10:00 am.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on H.R. 5294, S. 656, S. 918, and S. 1130, to amend the Consumer Protection Act so as to prohibit abusive practices by independent debt collectors.
Environment and Public Works
To mark up proposed legislation authorizing funds for the Nuclear Regulatory Commission.
4200 Dirksen Building

Governmental Affairs
Subcommittee on Reports, Accounting and Management
To continue hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.
6202 Dirksen Building

MAY 13

10:00 a.m.
Banking, Housing, and Urban Affairs
Consumer Affairs Subcommittee
To continue hearings on H.R. 5294, S. 656, S. 918, and S. 1130, to amend the Consumer Protection Act so as to prohibit abusive practices by independent debt collectors.
5302 Dirksen Building

MAY 16

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on federally guaranteed loans to New York City.
5302 Dirksen Building

Select Indian Affairs
To hold hearings on S. 470 and S. 471, pertaining to lands on the Umatilla Indian Reservation, Oregon.
Room to be announced

MAY 17

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue oversight hearings on federally guaranteed loans to New York City.
5302 Dirksen Building

MAY 18

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearing on proposed budget estimates for fiscal year 1978 for DOT, to hear Secretary of Transportation Adams.
1224 Dirksen Building

Banking, Housing and Urban Affairs
To continue oversight hearings on federally guaranteed loans to New York City.
5302 Dirksen Building

Governmental Affairs
Subcommittee on Reports, Accounting and Management
To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.
6202 Dirksen Building

Select Indian Affairs
To hold hearings on S. 103, 667, and 785, to convey certain Federal land to the Ely Indian Colony, Paiute, and Shoshone Tribes.
Room to be announced

2:00 p.m.
Appropriations
Transportation Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1978 for DOT, to hear Secretary of Transportation Adams.
1224 Dirksen Building

MAY 19

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 695, to impose on former Federal procurement personnel an extended time period during which they may not work for defense contractors.
5302 Dirksen Building

MAY 20

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 695, to impose on former Federal procurement personnel an extended time period during which they may not work for defense contractors.
5302 Dirksen Building

MAY 23

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 695, to impose on former Federal procurement personnel an extended time period during which they may not work for defense contractors.
5302 Dirksen Building

Select Indian Affairs
To hold hearings on S. 905, the Central Arizona Indian Tribal Water Settlement Act of 1977.
Room to be announced

MAY 24

9:30 a.m.
Select Small Business
To resume hearings on alleged restrictive and anticompetitive practices in the eyeglass industry.
424 Russell Building

10:00 a.m.
Government Affairs
Subcommittee on Reports, Accounting, and Management
To resume hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.
6202 Dirksen Building

MAY 25

9:30 a.m.
Select Small Business
To continue hearings on alleged restrictive and anticompetitive practices in the eyeglass industry.
424 Russell Building

Select Indian Affairs
To hold hearings on S. 660, seeking an agreement with the Cherokee, Choctaw, and Chickasaw Indian Tribes of Oklahoma for the purchase or lease of their rights in the riverbed of the Arkansas River.
Room to be announced

Veterans' Affairs
To hold hearings on S. 247, to provide recognition to the Women's Air Forces Service Pilots.
Until noon 318 Russell Building

1:00 p.m.
Governmental Affairs
Governmental Efficiency Subcommittee
To hold hearings to receive testimony on a GAO study alleging inaccurate financial records of the Federal flood insurance program.
1224 Dirksen Building

MAY 26

9:30 a.m.
*Select Small Business
To continue hearings on alleged restrictive and anticompetitive practices in the eyeglass industry.
235 Russell Building

10:00 a.m.
Governmental Affairs
Subcommittee on Reports, Accounting, and Management
To continue hearings to review the processes by which accounting and auditing practices and procedures, promulgated or approved by the Federal Government, are established.
6202 Dirksen Building

JUNE 6

10:00 a.m.
Select Indian Affairs
To hold oversight hearings on the Indian Education Reform Act (P.L. 93–638).
Room to be announced

JUNE 7

10:00 a.m.
Select Indian Affairs
To continue oversight hearings on the Indian Education Reform Act (P.L. 93–638).
Room to be announced

JUNE 13

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold oversight hearings on the cable TV system.
235 Russell Building

JUNE 14

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the cable TV system.
235 Russell Building

JUNE 15

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To continue oversight hearings on the cable TV system.
235 Russell Building

SENATE—*Tuesday, April 26, 1977*

(Legislative day of Monday, February 21, 1977)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by Hon. PAUL S. SARBANES, a Senator from the State of Maryland.

PRAYER

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

For the things which are seen are temporal; but the things which are not seen are eternal.—II Corinthians 4: 18.

Lord of all life, Giver of all wisdom,

we do not ask for special favors above others, or exemption from the stress, or sickness or the temptations which confront other men. But we ask Thee to take us as we are, indwell us by Thy spirit, and use us for Thy kingdom's sake. While we are laboring in the fields of the temporal and the visible keep us loyal to the values which are eternal and invisible. And what we pray for the Members of this body we pray also for the President and all others in the service of this Nation that we may ever remain a people whose God is the Lord of Creation, our Redeemer and Judge, Father of our Lord Jesus Christ, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., April 26, 1977.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. PAUL S. SARBANES, a Senator from the State of Maryland, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings of yesterday, Monday, April 25, 1977, be approved.

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

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate tomorrow.

Mr. HANSEN. Mr. President, reserving the right to object——

The ACTING PRESIDENT pro tempore. Reservation is heard.

Mr. HANSEN. I wish to say that we are having a markup on the surface-mining bill. I happen to be ranking Republican member on the Energy and Natural Resources Committee, and I have some amendments that are to be presented, and I would just say that it is going to be extremely difficult for me to try to discharge my duties as a member of the Finance Committee here and to be on hand at the same time for that committee over there.

Mr. ROBERT C. BYRD. Would the Senator be agreeable, then, to making an exception for that one committee, all committees except that one committee?

Mr. HANSEN. To all committees except that one, I would be agreeable.

Let me ask the Senator this: Senator METCALF would like for us to go back in session, and I understand it has been agreed to, from 2:30 until 4 o'clock this afternoon. I am not certain how many members there will be on hand over there, but I think that is a pretty important bill—as I know this bill is important, too—and it is a little bit difficult to try to be both places.

Mr. ROBERT C. BYRD. Does the Senator——

Mr. HANSEN. Will there be any votes here before 4 o'clock?

Mr. ROBERT C. BYRD. No votes before 4, unless there would be a vote in connection with the establishment of a quorum. I do not foresee that happening. It could happen, but I do not expect it to.

Mr. HANSEN. Well, then, as I understand the unanimous-consent request as modified, it would provide that all committees may meet tomorrow with the exception of the Committee on Energy and Natural Resources?

Mr. ROBERT C. BYRD. Except the one committee to which the Senator raised some opposition.

Mr. JAVITS. Mr. President, reserving the right to object, we are supposed to be, as I understand it, voting tomorrow on this proposition. We have 2 hours for debate; it seems to me we should not encourage our Members to stay away. Therefore, I hope very much the majority leader will limit that request until 12, or whatever time the Senate session begins. I think it is 11.

Mr. ROBERT C. BYRD. Well, the Senate comes in at 10:30. Committees automatically can meet until 12:30 without consent.

For the moment, Mr. President, I withdraw my request. I just hope the Senate will be able to proceed, and committees will be able to proceed. We have a lot of work down the road.

I realize Members do have problems. I hope we will be able to accommodate ourselves to the Members, and that they likewise will help the leadership in its efforts to move ahead.

I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Committee on Commerce be authorized to meet during the afternoon on Wednesday, May 4, while the Senate is in session.

Mr. BAKER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. That has been OK'd.

Mr. BAKER. It has been, yes; I OK'd it a minute ago. But in view of the remarks by the distinguished senior Senator from New York——

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request.

JOINT REFERRAL REQUEST—H.R. 5675

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when H.R. 5675 is received from the House of Representatives, it be jointly referred to the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance.

First, I want to be sure that the chairmen of the respective committees have given clearance for this joint referral. Therefore, I withdraw the request until we are sure of the clearance.

EXTENSION OF LEADERSHIP RECOGNITION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for recognition of the two leaders, which ordinarily is for 10 minutes each, today be extended to 20 minutes each, for today only.

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

CIVIL DEFENSE

Mr. BAKER. Mr. President, I and a number of my colleagues have been concerned for some time over the apparently growing disparity in the civil defense capabilities between the Soviet Union and the United States. For that reason, I am pleased to note that in passing yesterday the fiscal year 1978 DOD authorization bill, the House included $134 million for civil defense.

This action of the House in increasing the civil defense budget by approximately 40 percent over the fiscal year 1977 figure, indicates a growing and, I believe, a healthy awareness that we need to take a long and serious look at this element of our strategic defense. As you know, Mr. President, strategic defense has evolved considerably since the dawn of the nuclear age—through the forties our possession of nuclear weapons was a monopoly; through the fifties and early sixties we had a clear superiority; and now, at least in the minds of most, our strategic deterrence is based on the concept of mutually assured destruction—the balance of terror.

For some time now we have assumed the balance of terror was a tiger on whose back both we and the Soviet Union were clinging with an equal degree of caution and determination. But with the massive Soviet investment in civil defense measures, their natural and planned dispersion of both industry and population, their program to harden essential industries and train the civilian population, their potentially effective plans to evacuate the Soviet citizenry from major metropolitan areas—I have to wonder if the Soviet Union is clinging to the back of that tiger with the same sense of prudence as are we. I think the time has come to reexamine the concept, because if destruction is not mutual, and if destruction is not assured, then neither is it deterrence.

Mr. President, $134 million will not restore the balance to this apparent asymmetry, but it is at least an indication that we in Congress are willing to

consider the possibility that an asymmetry exists; and there is a need to do something about it. I believe the action of the House on this matter is a positive sign, and I would urge my colleagues to follow their lead.

Mr. ROBERT C. BYRD. Mr. President, I yield such time from my time under the order as the distinguished chairman of the Appropriations Committee may require.

CRITERIA FOR THE IMPOSITION OF THE SENTENCE OF DEATH—S. 1382

Mr. McCLELLAN. Mr. President, I introduce a bill to establish rational criteria for imposition of the sentence of death, and for other purposes.

Present Federal law provides that the death penalty is an authorized sentence upon conviction in at least 10 instances, including murder, treason, espionage, rape, and air piracy where death results. (18 U.S.C. 34, destruction of motor vehicles or motor vehicle facilities where death results; 18 U.S.C. 351, assassination or kidnaping of Member of Congress; 18 U.S.C. 794, gathering or delivering defense information to aid a foreign government; 18 U.S.C. 1111, first degree murder within the special maritime and territorial jurisdiction of the United States; 18 U.S.C. 1114, murder of certain officers and employees of the United States; 18 U.S.C. 1716, causing death of another by mailing injurious articles; 18 U.S.C. 1751, Presidential and Vice Presidential murder and kidnaping; 18 U.S.C. 2031, rape within the special maritime or territorial jurisdiction of the United States; 18 U.S.C. 2381, treason; and 49 U.S.C. 1472(i), aircraft piracy).

In June of 1972, the Supreme Court handed down its decision in the case of Furman against Georgia, one of the Court's most significant decisions in recent years. For it was in the Furman decision that a bare majority of the Court—five of the nine Justices then sitting—determined that the death penalty could not constitutionally be imposed in the cases before the court, and thereby effectively eliminated capital punishment throughout this country as an authorized deterrent and punishment for even the most violent, brutal, and horrible crimes.

