES

"SEC. 1618. (a) In the case of any eligible individual whose annual housing expenses exceed 33⅓ per centum of his or her annual income (which for purposes of this section shall include benefits determined under section 1611 and any income which would otherwise be excluded pursuant to section 1612 (b)), and who makes application for assistance under this section, the benefit otherwise payable under this title shall be increased by an amount determined at a rate which is the lesser of—

"(1) $600, or

"(2) the amount by which such individual's annual housing expenses exceed 33⅓ per centum of his or her annual income.

"(b) For purposes of this section, an individual's annual housing expenses shall consist of such individual's annual expenses for rent or for mortgage payments and real estate taxes, together with such individual's annual expenses for gas and electric utilities and home and water heating.

"(c) If two aged, blind, or disabled individuals are husband and wife (which shall be determined in accordance with section 1614 (d)) and are not living apart from each other, only one of them may be qualified to receive an increase in benefits under this section; and the income and annual housing expenses of the other shall be included for purposes of determinations under this section to the same extent as they would be if such determinations involved eligibility for and amount of benefits under section 1611.

"(d) The Secretary shall administer this section and shall prescribe such regulations as may be necessary or appropriate to effectuate its purposes and conform its administration, to the maximum extent feasible, to the general administration of the supplemental security income benefits program under this title.".

H.R. 10498

By Mr. HUGHES:

On page 236, after line 12, insert the following new section:

TEMPORARY EMERGENCY REVISIONS

SEC. 116. Section 110 of the Clean Air Act (42 U.S.C. 1857c–5), as amended by section 103 of this Act, is amended by adding at the end thereof the following new subsection:

"(f)(1) Upon application by the owner or operator of a fuel burning stationary source, and after notice and public hearing on the record, an emergency revision of an implementation plan with respect to such source may be made by the Governor of the State in which such source is located and may take effect immediately pending approval or disapproval by the Administrator.

"(2) An emergency revision under this subsection shall be made only if the Governor of such State finds that—

"(A) there exists in the vicinity of such source an economic emergency involving actual or threatened high levels of unemployment;

"(B) such unemployment can be totally or partially alleviated by such emergency revision; and

"(C) such emergency revision, together with all other revisions effective under this subsection, will not result in emissions from such source of any air pollutant which may cause, or materially contribute to any delay in the attainment of, or preventing the maintenance of, any national ambient air quality standard for such pollutant.

"(3) A temporary emergency revision made by a Governor under this subsection shall remain in effect for a maximum of four months. The Administrator shall, within such four month period, approve and make permanent such revision if he determines that it meets the requirements of paragraph (2) of subsection (a) of this section.

"(4) This subsection shall not apply in the case of a plan promulgated by the Administrator under subsection (c) of this section."

By Mr. KRUEGER:

On page 284, line 11, strike the period and closing quotation marks and insert in lieu thereof a comma and the following: "nor shall any such warranty be invalid on the basis of the installation or use of any air-conditioning system not installed in the factory of the vehicle manufacturer, where the

particular vehicle or engine in which such air-conditioning system is installed is certified in accordance wth section 206(a)(4) with an allowance for air-conditioning or similar equipment to be subsequently installed.".

On page 286, after line 16, insert the following new subsection:

(b) Section 206(a) of the Clean Air Act is amended by adding the following new paragraph:

"(4) Each new motor vehicle or new motor vehicle engine shall be certified to conform to the regulations prescribed under section 202 for the particular vehicle configuration, anticipated use pattern, and equipment of such vehicle or engine with such allowance to assure conformity with such regulations for air-conditioning or similar equipment to be subsequently installed. Such vehicle or engine shall be deemed to be covered by a certificate of conformity only if no equipment is added or other modification made which is not within the allowance provided for in this paragraph.".

By Mr. MAGUIRE:

Page 200, line 9, strike out ", class II, or class III" and substitute "or class II".

Page 201, strike out line 3 and all that follows down through line 9.

Page 201, line 10, strike out "(D)" and insert in lieu thereof "(C)".

Page 201, line 12, strike out ", (B), or (C)" and insert in lieu thereof "or (B)".

Page 201, line 22, strike out "(E)" and insert in lieu thereof "(D)".