It is important to remember that the Furman decision did not declare that the death penalty itself was unconstitutional. In fact, there was no majority opinion in the case at all. Instead, each of the five Justices in the majority filed his own opinion in which none of the others joined. Of the five, only Justices Marshall and Brennan felt that the death penalty was, per se, unconstitutional. Justices Douglas, Stewart, and White were unwilling to reach that conclusion, but rather focused on the unlimited discretion given to the judge and jury under the then existing statutes in determining whether the penalty was to be imposed. The essence of their opinions, particularly those of Justices Stewart and White, was not that the death penalty itself was unconstitutional, but rather that, because of this unfettered discretion, it had come to be imposed so arbitrarily and capriciously as to constitute cruel and unusual punishment in violation of the eighth amendment.

Although the precise meaning of the Furman decision was unclear, the logical conclusion drawn from the separate opinions rendered in the case was that if a procedure could be devised whereby the death penalty would be imposed in a more rational manner than was then being invoked, Justices White and Stewart would likely join in making a majority upholding the constitutionality of the death penalty.

The response to the Furman case has been overwhelming. Already, in 35 of the 50 States the representatives of the people have enacted new State statutes providing for the death penalty under procedures designed to satisfy the constitutional objections raised by Furman. Those States include Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming. And the Federal Government enacted the Anti-Hijacking Act of 1974, which also was designed to follow the mandate of Furman while providing a death penalty where a death is caused during an aircraft hijacking.

In the 93d Congress, I introduced S. 1401, which would have provided a more comprehensive statute to provide rational criteria for the imposition of the death penalty in certain limited cases involving serious offenses. That bill, after amendment, was adopted by this body by a vote of 54 to 33, but was never acted upon by the House.

Since that time, the Supreme Court has decided other landmark cases on the issue of the death penalty. On July 2, 1976, the court upheld State death penalty statutes in the cases of Gregg against Georgia, Jurek against Texas, and Proffitt against Florida, but struck down statutes in Woodson and others against North Carolina and Roberts against Louisiana.

Mr. President, the Court is to be commended for these latest decisions. For, at long last, it has finally eliminated any doubt as to whether the death penalty is a constitutionally acceptable sanction for the commission of certain heinous crimes. It has clearly declared to all that it is not cruel and unusual punishment, as has erroneously been argued by so many for so long. The recent cases have not only done much to clarify and expand upon the Furman decision, but have provided us with three examples of court-sustained constitutionally sound death penalty statutes.

Mr. President, the bill I introduce today is designed to meet the constitutional concerns reflected in these latest Supreme Court cases. The Department of Justice has examined this bill and concluded that it does in fact meet all constitutional requirements. I ask unanimous consent that the opinion letter which I have from the Attorney General be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. McCLELLAN. I shall quote the last sentence in the letter, which is as follows:

> Certainly, the bill provides a firm foundation for congressional consideration of a death penalty for a limited number of Federal crimes, and I support your effort to bring it to the attention of the Senate.

Briefly, the bill would provide that, after a conviction for an offense for which a penalty of death is authorized, the court must hold a separate hearing on whether to impose the death penalty. The hearing would normally be before the same jury which sat for trial, or, if both parties agree, before the judge. After both sides have an opportunity to present all relevant evidence, the jury would be asked to make special findings as to whether any of a list of mitigating or aggravating factors exist. The mitigating factors listed include such things as the youthfulness of the defendant, the extent of his involvement in the offense, any emotional problems or pressures, and the unforeseen nature of a resulting death. The aggravating factors would vary depending on whether the offense is one relating to treason or to murder.

After determining by unanimous vote whether any of these factors exist, the jury would be required to determine "whether or not any aggravating factors found to exist, when taken in conjunction with all the evidence, outweigh any mitigating factors found to exist, and, based upon this determination, shall return a finding as to whether or not a sentence of death should be imposed."

The bill further provides that the defendant shall have a right to appeal the sentence and that such review shall have priority over all other cases. In order to affirm the sentence, the appellate court must determine that the sentence of death was not imposed under the influence of passion, prejudice, or other arbitrary factor; that the evidence supports the special findings; and that the sentence of death is not excessive considering both the crime and the defendant.

Mr. President, this bill clearly meets the requirements recently laid down by the Supreme Court for the restoration of the death penalty, and applies such a sentence to only a small number of the most serious criminal acts. I recognize, however, that we are not only faced with the question of whether legislation can be drafted that will meet constitutional restrictions, but with a much more basic question as well—whether, even assuming its constitutionality, the Federal

criminal justice system should have a death penalty at all.

The answer to that question becomes clearer and clearer with every new mass murder, every new murder for hire, and every new kidnaping resulting in death. The death penalty must be restored if our criminal justice system is to effectively combat the ever-increasing tide of violent crimes—crimes of terror—that threaten to engulf our Nation, and if the confidence of the American people in our system of justice is to be restored.

Mr. President, those who argue against the death penalty claim that it serves no useful purpose and should therefore be eliminated. Perhaps most importantly, they say that there is no proof that it deters crime.

I simply cannot agree with that.

I can recall my youth that the knowledge that I would be punished for doing wrong was indeed a deterrent. And the more severe I thought the punishment was likely to be, the less likely it was that I would misbehave. Most likely, everyone in this Chamber has had a comparable experience.

Some will say that the real issue is not whether the death penalty deters, but whether it deters more than life imprisonment. To me the answer to that question is obvious and irrefutable.

Life is our most precious possession. So long as a convicted murderer has his life, he can look forward to the likelihood of parole and freedom—or even escape. The death penalty provides no such future. It is final and irrevocable. It is clear that if a criminal knows he may forfeit his own life if he commits one of the crimes for which the death penalty is authorized, he will certainly be much less likely to commit that act than if all he had facing him was a prison sentence and eventual parole. Where the criminal—the murderer—knows that he is going to pay a price for his crimes and that that price is his own death, he will be deterred.

Mr. President, when all is said and done, when all the talking about deterrence and retribution and incapacitation is finished, what it all boils down to is whether it is ever "just" to impose the death penalty. Can a man ever be found to have acted so viciously, so cruelly and inhumanely as to justify society in imposing upon him the ultimate punishment? I firmly believe he can. Consider some recent cases.

What other punishment is "just" for a man, found to be sane, who would stab, strangle, and mutilate eight student nurses?

What other punishment is "just" for a band of social misfits who would invade the homes of people they had never even met and stab and hack to death a woman 8½ months pregnant and her guests?

What other punishment is "just" for a man who would cold-bloodedly and needlessly execute four restaurant employees during the robbing of the restaurant?

What other punishment is "just" for a man who would lie in wait and murder a 17-year-old boy he had never met because "he wanted to do something different" and later murder two police officers who were pursuing him after he robbed a bank?

What other punishment is "just" for a man who would systematically murder 25 migratory farmworkers in one summer?

What other punishment is "just" for an escaped convict who would murder 13 people, including one woman he kidnaped and killed while he was an escapee, and another man he beat to death with chair legs and an ax handle as an initiation assignment for a motorcycle club?

What other punishment is "just" for men who would brutally murder four young children, including a 9-day-old baby, by drowning them in a sink, and kill another child and two women by shooting them at close range?

Mr. President, justice is not feeding and clothing these people for a few years and then returning them to society on parole to prey upon or pose constant threats to other innocent victims. Such a procedure inevitably burdens our society with forbidding dangers and exposes our innocent and law-abiding citizens to fatal assaults and debauchery by cruel and debased murderers.

I believe that people who commit crimes like these to which I have referred forfeit their own right to live. They must be made to know that they too shall die and not be allowed to commit wanton and savage murder again.

Justice, Mr. President—to both society and the murderer—demands no less.

Mr. President, I ask unanimous consent that a copy of the bill which I have introduced be printed in the RECORD at this point.

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

S. 1382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 227 of title 18 of the United States Code is amended by adding after section 3562 a new section 3562A, to read as follows:

"§ 3562A. Sentencing for capital offenses

"(a) A person shall be subjected to the penalty of death for any offense prohibited by the laws of the United States only if a hearing is held in accordance with this section.

"(b) When a defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at trial or before whom the guilty pleas was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury which determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury which determined the defendant's guilt has been discharged for good cause; or

"(D) appeal of the original imposition of the death penalty has resulted in a remand for redetermination of sentence under this section; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the court and of the government.

A jury impaneled pursuant to paragraph (2) of this subsection shall consist of twelve members, but, at any time before any conclusion of the hearing, the parties may stipulate in writing with the approval of the court that it shall consist of any number less than twelve.

"(c) In the sentencing hearing the court shall disclose to the defendant or his counsel all material contained in any presentence report, if one has been prepared, except such material as the court determines is required to be withheld for the protection of human life or for the protection of the national security. Any presentence information withheld from the defendant shall not be considered in the determination of the sentence of death. In the sentencing hearing, evidence may be presented as to any matter relevant to sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (f), (g), (h). Any information relevant to any mitigating factors, including those set forth in subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials; but the admissibility of information relevant to any aggravating factors, including those set forth in subsections (g) and (h), shall be governed by the rules governing the admission of evidence at criminal trials. The government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the evidence to establish the existence of any of the aggravating or mitigating factors, and as to the appropriateness in that case of imposing a sentence of death. The burden of establishing the existence of any aggravating factors is on the government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factors is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"(d) After hearing all the evidence, the jury, by unanimous vote, of if there is no jury, the court, shall return special findings setting forth the aggravating and mitigating factors, set out in subsections (f), (g), and (h), found to exist. The jury, or if there is no jury, the court, shall then determine whether or not any aggravating factors found to exist, when taken in conjunction with all the evidence, outweigh any mitigating factors found to exist, and, based upon this determination, shall return a finding as to whether or not a sentence of death should be imposed.

"(e) Upon the unanimous finding of the jury, or if there is no jury, upon a finding by the court, that a sentence of death should be imposed, the court shall sentence the defendant to death. In all other cases, the court may impose a sentence of life imprisonment or any term of years.

"(f) In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered:

"(1) the youthfulness of the defendant at the time of the crime;

"(2) the defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so

impaired as to constitute a defense to the charge;

"(3) the defendant was under unusual and substantial duress, although not such a duress as to constitute a defense to prosecution;

"(4) the defendant is punishable as a principal for aiding and abetting the offense, under section 2(a) of this title, but his participation was relatively minor; or

"(5) the defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which he was convicted, would cause, or would create a grave risk of causing, death to any person.

"(g) If the defendant is found guilty of or pleads guilty to an offense under section 794 or section 2381 of this title the following aggravating factors shall be considered:

"(1) the defendant has been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; or

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

Provided, That if the charge is under section 794(a) of this title, the sentence of death shall not be imposed unless the jury or, if there is no jury, the court further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.

"(h) If the defendant is found guilty of or pleads guilty to any other offense for which the death penalty is available, the following aggravating factors shall be considered:

"(1) the death or injury resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, an offense under section 751 (Prisoners in custody of institution or officer), section 794 (Gathering or delivering defense information to aid foreign government), section 844(d) (Transportation of explosives in interstate commerce for certain purposes), section 844(f) (Destruction of government property by explosives), section 844(i) (Destruction of property in interstate commerce by explosives), section 1201 (Kidnaping), or section 2381 (Treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i), (n)) (Aircraft piracy);

"(2) the defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of serious bodily injury upon another person.

"(4) in the commission of the offense the defendant knowingly created a grave risk of death to another person in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value; or

"(8) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent of a foreign nation;

"(C) a foreign official listed in section 1116(b)(1) of this title, if he is in the United States because of his official duties; or

"(D) a Justice of the Supreme Court, a Federal law-enforcement officer, or an employee of a United States penal or correctional institution, while performing his official duties or because of his status as a public servant. For purposes of this subsection a 'law-enforcement officer' is a public servant authorized by law or by a government agency to conduct or engage in the prevention, investigation, or prosecution of an offense.

SEC. 2. Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 3. Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 4. Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 5. Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 6. The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;"

SEC. 7. Section 1116(a) of title 18 of the United States Code is amended by striking the words ", except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life".

SEC. 8. Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and if the death of any person results, shall be punished by death or life imprisonment".

SEC. 9. The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 10. The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 11. Section 2031 of title 18 of the United States Code is amended by deleting the words "death, or".

SEC. 12. Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof the words "or if death results shall be punished by death or life imprisonment".

SEC. 13. Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 14. The analysis of chapter 227 of title 18 of the United States Code is amended by inserting after item 3562 the following new item: "3562A. Sentencing for capital offenses.".

SEC. 15. Section 3566 of title 18 of the United States Code is amended by adding a second paragraph as follows:

"In no event shall a sentence of death be carried out upon a pregnant woman".

SEC. 16. Chapter 235 of title 18 of the United States Code is amended by inserting immediately after section 3741 the following new section:

"§ 3742. Appeal from sentence of death

"In any case in which the sentence of death is imposed after a proceeding under section 3562A of chapter 227 of this title, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Such review shall have priority over all other cases. On review of the sentence, the court of appeals shall consider the record, including the entire presentence report, if any, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings under section 3562A(d). The court shall affirm the sentence if it determines that: (1) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; (2) the evidence supports the jury's or the court's special finding of the existence of any aggravating factor or the failure to find any mitigating factors, as enumerated in section 3562A; and (3) the sentence of death is not excessive, considering both the crime and the defendant. In all other cases the court shall remand the case for reconsideration under the provisions of section 3562A of this title. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

SEC. 17. The analysis of chapter 235 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"3742. Appeal from sentence of death.".

SEC. 18. The provisions of sections 3562A and 3742 of title 18 of the United States Code, as added by this Act, shall not apply to prosecution under the Uniform Code of Military Justice (10 U.S.C. 801).

EXHIBIT 1

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 25, 1977.

HON. JOHN L. MCCLELLAN,
U.S. Senate, Washington, D.C.

DEAR SENATOR MCCLELLAN: In your letter dated March 3, 1977, you asked that the Department of Justice review your draft bill to authorize the death penalty for certain federal offenses, and requested the Department's comments with respect to the constitutionality of the draft bill in the light of recent Supreme Court decisions.

In summary, the draft bill provides that before a sentence of death can be imposed for any offense under the laws of the United States, a hearing must be held in accordance with the bill's provisions. The hearing is normally to be before a jury of twelve with responsibility for rendering unanimous findings in the nature of special verdicts, but under certain circumstances the court also is empowered to conduct the hearing and to render the necessary findings.

The bill sets forth lists of aggravating and mitigating circumstances to be considered by the factfinder at the hearing. An aggravating factor may be proven only by legally ad-

missible evidence, and the government bears the burden of persuasion on the matter beyond a reasonable doubt. A mitigating factor may be proved by any relevant information irrespective of the rules of evidence, and the defendant bears the burden of persuasion by a preponderance of the evidence. The sentencing court is required to disclose to the defendant all material in any presentence report except such information as the court determines to withhold for the protection of human life or the national security; no information so withheld may be considered in the determination of the sentence.

At the conclusion of the evidence, the jury is required to return special findings as to the existence of any aggravating and mitigating factors, and to determine whether any aggravating factors outweigh any mitigating factors found to exist; based on this determination, the jury must then conclude whether a sentence of death should be imposed. If the jury concludes that a death sentence should be imposed, the court must sentence the defendant to death. In all other cases, the court may impose a sentence of life imprisonment or any term of years.

The bill provides that any sentence of death may be appealed by the defendant for review in the court of appeals. The court of appeals is to consider the entire record of the trial and of the sentencing hearing, the presentence report, the procedures employed at the hearing, and the special findings. The court is to affirm the sentence only if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; that the evidence supports the special findings as to the existence of an aggravating factor or the failure to find a mitigating factor; and that the sentence of death is not excessive, considering both the crime and the defendant.

The offenses to which the death penalty would be applicable are treason, espionage, and certain murders—all offenses for which federal statutes currently purport to authorize a sentence of death.

The draft bill is modeled to a substantial extent upon the death penalty provisions of the federal aircraft piracy statute, 49 U.S.C. 1473(c), enacted by Congress in 1974 with the specific purpose of seeking to comply with the decision of the Supreme Court in *Furman* v. *Georgia*, 408 U.S. 238 (1972). In our view, the procedures set forth in the draft bill are consistent with the decision in the *Furman* case, and are also consistent with the opinions of the Supreme Court in *Gregg* v. *Georgia*, — U.S. — 1976), and *Proffitt* v. *Florida*, — U.S. — (1976), sustaining the provisions of similar state death penalty statutes against constitutional attack.

The Court in *Furman* had struck down a Georgia death penalty law, written in the fashion of all present federal death penalty provisions except the one appearing in the revised aircraft piracy statute, on the ground that the law permitted the sentencing judge or jury to exercise unguided discretion in determining whether the death penalty should be imposed, and thus that it failed to guard against the "freakish" or "wanton" imposition of the death sentence. Thereafter Georgia revised its law in a manner similar to that employed in the draft bill in order to meet the requirements of the *Furman* opinion. In *Gregg* the Court sustained the new statute. The Court held that the setting forth of aggravating and mitigating factors of sufficient clarity and specificity substantially met the concerns expressed in *Furman* and provided the sentencing authority with standards to guide its exercise of discretion. The Court emphasized also its heavy reliance on the appellate review procedures of the revised Georgia statute, which are very similar to those in the draft bill, as a further basis for insuring that the death penalty would not be wantonly or freakishly imposed (see *Gregg, supra*, slip op. at pp. 9–10, 47–49; slip op. at pp. 16–18 (White, J. concurring)).

Because of the close resemblance (including in some instances an identity of language) between the draft bill and the State statutes sustained in *Gregg* and *Proffitt*, we believe that the proposed bill would be found by the Supreme Court to meet constitutional requisites.

I appreciate the opportunity you have afforded us to review the draft bill prior to its introduction. There are some variations in particular provisions of the draft bill that would warrant consideration, but these are matters that we can raise with you later after a more thorough review. Certainly the bill provides a firm foundation for congressional consideration of a death penalty for a limited number of federal crimes, and I support your efforts to bring it to the attention of the Senate.

Sincerely,

GRIFFIN B. BELL,
Attorney General.

Mr. THURMOND. Mr. President, today I am pleased to cosponsor and strongly support the bill introduced by the distinguished senior Senator from Arkansas (Mr. MCCLELLAN), a bill to establish rational criteria for the imposition of the sentence of death, and for other purposes.

This legislation was introduced in the 94th Congress as S. 1401, which passed the Senate on March 13, 1974, by a vote of 54 to 33. It was subsequently referred to the House Judiciary Committee, but no action was taken on the measure prior to the adjournment of the 94th Congress.

Mr. President, in June of 1972, the Supreme Court handed down its decision in the case of Furman against Georgia. The Supreme Court decision in Furman did not hold that capital punishment per se is unconstitutional. Instead, the pivotal opinions of the Court found that "as presently applied and administered" capital punishment violated the eighth amendment. The system of discretionary sentencing in capital cases failed to produce evenhanded justice.

The bill introduced today would squarely meet the Supreme Court's objection and narrowly limit the offenses and circumstances in which the death penalty may be imposed, with full guarantees for judicial review.

Those crimes under current Federal law which can be broadly characterized as treason, espionage, or murder, would be offenses for which the death penalty would be an available sanction. Prosecution for such crimes would be a two-step procedure.

In the first instance, a jury would be impaneled or, if there is no jury, a judge would hear the question of guilt. In the event the defendant were found guilty of the offense, a second proceeding would be held to determine whether or not the death penalty should be imposed.

The death penalty should be restored because of its value as a deterrent. I am convinced that the death penalty can be an effective deterrent against specific crimes. The potential kidnapper should know that if his intended victim dies, he may die. The potential hijacker should realize that if he kills a person during the course of a hijacking, he may forfeit his own life. The man who throws a firebomb to destroy Government property, the convict who assaults a prison guard, the person who attacks a law enforcement officer, all should know that if they take a life, they may pay with their own life.

Mr. President, the Honorable J. Edgar Hoover, the late Director of the Federal Bureau of Investigation, declared:

(T)he professional law enforcement officer is convinced from the experience that the hardened criminal has been and is deterred from killing based on the prospect of the death penalty.

In addition, Mr. Arlen Specter, district attorney of Philadelphia, testifying before the Senate Subcommittee on Criminal Laws and Procedures, stated:

I believe the death penalty is an effective deterrent against murder. I say that based upon more than seven years as district attorney of Philadelphia, and dealing with a great many cases in that capacity. We have the frequent occurrence in the criminal courts of Philadelphia where professional burglars have expressed themselves on the point of not carrying a weapon on a burglary because of their concern there may be scuffle, there may be a dispute, the weapon may be used and death may result, and prior to Furman, they may face the possibility of capital punishment.

Clearly a person will be slow to undertake an action that will result in the loss of something which he values highly. Since life itself is the most highly prized possession of any person, he will be hesitant to engage in conduct that would result in its forfeiture.

Mr. President, this bill represents a compromise measure which, in my opinion, does not go as far as I would like. But what the bill does do is reestablish once again the constitutional acceptability of the death penalty in certain cases where there are aggravated violent crimes and crimes which threaten the security of our Nation.

The death penalty must be restored if our criminal justice system is to effectively control the increasing number of violent crimes of terror. The confidence of the American people in our criminal justice system must also be reclaimed and the imposition of the death penalty can restore such confidence.

Mr. President, people who commit violent crimes have forfeited their own right to life. Justice demands that such inhuman action cannot be tolerated. This bill would reestablish the death penalty in certain instances and, I hope, provide protection for the innocent victims of violent crimes.

Mr. President, I strongly support this bill and urge my colleagues in the Senate to once again approve it in prompt fashion.

Mr. ROTH. Mr. President, I am pleased to join the distinguished Senator from Arkansas as a cosponsor of a bill that reinstates the imposition of the

death penalty for certain serious Federal offenses.

Mr. President, vicious and violent crime is a constant threat in the life of every American. A great many of our citizens are faced with a daily concern for their own safety and security. The recent wave of fear that struck our Nation's Capital is a prime example of intolerable terrorism and crime that occurs in our streets.

Senseless and horrible crime must be stopped. In order to preserve an ordered society, we must punish the predatory and premeditated actions of those criminals who commit serious crimes.

The jurisdiction of the Federal Government in law enforcement is limited. In our system, law enforcement is primarily a local and State responsibility. The Congress, however, can and must provide strong leadership in this area. Through this legislation, we can not only provide a needed law enforcement tool for Federal agencies, but also encourage local governments to adopt a stern stiff position on crime.

In the past, I have supported the death penalty as it applies to aggravated crimes of violence. I sharply disagree with those who believe such punishment does not serve as a deterrent. The use of certain, swift, and severe punishment—applied fairly and without discrimination—is a powerful potent deterrent. Critics of capital punishment often present elaborate statistical evidence comparing murder rates in States with and without the death penalty and comparing periods of abolition of the death penalty with periods of restoration in the same State.

However, one must remember that those persons who are, in fact, deterred by the threat of the death penalty and do not commit a serious crime are not included in this statistical data.

The death penalty does have a unique deterrent effect. Law enforcement and prison officials report widespread evidence from candid conversations with convicted criminals showing that the death penalty does in fact influence criminal behavior. A study once done by the American Bar Association showed that criminals captured after having committed an offense punishable by life imprisonment refrained from killing their captive even though they might have succeeded in escaping. These prisoners were willing to serve a life sentence, but unwilling to risk the death penalty.

Mr. President, we must correct and strengthen the machinery of our criminal justice system. We need to devote more attention to the victims and potential victims of crime. Society in order to prosper and survive must fulfill its obligation to assure the safety of law abiding citizens.

In early July 1976, the U.S. Supreme Court issued five opinions which comprehensively dealt with the constitutionality of capital punishment and with the procedures under which it can be properly imposed. The Court struck down mandatory capital punishment, but ruled that the death penalty does not per se violate the eighth amendment, prohibition against "cruel and unusual punishment." The legislation introduced today follows the procedures dictated by the Supreme Court. It assures that the defendant is afforded every protection and legal safeguard that is mandated by the Constitution.