Page 205, line 8, strike out "only" and all that follows down through line 13 and insert in lieu thereof: "as class II.".

Page 213, line 10, strike out "(E)" and insert in lieu thereof "(D)".

Page 203, strike out line 15 and all that follows down through line 7 on page 204 and insert in lieu thereof:

"(ii) No Federal lands may be designated or redesignated as class II unless the appropriate Federal agency (or agencies) having authority over such lands concurs in such designation or redesignation."

Page 206, line 14, before the period insert: "or that the State has arbitrarily and capriciously disregarded relevant environmental, social, or economic considerations in making such designation or redesignation".

By Mr. SATTERFIELD:

Page 199, beginning on line 23 delete "except as may otherwise be permitted under subsection (d)".

Page 199, line 24, delete "air pollutants other than".

Page 200, beginning after the comma on line 3 delete the rest of the sentence and inset in lieu thereof: sulfur oxides and particulates."

Page 210, delete lines 4 through 13.

Page 210, line 14 redesignate "e" as "d".

Page 210, beginning on line 17 delete "with respect to sulfur oxides and particulates".

Page 210, line 18 capitalize "such".

Page 210, delete the sentence beginning on line 20 and all thereafter through line 5 on page 211.

Page 203, line 8, delete "satisfactory".

By Mr. WHALEN:

Page 293, strike out lines 6 through 18 and insert in lieu thereof the following:

"SEC. 324. (a) Except as provided in subsection (b) the regulations under this Act applicable to vapor recovery from fueling of motor vehicles at retail outlets of gasoline shall provide, with respect to independent small business marketers of gasoline, for a three-year phase-in period for the installation of such vapor recovery equipment under which such marketers shall have—

"(1) 33 percent of their outlets in compliance at the end of the first year during which such regulations apply to such marketers,

"(2) 66 percent at the end of such second year, and

"(3) 100 percent at the end of the third year.

"(b)(1) The regulations referred to in subsection (a) shall not apply to independent small business marketers of gasoline before the expiration of the period ending two years after the date of enactment of this section or the period ending six months after the date of submission of the report under paragraph (3), whichever is later.

"(2) The Federal Trade Commission shall study, and not later than one year after the date of enactment of this section report to the Administrator on, the effect the application to independent small business marketers of gasoline of the regulations referred to in subsection (a) will have on the ability of such marketers to compete in gasoline marketing. In the course of such study, the Commission shall provide opportunity for a public hearing and for submission of written views, data, and argument and shall request the participation in such hearing of other interested departments and agencies (including the Federal Energy Administration).

"(3) Not later than 18 months after the date of enactment of this section, the Administrator shall submit a report to the House Interstate and Foreign Commerce Committee and to the Senate Public Works Committee, which analyzes (A) the effect referred to in subsection (b)(2); (B) the need for such regulations to be applied to independent small business marketers of gasoline to assist in attaining or maintaining national ambient air quality standards or in preventing significant deterioration of air quality; and (C) the availability of means for eliminating or minimizing any effects referred to in subsection (b)(2) which are detrimental. The analysis required under clause (C) shall include a discusion of the measures referred to in subsection 202(a)(5) (pertaining to fill pipe standards) and 202(a)(6) (pertaining to onboard hydrocarbon technology). The Administrator's report under this paragraph shall include his conclusions as to whether, and to what extent, such regulations (or such other regulations relating to vapor recovery from fueling of motor vehicles at retail outlets of gasoline) should apply to independent small business marketers of gasoline.

"(4) The Administrator may, on the basis of the conclusions contained in the report under paragraph (3), promulgate regulations—

"(A) exempting independent small business marketers of gasoline, or any class thereof, from the duty to comply with the regulations referred to in subsection (a);

"(B) deferring or modifying the regulations referred to in subsection (a) in the case of independent small business marketers of gasoline, or any class thereof;

"(C) containing provisions to eliminate or minimize any effects referred to in subsection (b)(2) which are detrimental; or

"(D) taking any combination of the actions referred to in subparagraphs (A) through (C).

Regulations under this paragraph may be promulgated by the Administrator only upon a finding that such regulations are necessary in order to assure that application of the regulations referred to in subsection (a) to independent small business marketers of gasoline will not cause such independent marketers to be unable to compete in gasoline marketing.