Mr. President, I commend Senator McCLELLAN for his effort. While the proposed legislation is but part of an overall solution to the crime problem, I believe it is an essential part.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The majority leader has 1 minute remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield my minute to the Senator from Nebraska. That will give the minority leader time to get to the floor.

Mr. DANFORTH. Mr. President, I have been instructed by the minority leader to yield his time as well, to the Senator from Nebraska.

Mr. CURTIS. I am grateful to the leadership. I did not expect such recognition.

REORGANIZATION OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. CURTIS. Mr. President, I rise to express grave misgivings over both the method and the substance of the massive reorganization now underway at the Department of Health, Education, and Welfare.

In office less than 2 months at the time of the reorganization announcement on March 8, the Secretary—by his own admission—has put in motion what he calls "the most far-reaching reorganization in the Department's 24-year history." With a budget of $160 billion and over 142,000 employees, Mr. Califano, by administrative decree, fundamentally is affecting not only all of these employees and dollars but the millions of Americans whom they serve. I would not deny—and might even applaud—his wish to reorganize the massive Department which he heads, but I do question the wisdom and the procedure which was followed in this case.

Notwithstanding his previous involvement in Government, how has it been possible for the Secretary to deal with all of the complexities of hospital cost containment, social security financing, welfare reform, medicaid and medicare fraud and abuse, and redirection of budget priorities, while at the same time preparing, completing, and announcing such a massively pervasive reorganization, all in 2 months' time?

How thoroughly has he contemplated and reviewed the incredible impact this reorganization will have upon the manifold HEW programs, the employees who administer them, or the constituencies which they serve? How carefully has he assessed the implicit and far-reaching policy effects these organizational changes will have? What new directions, new emphases, new courses of action are thus set in motion, which it will be very difficult for the Congress or even the electorate to alter if that proves to be necessary?

Let me detail some of my specific concerns:

Placement of cash assistance programs in the Social Security Administration. Means-tested programs are proposed to merge with trust fund programs. The agency which foundered under only the addition of the SSI program, which continues to be error plagued, is now to take on all cash-assistance programs. The massive bureaucracy which is Social Security must now struggle not only with its own major deficit problems but the task of supervising the administration of needs-tested programs as well. Further implications relative to General Fund financing of Social Security, or wholesale expansion of groups eligible for public assistance, emerge in this suggested change. Fundamental questions concerning Social Security's ability to deal with welfare-type issues—for example, child support, social services, or monthly redeterminations—are further raised.

Placement of all human development and social services programs in an expanded Office of Human Development. As cited above, how will social services, in one section of HEW, relate to cash assistance, now in far-off Baltimore? How will information and referral occur? How will States, already struggling with the need to relate to numerous HEW entities, bridge this gap? How will recipients relate to SSA and OHD? How will the congressional emphasis upon targeting services to current, former, or potential welfare recipients be fulfilled?

Combination of medicaid and medicare in one Health Care Financing Administration. Again, it appears most unwise to mix needs-tested and trust fund programs in such an imprecise fashion. Is medical care for welfare recipients any less a component of their needs standard than other elements within it, such as food and housing? Does the Secretary support an even further fragmentation of administrative responsibility for public assistance so that the latter two elements would also be split off and administered even more than they are now by USDA and HUD? Will the categorical linkage for medicaid no longer remain? Will all standards and payment levels become the same?

These questions simply suggest, Mr. President, the depth of my concern. I am concerned, as well, about three other implications or questions related to the reorganization. First, I am convinced that the widely heralded savings of over $1 billion will be illusory. I would be interested in seeing figures from the Department that demonstrate that savings, not added costs, accompany the reorganization. Second, I am concerned that the reorganization will make administrative relationships in fact more complex. State agencies, who must administer welfare, had but one entity to respond to previously: the Social and Rehabilitation Service. Now they have three: the Social Security Administration, the Health

Care Financing Administration, and the Office of Human Development. A simple request to HEW for a copy of the AFDC, medicaid, and social services regulations by my staff was greeted recently by the response that this would involve contacting three agencies rather than one. Third, and most important, it is clear that the administrative moves are designed to enhance the drive for a guaranteed annual income and national health insurance—well in advance of even any consideration by the Congress. Certainly, the taxpayers of this Nation will not be fooled by promises of short-range reorganization savings when the long-range fiscal and policy implications of the administration shuffle became increasingly and painfully clear.

Mr. President, the Richmond News Leader summed up these concerns in a recent very eloquent editorial. I ask unanimous consent that it be printed in the RECORD.

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

[From the Richmond News Leader, Mar. 25, 1977]

REFORM AT HEW?

On March 8, Joseph Califano, Secretary of Health, Education, and Welfare, announced a major reorganization of his department. Califano's fiefdom thus became the first federal agency to fulfill Jimmy Carter's pledge to "reorganize and reform" the bureaucracy.

That the monster called HEW needs a dose of reorganization cannot be denied. But despite official claims that the restructuring may save $1 billion during the next two years, it is doubtful that the American people will appreciate Califano-style reform.

The consolidation of several agencies is central to the reorganization effort. Medicare (now run by the Social Security Administration) and Medicaid (run by the Social and Rehabilitation Service) henceforth will be managed by the Health Care Financing Administration. The Social Security Administration is to assume control of all federal cash assistance programs.

Now, consolidation sounds like a good idea—and indeed it may slightly reduce fraud and abuse. But the mechanics of this plan suggest that the reorganizers have a lot more on their minds than merely saving the taxpayers some money. In fact, Califano's nostrum could be a prelude to national health insurance and a national incomes program.

There is a fundamental difference between Social Security retirement checks and welfare hand-outs. Retirement benefits are supposed to represent returns of the contributions of individual workers. That is not the case with welfare. The recipient receives money, but he has not contributed any money in the past.

The same distinction holds true for Medicaid and Medicare. One is straight welfare; the other requires patient participation. The danger in Califano's plan is that it obliterates these differences. It lumps proud pensioners and welfare recipients into the same indistinguishable category.

And when Social Security and Medicare become just two more welfare programs, then the march towards national health insurance and a guaranteed annual income will intensify. After all, once senior citizens and the indigent receive the same benefits, who will oppose making those programs mandatory for everyone?

In his rush to reorganize everything under the federal umbrella, Califano apparently has forgotten that there are other ways to cut abuse, to improve delivery of necessary services, and to insure the integrity of the Social Security system.

For example, he could have considered farming out federal health programs to private insurers. The government's record on abuse and cost control is abominable, because it never has had sufficient incentive to hold down expenses. If the Carter-Califano team wants to save money, it should put the feds out of the health business.

What's more, Social Security should remain independent of partisan pressures. Many Americans ought to know that vote-seeking politicians and social-engineering bureaucrats cannot tamper with their contributions. But the HEW plan disregards this. Rather than combining Social Security with other assistance programs, the administration should have been investigating ways to guarantee Social Security's independence.

Finally, the consolidation effort neglects the soundest reform of all: Cutting back. The single most effective way to increase government efficiency is to reduce government expenditures. It gives the taxpayers little solace to hear about grand cost-saving schemes when HEW's budget is *increased* by more than $1 billion—and that is precisely what the President's revised budget proposes to do.

No, the HEW reorganization is not a scenario for reform. It is just another way to slip expanded programs past the taxpayers. Califano should be told to go back to the drawing board.

Mr. CURTIS. Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. BAKER. Mr. President, is there any time remaining to me under the standing order?

The ACTING PRESIDENT pro tempore. Ten minutes are remaining to the distinguished minority leader.

Mr. BAKER. Mr. President, I have no requirement for the time and no request. I yield back the remainder of my time under the standing order.

The ACTING PRESIDENT pro tempore. All time is yielded back.

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, appoints the following Senators to attend the sixth session of the Third United Nations Conference on the Law of the Sea, to be held in New York, N.Y., May 23–July 8, 1977: The Senator from Maine (Mr. MUSKIE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New Jersey (Mr. CASE), the Senator from Texas (Mr. TOWER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Alaska (Mr. STEVENS).

TAX REDUCTION AND SIMPLIFICATION ACT OF 1977

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 3477, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 3477) to provide for a refund of 1976 individual income taxes, and other payments, to reduce individual and business income taxes, and to provide tax simplification and reform.

The Senate resumed the consideration of the bill.

Mr. DANFORTH. Mr. President, in the last 2 days there has been a substantial amount of discussion about the so-called permanent tax cut, which is the thrust of amendment 200, as modified.

I think most points have been pretty well made to date, but I shall avail myself of this opportunity to clear up a few matters which I think maybe have not received adequate attention.

First, it is important to understand that the question of a permanent tax cut should not be a partisan issue. It is true that last January a group of Republican Senators began meeting about the subject of the economy and what steps can and should be taken by Congress to try to put the American people back to work.

That group last January of some Republican Senators began moving on the subject of the economy and through a series of meetings with an increasingly larger number of Republican Senators fashioned what we took to be a comprehensive program for creating approximately 2 million additional jobs by the end of 1978, which we felt were lasting jobs.

We thought that this was something more than the typical partisan exercise, because so often the role of a minority party is to simply be negative and to attack the proposals of the administration and of the majority party.

But it was clear to most of us that the people of our constituencies did not elect us simply to be partisan figures, and not to be negative, and not always to be presenting ideas which would be only minority ideas and doomed to failure.

So it was with a constructive spirit that we devised a proposal which we felt, and economists agreed with us, would be helpful in trying to bring recovery to an economy which was doing very poorly.

The so-called permanent tax cut which we are proposing in this amendment is derived from a piece of that Republican program in that the original package that we put together contained within it a permanent tax cut, but it was a rate reduction which was substantially larger than the one now under consideration in amendment 200, as modified.

What has happened in the present amendment 200 is that Senator JAVITS and I then considered the changes in the standard deduction as those changes came out of the Finance Committee and developed a rate reduction which could be integrated with the alteration in the standard deduction.

It was never our view that amendment

No. 200 should be viewed as a partisan matter, but, rather, as a proposal which was worthy of bipartisan support.

I am confident that there are some members of my party who will not support this amendment, but I hope that on the other side of the aisle this proposal will be viewed on its merits, because it has been put forward as a proposal which deserves consideration on its own merits.

It is important to underscore the fact that this amendment does integrate a rate deduction with changes in the standard deduction as found in the bill reported by the Finance Committee. The Finance Committee addressed itself at great length to the question of the standard deduction. The changes in the standard deduction are supported by the administration. Changes in the standard deduction in the case would bring further simplification to the Internal Revenue Code and would go some distance in redressing the problem of the so-called marriage penalty.

The marriage penalty, as it is called, means that the way the standard deduction is written now, it sometimes pays people to remain single rather than to get married, because twice the standard deduction for a single person exceeds the standard deduction for a married couple on a joint return.

So what we have done is to integrate with the changes in the standard deduction, as they have come from the Finance Committee, additional rate deductions for the first $20,000 of adjusted gross income; and this integrated proposal is incorporated in amendment 200, and that is the issue which very shortly—that is, tomorrow—will be before the Senate for a vote.

I have made the point over the last 2 days that the lion's share of this amendment and the tax savings under this amendment are designed to benefit taxpayers in the low-income and middle-income brackets. But I think it is important to note and only fair to note that the portion of this proposal accounted for by rate reductions alone differs in percentages somewhat from the portion of this proposal accounted for by changes in the standard deduction.

So that if you consider only the rate cut portion of this proposal, 85 percent of the tax saving attributed to the rate cut alone is designed for taxpaying entities with adjusted gross income of $30,000 or less; whereas, the total benefit of amendment No. 200, as it has been modified, including both the rate cut and the standard deduction feature of the proposal, amounts to 91 percent of the benefits going to taxpaying entities with adjusted gross income of $30,000 or less.

Finally, I should like to address myself to what is known as the indexing proposal, or the indexing problem, and how this fits in with that idea.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on an amendment to this bill which will be offered later today by Mr. CHURCH and Mr. DOMENICI.

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

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

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

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the amendment by Mr. DOMENICI and Mr. CHURCH occur today at 3:50 p.m.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that throughout the remaining deliberations on the tax bill today—including votes—and whatever days it continues, Judy Hefner, a member of my staff, have the privilege of the floor.

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

COMMITTEE MEETINGS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the standing rule of the Senate as encompassed in the Stevenson resolution, all committees may meet during the session of the Senate for a period of the first 2 hours, without consent. Hence, all committees may meet tomorrow, if the Senate convenes at 10:30 a.m., until 12:30 p.m., without consent.

I now ask unanimous consent that, in addition, all committees may meet tomorrow during the session of the Senate, beginning at 2 p.m., with the exception of the Committee on Energy and Natural Resources.

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

Mr. ROBERT C. BYRD. I thank the minority leader, and I thank the Senator from Missouri for yielding.

TAX REDUCTION AND SIMPLIFICATION ACT OF 1977

The Senate continued with the consideration of the bill (H.R. 3477) to provide for a refund of 1976 individual income taxes, and other payments, to reduce individual and business income taxes, and to provide tax simplification and reform.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Missouri may hold the floor for an additional 10 minutes, after which the Senator from Idaho (Mr. CHURCH) be recognized to call up the amendment which he and Mr. DOMENICI are sponsoring.

Mr. CHURCH. Mr. President, will the Senator withhold that for a moment, so that I may request unanimous consent to call up the amendment following the conclusion of the remarks by the distinguished Senator from Missouri?

Mr. ROBERT C. BYRD. I include that in the request.

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

The amendment will be in order.

The Senator from Missouri is recognized.

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. DANFORTH. Mr. President, I yield to the Senator from New Hampshire.

Mr. McINTYRE. I thank my distinguished colleague.

Mr. President, I rise to express my disappointment over the way we are handling the President's tax package and to speak in support of the amendment offered by the Senator from New York (Mr. JAVITS).

As early as last November, I contacted President Carter urging him to give serious consideration to a single one-time tax rebate to stimulate a faltering economy. On January 31, President Carter recommended a tax stimulus package which included a $50 rebate along with several business tax reductions.

In January, of course, the severe cold weather experienced throughout the country was giving all of us grave concern as to its economic impact. But that was several months ago. Since that time economic indicators have improved somewhat and some who warmly supported a tax rebate in midwinter have let their ardor cool off as the weather warmed up. Well, Mr. President, those economic indicators are welcome, of course, but I do not find them reassuring enough to abandon the case for a tax break to keep economic recovery alive.

But it is clear now what has happened. Our banking and industrial communities have launched a massive campaign to sell the argument that tax rebates to the citizens of this country would be inflationary but tax reductions for business would not. I not only question this reasoning, I think reducing business taxes without giving individual citizens an equal break would be unconscionably unfair. As we all know, the assault on the rebate has been successful. The week before last, the President reversed himself and abandoned the $50 individual tax rebate. But at the same time, and I em-

phasize this point, President Carter also proposed eliminating the business jobs tax credit and the increase in the investment tax credit.

The Senate, however, apparently does not follow the logic that business tax credits should be tied to individual taxpayer relief. Last week, on a lopsided 74-to-20 vote, the Senate in its wisdom determined that the American business community was deserving of tax reductions but that the American citizen was not.

Mr. President, last week I was one of the 20 Senators to vote for recommittal of the bill to committee with instructions to delete the business tax credits. Failing that, I have consistently voted not to expand the present legislation. I voted against my good friend from Colorado (Mr. HASKELL) in his successful attempt to enlarge the jobs tax credit. I voted to place a cap on the tax credit and I will continue through the debate on this bill to vote against those proposals enlarging business tax reductions.

I do not believe, Mr. President, the American people can be convinced that tax reductions are fine for business but wrong for them. With the exception of the increases in the standard reduction, which I supported in a floor statement February 4, what we have before us is a business tax reduction bill. How can I or my colleagues in this body seriously justify sending to conference a piece of legislation that will provide billions of dollars of tax relief for our business community while ignoring the pressing tax burden on our citizens?

I must state my belief that general tax reductions should be part of a comprehensive tax reform bill. And the legislation before us certainly is not that. We are debating a piece of legislation that can no longer be justified. Either we have a rebate together with business tax reductions, or we should have no bill. If this legislation is passed without general tax relief, then we should all be prepared to explain to the American people how we justified a tax reduction for the American business community but could not justify a tax reduction for them.

I thank my distinguished friend for yielding time to me.

Mr. BAKER. Mr. President, will the Senator yield to me briefly?

Mr. DANFORTH. If I have any remaining time I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri has 4 minutes remaining.

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

Mr. DANFORTH. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I only wanted to take a brief moment to say to the distinguished Senator that I thought his statement was cogent, convincing, and I am delighted to hear his position and his remarks on an issue of such importance. I commend him for his courage in this respect.

Mr. McINTYRE. I thank my good friend from Tennessee.

Mr. DANFORTH. Mr. President, I add my word of commendation to the Senator from New Hampshire. Really this is a question of providing tax relief for low-income, middle-income taxpayers, and it is interesting to note that without this and, as a matter of fact, even with it, over the next couple of years the real tax rate for this group of middle-income and low-income taxpayers is going to be increased; that is, even without any increase in tax rates these people are going to be pushed into higher tax brackets.

This amendment, at least on a temporary and partial basis, does something toward indexing tax rates for middle- and low-income taxpayers to take account of the effect that inflation has of pushing them into higher tax brackets.

So I add my word of commendation to the Senator from New Hampshire for the position he has taken. This indeed is not a partisan measure at all. It is a measure designed to do two things: One, to put more people back to work in an economy that is still very sluggish, to say the least; and, second, to offer a measure of relief to those taxpayers who can least afford the effect of high rates of inflation and high rates of taxes at the same time.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

AMENDMENT NO. 190

Mr. CHURCH. Mr. President, I send to the desk my amendment No. 190 and ask that it be read.

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

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) for himself, Mr. DOMENICI, and other Senators proposes amendment No. 190.

The amendment is as follows:

At the appropriate place insert the following new section:

SEC. . ELECTION OF FORMER RETIREMENT INCOME CREDIT PROVISIONS FOR 1976.

Section 37 (relating to credit for the elderly) is amended by redesignating subsection (f) as (g) and by inserting after subsection (e) the following new subsection:

"(f) ELECTION OF PRIOR LAW FOR 1976 RETURNS.—A taxpayer may elect (at such time and in such manner as the Secretary shall prescribe) to determine the amount of his credit under this section for his first taxable year beginning after December 31, 1975, under the provisions of this section as they existed before the amendment made by section 503 of the Tax Reform Act of 1976.".

Mr. CHURCH. Mr. President, this amendment would give taxpayers 65 years or older the option to claim for taxable year 1976 either the former retirement income credit or the new elderly credit.

Last year's Tax Reform Act, in effect, replaced the retirement income credit with two types of credits, depending upon the taxpayer's age and sources of income.

For taxpayers 65 or older, a 15-percent credit for the elderly is available for all types of income, up to $2,500 for single persons and $3,750 for couples filing jointly. Single persons with $2,500 in qualifying income can reduce their tax liability by $375, $2,500 multiplied by the 15-percent credit. An elderly couple entitled to the maximum credit can subtract $563 from their taxes, $3,750 times 15 percent.

These maximum amounts for computing the credit, however, are reduced dollar-for-dollar by social security benefits, railroad retirement annuities, and other tax-exempt pensions. In addition, there is an income phaseout provision, which reduces the maximum amounts for computing the credit by $1 for each $2 of adjusted gross income above $7,500 for individuals and $10,000 for couples.

The effect is that the credit is eliminated entirely for taxpayers with adjusted gross income of $12,500 for individuals and $17,500 for qualifying couples.

Persons under 65 are eligible for a retirement income credit, provided they receive a public pension or annuity. They may also claim a 15-percent credit, but only on up to $2,500 in qualifying pensions or annuities for individuals and $3,750 for elderly couples.

These amounts are also reduced by tax-exempt retirement benefits and earnings, depending upon the amount and the taxpayer's age. However, there is no income phaseout provision, as now exists for the elderly credit for persons 65 or older.

For most eligible older Americans, the new elderly credit provides additional tax relief. Some, though, have been adversely affected by the income phaseout provisions.

Every Senator in this Chamber, I am sure, has received letters from retirees 65 or older who have had their credit either reduced or eliminated because of the changes in the 1976 Tax Reform Act. Yet, these same individuals would, in many cases, be entitled to claim the credit if they were under 65.

The Tax Reform Act, which became law in October 1976, made these changes effective retroactively to January 1976 for individuals 65 or older.

Now, many moderate-income pensioners 65 or older—particularly those in the $10,000 to $17,000 income bracket—are discovering that their credit is either reduced substantially or eliminated entirely because of the income phaseout provision in the Tax Reform Act. Yet, these individuals can ill afford a retroactive tax increase.

The National Retired Teachers Association-American Association of Retired Persons sum it up well when they say:

As a matter of principle, our Associations are vehemently opposed to any retroactive increase in income tax liabilities resulting from the enactment of legislation after the start of a taxable year. We think that retroactively increased tax burdens constitute bad tax policy and erode the confidence of our own citizens in the fairness and sensitivity of their Government.

My amendment is similar to the approach adopted by the Senate Finance Committee in protecting persons entitled to the sick-pay exclusion from being adversely affected by the retroactive application of the Tax Reform Act. It would also protect taxpayers—in this case elderly retirees living on low or

moderate incomes—from being penalized by the retroactive application of the elderly credit. It would not, however, grant any additional tax relief, but would simply protect them from having their taxes raised retroactively.

This approach has another important benefit. It would provide additional time for the two tax writing committees—the Senate Finance Committee and the House Ways and Means Committee—to reexamine the difference in treatment for taxpayers 65 or older and those under 65.

I recognize that elderly taxpayers must file amended returns to claim the retirement income credit. This will add to the administrative problems already confronting the Internal Revenue Service. This is certainly an important consideration when tax policy is concerned, but it clearly should not have a greater priority than tax equity.

The retroactive application of the age credit will cost persons 65 or older $30 million in lost tax relief in fiscal year 1977. Most older Americans did not become aware of the harmful effects of the retroactive application of the income phaseout provisions for the elderly credit until well after the fact, when it was too late to do anything. Older Americans—especially those living on limited incomes—can ill afford to lose tax relief measures.

The National Association of Retired Federal Employees and the National Retired Teachers Association-American Association of Retired Persons strongly support the enactment of my proposal. Both associations are ready, willing, and able to assist their members in claiming the credit.

Mr. John McClelland, president of NARFE, emphasized:

Again I offer your amendment the full support of this Association. Let me further assure you that NARFE would use all its publication resources to advise our 275,000 members of your amendment and inform this group of steps necessary to utilize the option if enactment is attained.

Mr. Peter Hughes, legislative counsel for NRTA–AARP made a similar offer of assistance:

. . . our Associations will make every effort to inform those who would benefit through our News Bulletins, which have combined circulation in excess of 10 million. In addition, we shall do all we can to assist these elderly persons in filing amended returns through our tax aid program which operates nationwide and which is expected to provide tax counseling assistance to 500 thousand elderly taxpayers in the current tax filing season alone.

For these reasons, I urge the adoption of my amendment.

I offer the amendment on behalf of myself, the ranking Republican member of the Committee on Aging (Mr. DOMENICI), and 57 other cosponsors. I ask unanimous consent that the list of cosponsors be printed in the RECORD at this point.

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

COSPONSORS OF CHURCH RETIREMENT INCOME CREDIT TO H.R. 3477

Domenici, Humphrey, Clark, Stone, Williams, Abourezk, Brooke, Pell.

Eagleton, Huddleston, Leahy, Melcher, Hatfield, Kennedy, McIntyre, Eastland.

Matsunaga, Bayh, Sarbanes, Chiles, Chafee, Mathias, McGovern, DeConcini.