"(5) The Administrator and the Federal Trade Commission shall keep confidential the commercial or financial information obtained under this section, except that such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"(c) For purposes of this section, an independent small business marketer of gasoline is a person engaged in the marketing of gasoline who would be required to pay for procurement and installation of vapor recovery equipment under section 320 of this Act or under regulations of the Administrator, unless such person (1) is a refiner, or (2) controls, is controlled by, or is under common control with, a refiner, or (3) is otherwise directly or indirectly affiliated (as determined under the regulations of the Administrator) with a refiner or with a person who controls, is controlled by, or is under a common control with a refiner (unless the sole affiliation referred to in (3) is by means of a supply contract or an agreement or contract to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or any such person). For the purpose of this section, the term 'refiner' shall not include any refiner whose total refinery capacity (including the refinery capacity of any person who controls, is controlled by, or is under common control with, such refiner) does not exceed 65,000 barrels per day. For purposes of this section, 'control' of a corporation means ownership of greater than 50 percent of its stock.

FACTUAL DESCRIPTIONS OF BILLS AND RESOLUTIONS INTRODUCED

Prepared by the Congressional Research Service pursuant to clause 5(d) of House rule X. Previous listing appeared in the CONGRESSIONAL RECORD of August 3, 1976, page 25372.

HOUSE JOINT RESOLUTIONS

H.J. Res. 1020. July 2, 1976. Judiciary; International Relations. Directs the President to proclaim that Valentyn Moroz shall be an honorary citizen of the United States. Urges the Soviet Union to allow Valentyn Moroz to accept the invitation of Harvard University for the 1976–77 academic year.

H.J. Res. 1021. July 2, 1976. Judiciary; International Relations. Directs the President to proclaim that Valentyn Moroz shall be an honorary citizen of the United States. Urges the Soviet Union to allow Valentyn Moroz to accept the invitation of Harvard University for the 1976–77 academic year.

H.J. Res. 1022. July 19, 1976. Post Office and Civil Service. Designates the week beginning October 3, 1976, and ending October 9, 1976, as "National Gifted Children Week."

H.J. Res. 1023. July 19, 1976. Post Office and Civil Service. Designates January 13, 1977 as "Religious Freedom Day."

H.J. Res. 1024. July 20, 1976. Judiciary. Proposes an amendment to the Constitution which allows persons lawfully assembled, in any public building supported by public funds, to participate in voluntary prayer.

H.J. Res. 1025. July 21, 1976. Judiciary. Proposes an amendment to the Constitution which allows persons lawfully assembled, in any public building supported by public funds, to participate in nondenominational prayer.

H.J. Res. 1026. July 21, 1976. Post Office and Civil Service. Designates the month of October of each year as "National Learning Disabilities Month."

H.J. Res. 1027. July 21, 1976. Judiciary. Proposes an amendment to the Constitution prohibiting deficit spending and increases in the national debt.

H.J. Res. 1028. July 21, 1976. Judiciary. Proposes an amendment to the Constitution establishing constitutional guidelines for treaties.

H.J. Res. 1029. July 22, 1976. Post Office and Civil Service. Authorizes and requests the President to issue annually a proclama-

tion designating the second Sunday of September of each year as Bataan Day.

H.J. Res. 1030. July 22, 1976. Appropriations. Appropriates funds to the Department of Health, Education, and Welfare for a program of influenza A-New Jersey 76 immunization.

H. Res. 1401. July 1, 1976. Rules. Amends Rule XXII of the Rules of the House of Representatives to remove the limitation on the number of Members who may introduce jointly any bill, memorial, or resolution.

H. Res. 1402. July 1, 1976. Rules. Creates a House Select Committee which shall conduct an investigation of all records, memorandums, papers, documents, books, and other information of any standing or select committee of the House or officer of the House respecting expenses incurred by or on behalf of any such committeee or its members or employees.

H. Res. 1403. July 1, 1976. House Administration. Provides that no Member of the House of Representatives shall expand or draw against the stationery allowance fund except by presentation of a receipt of purchase of stationery, or office supplies. Requires that any unexpended portion of the stationery allowance of a Member of the House of Representatives shall be returned to the contingent fund of the House of Representatives at the close of each Congress.

H. Res. 1404. July 19, 1976. House Administration. Provides that no payment shall be made from the contingent fund of the House of Representatives unless such payment is approved by a resolution adopted by the House of Representatives.

H. Res. 1405. July 19, 1976. House Administration. Provides that any statement furnished by the Clerk of the House to any Member relating to the expenditure of funds from any expense allowance shall be made available to the public.

H. Res. 1406. July 19, 1976. House Administration. Provides that any amount of the stationery allowance of a Member of the House of Representatives which is unexpended on the date of the adjournment of a session of the Congress shall be paid into the contingent fund of the House.

H. Res. 1407. July 19, 1976. International Relations. Expresses the sense of the House of Representatives that Israel be commended for its rescue operation in Uganda.

H. Res. 1408. July 19, 1976. House Administration. Authorizes expenditures for the House Select Committee on Professional Sports.

H. Res. 1409. July 19, 1976. Interstate and Foreign Commerce. Calls for hearings by the committee with appropriate jurisdiction to consider and determine what should be the Nation's future telecommunications policy.

H. Res. 1410. July 20, 1976. International Relations. Declares it the sense of the House of Representatives that the United States should retain sovereignty and jurisdiction over the Panama Canal Zone.

H. Res. 1411. July 21, 1976. Elects a Representative to the House Committee on the Judiciary and the Committee on Veterans' Affairs.

H. Res. 1412. July 21, 1976. International Relations. Expresses the disapproval of the House of Representatives to the actions of the Canadian Government and the International Olympic Committee in excluding the Republic of China from the XXI Summer Olympics.

H. Res. 1413. July 21, 1976. Interstate and Foreign Commerce. Disapproves energy action numbered five, exempting naphthas and gas oils from the mandatory petroleum allocation and price regulations.

H. Res. 1414. July 21, 1976. House Administration. Authorizes the expenditure of additional funds for expenses of the ad hoc Select Committee on the Outer Continental Shelf.

H. Res. 1415. July 21, 1976. Rules. Sets forth the rule for consideration of H.R. 13372.

SENATE—*Wednesday, August 4, 1976*

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

PRAYER

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

Eternal Father, take this day's life and labor into Thine own keeping. Control our thoughts, our feelings, and our words. May Thy Spirit brood over us and remain in us. Keep us ever aware of who we are and whom we serve. Preserve in us the crowning virtue of doing to others as we pray they might do to us. Amid the stresses and tensions of crowded hours show us how to find the quiet moment of spiritual renewal. May this be a day of high achievement which brings us to its end with joy and peace.

In Thy holy name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, August 3, 1976, be dispensed with.

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 under "New Reports."

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

DEPARTMENT OF STATE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of State.

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

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

U.S. POSTAL SERVICE

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

Mr. MANSFIELD. I make the same request.

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

NATIONAL LABOR RELATIONS BOARD

The second assistant legislative clerk read the nomination of John A. Penello, of Maryland, to be a member of the National Labor Relations Board for the term of 5 years expiring August 27, 1981.

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

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

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

(All nominations confirmed today are printed at the conclusion of Senate proceedings.)

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

CONSUMER CONTROVERSIES RESOLUTION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 808, S. 2069.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

Calendar No. 808, S. 2069, a bill to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, with amendments, as follows:

On page 18, in line 6, strike out "(a)" and insert in lieu thereof "(A)".

On page 18, line 8, strike out "(b)" and insert in lieu thereof "(B)".

On page 18, in line 11, strike out "(c)" and insert in lieu thereof "(C)".

On page 22, in line 3, strike out "$500,000" and insert in lieu thereof "$500,000,000".

On page 22, in line 4, strike out "1976," and insert in lieu thereof "1977,".

On page 22, in line 6, strike out "1977:" and insert in lieu thereof "1978:"

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Controversies Resolution Act".

DECLARATION OF POLICY

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

(1) For the majority of American consumers, mechanisms for the resolution of controversies involving consumer goods and services are largely unavailable, ineffective, unfair, or invisible.

(2) The total amount of money involved each year in consumer controversies in the