Heinz, Inouye, Anderson, Percy, Culver, Randolph, Javits.

Cannon, Jackson, Ford, Riegel, Glenn, Stafford, Bumpers, Weicker.

Case, Ribicoff, Thurmond, Sasser, Moynihan, Biden, Bentsen, Burdick.

Gravel, Durkin, Hart, Hayakawa, Hollings, Schweiker.

Nelson, Metcalf, Johnston, Hathaway, Zorinsky.

Mr. DOMENICI. I am pleased, Mr. President, to cosponsor amendment No. 190 with Senator CHURCH and 57 other cosponsors. This amendment would give taxpayers 65 years of age or older the option to claim for taxable year 1976 either the former retirement income credit or the new elderly credit.

Mr. President, the purpose of the amendment is to protect older persons from being penalized by the retroactive application of the elderly credit as initiated in the Tax Reform Act of 1976. This approach is similar to that adopted by the Senate Finance Committee in protecting persons entitled to the sick pay exclusion from being adversely affected by the retroactive application of the sick pay exclusion.

I believe that it is a violation of public trust to pass significant legislation which is retroactive, which disregards the taxpayers' need for a major financial adjustment. As it is, should this measure be enacted into law, elderly taxpayers earning income will be required to file revised tax returns for 1976 if they wish to take advantage of any former benefits to which they may have been entitled. I certainly appreciate the supportive pledges of Mr. McClelland, president of the NARFE, and Mr. Hughes, legislative counsel for the NRTA–AARP, to use their publications to inform their membership of this proposed change.

Mr. President, the cost of this amendment will be approximately $30 million in fiscal 1977. Obviously the cost to the National Treasury is relatively minimal when considering the individual circumstances of the estimated 165,000 low- to moderate-income pensioners who are discovering that their credit is either reduced substantially or eliminated entirely on a retroactive basis. I agree with Senator CHURCH that these individuals can ill afford a retroactive tax increase. Furthermore, the passage of this amendment would allow the Finance Committee and the Ways and Means Committee to consider alternatives for correcting some of the flaws in the 1976 Tax Reform Act concerning the new elderly credit.

So, Mr. President, I commend the distinguished senior Senator from Idaho for introducing this amendment, and it is my pleasure to be a cosponsor. I think the fact that 59 Senators have cosponsored it speaks for itself. I am not again going to go into the substantive reasons that justify this amendment. Suffice it to say that a very good lesson is learned through this legislation.

I am not one who claims to be expert, nor am I preaching, but it seems to me that to adopt retroactive tax laws is a very risky policy for this Nation at best. When you apply it to fixed income senior citizens who have been entitled to a certain credit for a number of years, then it leaves the arena of being risky and becomes a very significant deterrent to credibility on their part.

These people are not the type who can adjust their income here or there, or who can expect to make more money. They have been relying for years on a certain kind of credit that they have been entitled to under our laws. Needless to say, they are over 65 by definition, and when they begin to fill out their returns, they find all kinds of problems. If they are under 65, they got the credit, if they are over, they did not; which seems to be something very inconsistent in terms of American policy. Likewise, they went through a year planning their small investments, only to find we changed the rules of the game in midstream.

So it appears to me that while many parts of America's constituency are involved, the number of affected senior citizens is probably around 165,000 people who are going to be, and are entitled to be, chagrined and angry at us for doing this to them. Many of them have already filed their returns; as the Senator said, they will have to apply for a refund. Probably many of them will not, but they should, and I hope they will.

When we pass this amendment, I am sure the rollcall vote will indicate significant support for it, and then they will know that as soon as we found out about it and had the opportunity to change it, we did. I think that is important for these members of the American public to gain a little bit of faith and credence for the American system of government and taxation.

I thank the Senator from Idaho for yielding the floor.

Mr. CHURCH. Mr. President, may I say to the Senator from New Mexico how much I appreciate his support. This amendment would simply do equity for older people by eliminating the retroactive effect of the changes that were made in the retirement credit last year.

I think, in all fairness, Congress did not intend to impose those changes retroactively. But in several places in the bill the effective date was made January 1976 instead of January 1977. This amendment merely adopts the same formula that has already been approved by the Finance Committee in its treatment of the sick pay exclusion provisions, and the foreign earned income exclusion. In those cases, the effective date is changed to eliminate the adverse impact of the retroactive application, and we would do the same thing for the elderly.

Mr. President, it is my understanding that this amendment will be voted on at 10 minutes to 4, under the unanimous-consent order.

The PRESIDING OFFICER (Mr. TALMADGE). The Senator is correct.

Mr. CHURCH. I thank the Chair.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Is there a time limitation agreement?

The PRESIDING OFFICER. There is no control of time. A time certain has been agreed upon to vote, at 10 minutes to 4. The Senator may speak on his own time.

(Remarks made by Mr. KENNEDY at this point in connection with the introduction of a bill are printed in today's RECORD under statements on bills and joint resolutions.)

Mr. KENNEDY. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. LONG. With reference to Senator CHURCH's amendment, I find it my duty to report that the Treasury Department is opposed to the amendment for a number of reasons. One reason is that last year, we liberalized the retirement income credit for the benefit of the overwhelming majority of people who enjoy the benefits of that provision, and the Treasury sustained a loss of $390 million as a result of liberalizing and simplifying the retirement income credit so that it would be useful to the elderly people of this country.

There were a relatively small number who were adversely affected by the Tax Reform Act's changes in the credit. Those are single people who had retirement income over $12,500 and married persons, who had retirement income over $17,500. The retirement income credit is completely phased out at those figures. It should be pointed out that what we did with the Tax Reform Act for the overwhelming majority of the elderly people, particularly those at the lower level of the income scale, was to increase it, to simplify it and also to streamline it, to their advantage.

We have no apologies to make for what we did in changing the retirement income credit last year, nor does the Treasury. The Senator from Idaho (Mr. CHURCH) and his cosponsors do make a point that, to some extent, the change was retroactive and that a relatively small number of people were adversely affected. I find some sympathy for the argument, although I must say that it will be very complicated for people to take advantage of the Church amendment. First, they will have to compute what their retirement income credit for 1976 is under the new law, which is the one that is simpler and was designed to make it easier for people to claim the credit. Then they will also have to compute what their retirement income credit would have been under the old law, which was horribly complicated. Then they will have to compare the two figures. Then they would claim—presumably—the one that would be more to their advantage. A lot of people who, hopefully, would benefit from the Church amendment will simply find it too complicated to fool around with it, because it will be necessary for them to apply for a refund. In any case, many would find it very complicated to take advantage of it and many would find that they do not benefit at all.

So the amendment does leave something to be desired. However, I am attracted by the arguments against the retroactive aspects of the changes in the credit and I may vote for the amendment myself when it comes to a vote before the Senate. I just want Members to understand that there is a Treasury Department objection to the amendment and that there is some merit to the Treasury position against this.

Mr. President, on a different subject, I point out that, contrary to what we heard or, at least, read in some of the publications of this country, the bill that is before us does contain what I believe to be very good balance.

Mr. President, I ask unanimous consent that a letter and a table explaining the breakdown of the tax reduction in this bill, and the extent to which the cut is divided between individuals and businesses be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., April 26, 1977.

DEAR COLLEAGUE: The charges that this bill before us is lopsided towards business is completely without merit. Most of the tax cuts go to individuals and even the parts that go to business are conditioned on business activity which provides jobs to individuals.

This bill contains the tax reductions as follows:

Reductions for calendar 1978 (billions)

Individuals:	
Standard deduction	$6.0
Extension of earned income credit	1.3
Extension of general tax credit	10.6
Total individual (77.2 percent)	17.9
Business:	
Investment credit	1.4
Jobs credit	1.6
Extension of small business cuts	2.3
Total business (22.8 percent)	5.3

Two-thirds of the new tax cuts in the bill ($6 billion out of $9 billion) goes to individuals through an increase in the standard deduction. This provision also involves a major simplification of the tax returns which individuals will have to file next April 15 and will increase the percentage of taxpayers who will not have to itemize their deductions to 76 percent. Eighty-one percent of this $6 billion tax cut goes to individuals with incomes below $15,000. A family of four with income of $8,000 would get a tax cut of $174.

Even without the $50 rebate, the bill provides tax relief for low and middle income individuals, simplifies the tax forms and attempts to deal with the problems of unacceptably high unemployment and inadequate business investment. The legislation deserves to be passed as quickly as possible.

Sincerely yours,

RUSSELL LONG,
Chairman, Senate Finance Committee.

Mr. LONG. The tax reductions in this bill for individuals are 77.2 percent of the reduction, and those individual tax reductions are directed toward the low- and middle-income people. For example, there is a $6 billion reduction in taxes by the simplification and the streamlining of the standard deduction. That amounts to a tax cut of $174 for a four-person family with income of $8,000. The change in the standard deduction is mainly geared to middle- and low-income taxpayers, because those are the ones who tend to use the standard deduction.

There is also a tax reduction of $1.3 billion through an extension through 1978 of the earned income credit. This entirely benefits the poor. This is a provision that I have worked for and supported for years. It makes work more attractive than welfare for the working poor.

We would like to find a way to get more low-income people to come in and apply for it. It occurs to the Senator from Louisiana that perhaps we could amend the bill so that the employer would apply for the earned income credit for the benefit of his employee, so that there would be a better prospect of the employee getting it. The way it stands now, there are altogether too many poor people, who either do not understand it or are reluctant to come in and claim it, who are not getting the benefit of the earned income credit. At any rate, Mr. President, that $1.3 billion is entirely for the benefit of poor people who have children.

The bill also contains an extension through 1978 of the general tax credit of $10.7 billion. This also helps low- and middle-income taxpayers.

Of course, two of these individual tax cuts are extensions of existing law, but they would expire in January were they not extended. Adding it all together, 77.2 percent of the tax reductions are geared to individuals, with an emphasis on low- and middle-income taxpayers, where the need for a tax cut is greatest.

Then, Mr. President, we look at the so-called business advantages in this bill. The investment tax credit would cost $1.4 billion. In order to get that, for every dollar of advantage that a businessman gets, he would have to spend $8 in buying new plant and equipment, which puts people to work. The investment tax credit thus far has proved the most effective stimulant that Congress has found, or that any President has recommended, to get the economy going and put people to work.

Some time ago, the Senator from Louisiana was asked that that provision be repealed because it seemed to be overheating the economy.

I was amazed at that time to find overwhelming protest from the labor leaders of my State because they were finding jobs in the construction trades for all their workers in the area building new plants. They were very much upset with their Senator in that he seemed to want to repeal a provision they felt, and rightly so, was playing a major part in building new plants and creating new jobs for construction labor in that area.

There is a lot to be said for the fact

that the investment tax credit provides jobs.

Now, the $1.6 billion for the jobs credit is almost entirely for small businesses. Much of it is to the little mom and pop grocery stores and small cafes, the filling stations, small businesses generally. Businesses do not get the benefit of that credit unless they hire more people and expand their payroll.

So it is not really the employer who is getting the benefit of that tax cut. It is the person he employs. In other words, by making it more attractive taxwise for a company to hire a marginal employee—someone they have not needed to that point—we estimate we can add somewhere between 200,000 and 400,000 additional jobs.

While it is listed as something to help business, the jobs tax credit is really something that is largely going to go to the benefit of those who are working.

Most of these people for whom we hope to provide jobs as a result of the jobs credit are presently drawing unemployment insurance payments. Reduced outlays for unemployment insurance and increased taxpayments by newly hired employees will offset much of the revenue lost by the jobs credit.

The revenue estimate of a loss of $1.6 billion does not take account of what we save by taking people off the rolls of the unemployed. Nor does it take into account that we will be saving money by taking people off the welfare with this provision and putting them in jobs where their families will have substantially more income, perhaps three or four times as much in working at a job, than what that family would have if it was simply living on a welfare check.

Then we have a $2.4 billion tax cut through extension of the small business corporate rate cuts.

Mr. President, one will see that of these provisions that affect business, almost $4 billion of the $5.3 billion is directed almost entirely for the benefit of small businesses, and most of that is for the purpose of prevailing on those small businesses to expand and put more people to work.

But look at it as we want to, the overall figures show that more than three-quarters of the overall tax cut goes to individuals. That which goes to individuals favors those in the low- and middle-income brackets and that part which goes to business, which is less than one-quarter, is devised in such a way that most of that benefit will go to the laboring man rather than to the employer.

In other words, if the man does not use the jobs credit provision to hire somebody, then there is to be no tax credit. So if the jobs are not created, then the jobs credit will cost practically nothing, rather than $1.6 billion.

I hope those interested in this matter will consider this fact and I hope our friends in the media will translate that in their stories and in their reports on what is happening here on the Senate floor, because this bill, regardless how we analyze it, is one for the benefit of workers who need jobs; and the benefit to business is only provided to the extent it encourages businesses to move forward and to put more people to work in the areas where jobs are needed.

In due course, Mr. President, we will be discussing this and related items in greater detail. I strongly urge Senators to support this bill and also to help us keep it, to the greatest extent we can, in a fashion such that the President will sign it.

I know of a number of meritorious amendments that could be offered which would increase the cost of the bill. In some respects, that might make it a better bill. But in doing so, they tend to imperil the bill itself. I hope that Senators will save some of their amendments along that line and be willing to offer them and have them considered in connection with the tax reform bill, which we would expect to be a very broad and inclusive bill, when that matter comes before the Senate this fall.

Mr. DANFORTH. Will the Senator yield for a discussion?

Mr. LONG. Surely.

Mr. DANFORTH. My understanding of the Senator's position is that 77.2 percent of this bill is designed to provide tax relief for individuals; is that right?

Mr. LONG. That is right.

Mr. DANFORTH. How much of that 77.2 percent is simply extensions of tax benefits for individuals found in existing law?

Mr. LONG. Let us look at it another way. If the Senator is talking about new items, we have $6 billion in individual tax cuts.

Then we have $3 billion in the investment tax credit and the jobs credit.

But again, I hasten to explain that most of the benefit of that $1.6 billion in the jobs credit, while it appears to be something that is for businesses, is actually going to be largely for the person who gets the job rather than the person who hires the worker.

So if we make that calculation, we still show a figure of three-quarters of the benefit going to the individuals.

Mr. DANFORTH. Hopefully, the purpose of the whole bill, which is supposed to be a tax stimulus bill, is to put people to work.

Mr. LONG. Exactly.

Mr. DANFORTH. Not just to confer benefits on corporations.

Mr. LONG. Exactly.

Mr. DANFORTH. But is it not a fact that, with respect to actual tax relief for individuals, only about $6 billion would be in the form of new tax relief for individuals?

Mr. LONG. That is two-thirds of the new tax cuts in the bill. But let me point out that much of the jobs credit will go to business people who are not incorporated. So while the jobs credit is listed as being something for business, it is not necessarily going to corporations.

Mr. DANFORTH. I understand.

Mr. LONG. A great many of those people are Mom and Pop grocery stores and drug stores, things of that sort.

Mr. DANFORTH. I understand. But talking about personal tax returns and the amount individuals pay in taxes, as the bill stands now, the only new relief found in it is the standard deduction?

Mr. LONG. The jobs credit, to a large extent, does help individuals.

Mr. DANFORTH. I get the Senator's point and, hopefully, it all helps individuals. But with respect to personal taxes——

Mr. LONG. But the point is that while we have the jobs credit listed under business on the sheet which I had placed on the Senator's desk, most of those businesses are not incorporated and they will report their income on individual tax returns, rather than as corporations on corporate returns. So when we talk about individuals, those are small businesses which are filing individual tax returns, rather than corporations.

Mr. DANFORTH. When we are talking about the working person, the blue collar or white collar worker, that would not be of any benefit to those people so long as they are emplyed.

Mr. LONG. It would be a lot of benefit to them in getting a job.

Mr. DANFORTH. But I mean that as to a person who is employed, a person who is now on the tax dollars, the only benefit is in the form of the change in the standard deduction. Is that not right?

Mr. LONG. With the qualification that I explained, it is correct.

Mr. DANFORTH. I understand the qualification.

It is true, is it not, that there are approximately 1.7 million people who actually will have their taxes increased by this bill if a permanent tax cut is not added to it?

Mr. LONG. Yes, but that is a part of an adjustment to reduce the marriage penalty. Insofar as that results in a somewhat greater tax on a relatively small number of single people, who are not low-income people by any means, that is balanced by a greater tax cut for the married couples with children.

Mr. DANFORTH. But as to single taxpayers with adjusted gross income of $13,750 or more a year, their taxes are going to be increased.

Mr. LONG. The Senator is talking about the relatively high income single taxpayers.

Mr. DANFORTH. $13,750 is not too high in this day and age.

Mr. LONG. It certainly is a long way from poverty, and that much income would compare to $27,500 for a couple.

People may differ, but in my judgment it does not make any sense at all to say that two people, living together under the same roof, if married, get only $3,200 of standard deductions, but if they are not married, they get $4,800 of standard deductions—$1,600 more. That would be the effect of keeping the standard deduction for single people of $2,400. In my judgment, that would be an unwarranted discrimination against people because they do what society wants them to do—that is, to formalize their relationship with a marriage contract which imposes obligations and duties upon both parties that the law will respect.

Mr. DANFORTH. But is it not so that the difference between the bill as it now reads, as it came from the Finance Committee, and the amendment that is of-

fered by Senator JAVITS and me is that in both versions we deal with the question of the so-called marriage penalty to the same extent? But in the bill as it now reads, approximately 1.75 million people who are single, with adjusted gross income of $13,750 or more a year, are going to be paying more taxes next year than they paid this year; whereas, under the Javits-Danforth proposal, their taxes will be cut as well.

Mr. LONG. The Senator is talking about a relatively small number of people. I make no apologies for that.

If we are going to have tax reform, we must have the courage to bite the bullet about some of these things, even the differences between the tax advantage for single people and the tax advantage for married people, on what we believe to be a fair basis.

It has been my experience that moral courage is the scarcest commodity among politicians. I have known men in the service who would have the courage to march right into the mouth of an enemy cannon but who did not have the courage to vote for something in politics for fear they might be misunderstood, for fear they might have to explain it to somebody.

In my judgment, it does not make any sense to say that two people, both of them having income and living together, would have the advantage of 50 percent more deductions, in the event that those people avoid formalizing their relationship with a marital contract and have children born out of wedlock, rather than do what society would like them to do, to accept the duties and obligations implicit in a man and woman seeking to live together, to make a life together, and to bring up a family together.

This matter was discussed on a nationwide television program, 60 Minutes, and very few people try to defend it.

Admittedly, a single person making more than $13,750 might pay another dollar or two in taxes, but that is nothing compared to the injustice we would be doing to married people by doing it the other way.

Some say that a politician cannot vote to increase anybody's taxes on any basis. If you believe that, and try to correct the marriage penalty by raising the standard deduction for married couples up to where they have the same tax treatment as single people, it would cost several billion dollars. Under the bill proposed by the Finance Committee, it costs a few hundred million dollars in one case to alleviate the marriage penalty by simply making a modest increase in the taxes paid by a few single people making $13,750 or more. I think that is a situation in which we cannot afford the revenue loss involved in alleviating the marriage penalty in a way that reduces everybody's taxes.

It is this Senator's judgment, the Treasury's judgment, and the President's judgment that we should face up to the fact that tax reform means that some people who are getting the best of it will have to pay a little more while other people get a tax cut.

Mr. DANFORTH. People who make $13,750 a year or more are hardly the privileged few, are they? They tend to be younger people, starting out in life.

Mr. LONG. But a single person making $13,750, as the Senator knows, is a great deal better off than a couple making that amount of money.

At some point, if we are going to have tax reform, we will have to vote for some provisions that some people in middle income brackets might find a little obnoxious. The House had the courage to do that. Last year we handled the matter of sick pay.

If we want the Internal Revenue Code to make sense and if we want to have uniform justice, in my judgment, some of us will have to stand up and vote for what we think is right, even if it is not entirely popular with everybody.

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

Mr. LONG. I yield.

Mr. MATSUNAGA. Mr. President, I rise in full support of the amendment proposed by the distinguished chairman of the Special Committee on Aging the Senator from Idaho (Mr. CHURCH). Moreover, I am pleased to cosponsor his amendment to H.R. 3477 which would enable elderly taxpayers, aged 65 years or older, to have the option of claiming either the former retirement income credit or the new "senior citizen" tax credit for the taxable year 1976. This measure is needed to protect millions of older persons from the sudden impact of the retroactive application of the new elderly tax credit in the 1976 tax year.

Mr. President, the "tax break" for the middle-income taxpayer and the credit for the elderly have resulted in higher tax payments for the year 1976 than it did in 1975 for millions of elderly, age 65 or over. Compounded by the loss of retirement income credit and reduced cost-of-living adjustments, this leaves the retiree, especially those over the age of 65, without any edge against inflation. This kind of tax break the elderly can ill afford.

The 1976 Tax Reform Act replaced the retirement income credit with a new credit for older Americans, which is computed according to age and income standards. This new credit for the elderly may be claimed if a taxpayer is age 65 or older, or is under 65 and receives a pension or annuity from a public retirement system.

The act, signed into law in October 1976, effected significant changes which are retroactively applicable to the taxable year beginning January 1976. Many moderate-income taxpayers 65 years of age or older, with pensions ranging from $10,000 to $17,500 have found very little tax relief from the new senior citizen credit.

In fact, they are discovering that their credit is either reduced considerably or eliminated entirely because of the income phaseout included in the 1976 Tax Reform Act. But, if these individuals were under 65, their credit would equal or exceed the tax relief under the pre-1976 retirement income credit. We are rewarding recent early retirees and penalizing senior citizens retired for several years whose incomes are being steadily eroded by inflation.

Elderly taxpayers, 65 or older, are presently entitled to a credit of 15 percent of the initial amount of income, which includes retirement income, earned income, and investment income, up to specified ceilings. This maximum amount must be reduced by the amount of social security and certain other tax-exempt income the elderly taxpayer receives. Moreover, this credit is further reduced by part of his adjusted gross income. This is because the maximum base for computing the credit is decreased by $1 for every $2 by which a single taxpayer's adjusted gross income exceeds $7,500 or $10,000 for a married couple filing a joint return. Consequently, the elderly tax credit is phased out entirely for a single person with an adjusted gross income of $12,500, and for an elderly couple with an adjusted gross income of $17,500, making them ineligible for the new credit.

This adjusted gross income phaseout does not apply, however, to taxpayers under age 65, who receive a pension or annuity under a Federal, State, or local retirement system. Persons under age 65 are presently entitled to a 15-percent credit on retirement income, up to $2,500 for single taxpayers, and $3,750 for married couples filing jointly. While this maximum amount is reduced by tax-exempt retirement benefits and earnings, there is no additional adjustment income phaseout.

Mr. President, the most crucial concern of senior citizens is financial security. The elderly, especially those over 65, find themselves unprepared to meet the tax demands of the new provisions in the 1976 Tax Act. We need to assure them time and assistance to prepare to meet their new tax obligations. I therefore urge that we cushion this tax impact by voting "aye" on the amendment offered by Senator CHURCH. It would enable taxpayers, age 65 and over, to have the choice of claiming the old retirement income credit or the new elderly credit for 1976.

I say to the distinguished chairman of the Committee on Finance that all that the Church amendment is striving to do is give the elderly—65 and over—another year. As the Senator well knows, the Tax Reform Act of 1976 did not come into being until October of that year; and the elderly—65 and over—had no real notice of the change in the tax system.

Mr. LONG. Mr. President, after explaining my position with regard to the Church amendment, I explained that I thought that the bill was a better balanced bill than some people in the media understood, and the discussion wandered away from the Church amendment to other matters.

Mr. MATSUNAGA. Yes.

Mr. LONG. I am not asking the Senator to vote against the Church amendment.

Mr. MATSUNAGA I heard the Senator's remarks earlier.

I feel that because under the Finance Committee bill we are not affecting retirees below 65 and we are giving different treatment only to those 65 and over, we at least should give them the option

of choosing between the old and the new for this tax year.

Mr. THURMOND. Mr. President, I rise today in support of Senator CHURCH's amendment No. 190, to the Tax Reduction and Simplification Act of 1977. This amendment will give to taxpayers 65 or older the option to claim for taxable year 1976 either the former retirement income credit or the new elderly credit. I am pleased to cosponsor this measure.

Unfortunately, there were a number of sections of the Tax Reform Act of 1976 which had adverse retroactive application. A great number of taxpayers were caught unprepared for greatly increased tax burdens as they had no notice of impending changes. Changes in tax laws are to be expected, but the retroactive application of them is grossly unfair.

In the instance of the new credit for the elderly, the retroactive application of this measure has a serious detrimental effect on our taxpaying senior citizens. This amendment very simply would allow that for this one taxable year, 1976, those who qualify for the new credit may opt to be taxed under the old retirement credit. They may file an amended return or file for a refund.

Mr. President, I strongly support this amendment and urge my colleagues to consider it favorably.

CREDIT FOR THE ELDERLY

Mr. WILLIAMS. Mr. President, I am delighted to have this opportunity to express my full support for this amendment which would make the new credit for the elderly apply more equitably.

The 1976 Tax Reform Act replaced the former retirement income credit with a new credit for the elderly. Under the provisions of the 1976 Act, those aged 65 or more are allowed a 15 percent tax credit on all types of income up to a maximum base amount of $2500 for single individuals and $3750 for married couples filing joint returns in instances where both partners are aged 65 or older. These base amounts are reduced dollar for dollar by tax exempt income such as social security and railroad retirement benefits. In addition, an adjusted gross income phaseout was established in order to limit the credit to lower and moderate income persons. This phaseout provision requires that the amounts on which the credits are based must be reduced by $1 for each $2 of adjusted gross income above $7500 for single persons, and $10,000 for married couples filing joint returns. Thus single persons aged 65 or above with adjusted gross incomes above $12,500 and married couples filing joint returns with adjusted gross incomes above $17,500 are ineligible for the credit.

Under the Tax Reform Act of 1976, these revisions in the tax code were to apply to taxable year 1976. As a result, many of our elderly citizens are finding that their tax obligations for last year are substantially higher than they had expected due to the operation of the adjusted gross income phaseout. For some these tax increases will cause great financial hardship.

The amendment before us would allow taxpayers aged 65 and over to choose between the former retirement income credit or the new credit for the elderly for taxable year 1976. This adjustment to the tax code would protect many elderly from unfair, retroactive tax increases. The Senate took similar action when it recently voted unanimously to remove the retroactive features of the changes made in the sick pay exclusion.

Mr. President, I believe that this is a fair and very necessary amendment and I urge its adoption.

The PRESIDING OFFICER. The hour of 3:50 having arrived, under the previous order, the Senate will proceed to vote on amendment No. 190 by Mr. CHURCH, and others.

The question is on agreeing to the amendment of the Senator from Idaho.

The yeas and nays have been ordered, and the clerk will please call the roll.

The assistant legislative clerk called the roll.

(At this point Mr. RIEGLE and then Mr. CULVER assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Maine (Mr. HATHAWAY) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Indiana (Mr. LUGAR) is necessarily absent.

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—97

Abourezk	Glenn	Moynihan
Allen	Goldwater	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hart	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield	Proxmire
Brooke	Hayakawa	Randolph
Bumpers	Heinz	Ribicoff
Burdick	Helms	Riegle
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Javits	Scott
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Magnuson	Stevenson
Danforth	Mathias	Stone
DeConcini	Matsunaga	Talmadge
Dole	McClellan	Thurmond
Domenici	McClure	Tower
Durkin	McGovern	Wallop
Eagleton	McIntyre	Weicker
Eastland	Melcher	Williams
Ford	Metcalf	Young
Garn	Metzenbaum	Zorinsky
	Morgan	

NAYS—1

Long

NOT VOTING—2

Hathaway Lugar

So Mr. CHURCH's amendment was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. Will the majority leader kindly suspend? The Senate is not in order, and proceedings will be suspended until order is restored.

The Senate will be in order.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia was seeking recognition.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. HOLLINGS and Mr. THURMOND, I ask unanimous consent that the Senate go into executive session for 1 minute to consider the nomination of the U.S. marshal for South Carolina, which was reported unanimously today by the Committee on the Judiciary.

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

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Andrew J. Chishom, of South Carolina, to be U.S. marshal for the district of South Carolina.

Mr. HOLLINGS. Mr. President, I would like to thank my colleagues on the Judiciary Committee for their very prompt action in sending to the floor today the nomination of Mr. Andrew J. Chishom as U.S. Marshal for South Carolina.

As the member primarily interested in Mr. Chishom's appointment, I urge the Senate's speedy confirmation of this nomination.

By every yardstick, Mr. Chishom is superbly qualified for the position of U.S. Marshal, and he has the full support of every member of my State's Congressional delegation and his peers in South Carolina.

Mr. Chishom is a leading expert in the field of criminology, holding an undergraduate degree in that course of study from the University of Maryland and a master's and doctorate in correctional rehabilitation from the University of Georgia. He has put that education to superb practical use—especially in South Carolina.

In his capacity as chairman of the board of the Community Organization for Drug Control in Greenville, S.C., in 1970 and 1971, he established the first drug treatment unit in my State and worked with all segments of the society in solving drug-related problems. At the same time, Mr. Chishom was actively involved in the recruitment, training and employment of minority representatives in the building and construction industry as a field director of the labor education advancement program of the National Urban League.

Mr. Chishom's involvement and concern earned him the honor of "Outstanding Citizen" by the Greenville City Council and the observance of "Andy Chishom Day" there.

It is important to point out, I think, that Mr. Chishom has been involved at the street level in the problems of crime and law enforcement. He began his career with the community relations division of the Washington Metropolitan Police Department in 1968 and developed a program in high crime areas to promote

better relations between police officers and citizens.

He served on the staff of Gov. John C. West in South Carolina in 1972 as coordinator of the correctional master plan study which was designed to collect data on county and State prisons so as to improve conditions and operations. Mr. Chishom has also served as a consultant to the States of South Carolina and Georgia and the Federal Law Enforcement Assistance Administration in various civil rights, minority enterprise and correctional roles. At the time of his nomination as U.S. Marshal, Mr. Chishom was serving as an assistant professor in the Department of Criminal Justice at the University of South Carolina.

I think my colleagues can determine from this very brief description that Mr. Chishom is a distinguished choice for the position to which he has been nominated by the President and that he will bring solid expertise and real experience to the office. South Carolina and the Nation are fortunate that a person such as Andrew Chishom wants to serve and that he can do so in an effective way.

I thank the Senate for its attention to this matter.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume legislative session.

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

TAX REDUCTION AND SIMPLIFICATION ACT OF 1977

The Senate continued with the consideration of the bill (H.R. 3477) to provide for a refund of 1976 individual income taxes, and other payments, to reduce individual and business income taxes, and to provide tax simplification and reform.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Jerry Bonham, of my staff, be granted the privilege of the floor during the consideration and votes on the bill H.R. 3477.

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

TRANSFER OF CERTAIN MEASURES TO UNANIMOUS CONSENT CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there are two measures on the General Orders Calendar that have been cleared for passage by unanimous consent. They are Calendar Orders 80 (H.J. Res. 16) and 81 (H.J. Res. 40). I ask that the clerk refer them to the Unanimous Consent Calendar.

The PRESIDING OFFICER. They will be so transferred.

SUPPLEMENTAL HOUSING AUTHORIZATION—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I have been requested by the distinguished senior Senator from Wisconsin (Mr. PROXMIRE) to call up a conference report on H.R. 3843. I understand it has been cleared on the other side of the aisle.

Mr. President, I submit a report of the committee of conference on H.R. 3843 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3843) to authorize additional funds for housing assistance for lower income Americans in fiscal year 1977, to extend the Federal riot reinsurance and crime insurance programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

EARLY AND LATE SESSIONS DURING REMAINDER OF WEEK

Mr. ROBERT C. BYRD. Mr. President, there will be no more votes today. I should say, however, that it is anticipated that the Senate will be in tomorrow, Thursday, and Friday early and late; that there will be rollcall votes daily tomorrow, Thursday, and Friday on the tax bill and on other matters which may be cleared for action by that time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with no resolutions coming over under the rule.

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

MESSAGES FROM THE HOUSE

At 2:25 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its clerks, announced that the House has passed without amendment the following bill and joint resolution:

S. 385. An act to name a certain Federal building in Grand Rapids, Mich., the "Gerald R. Ford Building"; and

S.J. Res. 44. A joint resolution to authorize the printing and binding of an edition of Senate Procedure and providing the same shall be subject to copyright by the author.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the enrolled bill (H.R. 4877) making supplemental appropriations for the fiscal year ending September 30, 1977, and for other purposes.

The enrolled bill was subsequently signed by the President pro tem pore.

At 3:48 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its clerks, announced that the House has passed the following bills and agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H.R. 5638. An act to amend the Fishery Conservation Zone Transition Act in order to give effect during 1977 to the Reciprocal Fisheries Agreement between the United States and Canada;

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes;

H.R. 5970. An act to authorize appropriations during the fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes;

H.R. 6370. An act to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment to the Chairman and Vice Chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes; and

H. Con. Res. 162. A concurrent resolution providing for the printing of 20,000 additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance, and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws."

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following communications which were referred as indicated:

EC–1213. A letter from the Assistant Secretary of Defense transmitting, pursuant to law, notice of the intent to obligate $72.7 million of funds available in the DoD Stock Fund for war reserve inventory for the Defense Logistics Agency (with an accompanying report); to the Committee on Appropriations.

EC–1214. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Implementation of Emergency Loan Guarantee Act" (PSAD–77–101) (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

EC–1215. A letter from the Secretary of Commerce transmitting, pursuant to law, the Annual Report of the Secretary of Commerce for the fiscal year ended June 30, 1976, and the transition quarter ended September 30, 1976 (with an accompanying report); to the Committee on Commerce, Science, and Transportation.

EC–1216. A letter from the Chairman of the U.S. Consumer Product Safety Commission transmitting, pursuant to law, a copy of the

Commission's letter to the Director of Office of Management and Budget regarding H.R. 2482, 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 (with accompanying papers); to the Committee on Commerce, Science, and Transportation.

EC-1217. A letter from the Chairman of the Board of Trustees of the Public Defender Service for the District of Columbia transmitting, pursuant to law, the annual report of the Public Defender Service Board of Trustees for fiscal year 1976 (with an accompanying report); to the Committee on Governmental Affairs.

EC-1218. A letter from the Administrator of the Federal Energy Administration transmitting, pursuant to law, the monthly report on gasoline service station market shares for the month of December 1976 (with an accompanying report); to the Committee on Energy and Natural Resources.

EC-1219. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report on the confusion and uncertainty as to the need for and use of Air Launched and Tomahawk Cruise Missile Programs (PSAD-77-36) (with an accompaning report); to the Committee on Governmental Affairs.

EC-1220. A letter from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "New Approach Needed To Control Production of Major Crops if Surpluses Again Occur" (CED-77-57) (with an accompanying report); to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Human Resources:

With an amendment:

H.R. 4975. An act to amend the Public Health Service Act to authorize appropriations for fiscal year 1978 for biomedical research and related programs (title amendment) (Rept. No. 95-102).

Mr. KENNEDY. Mr. President, I submit the committee report on H.R. 4975, the extension of our major health care programs for a period of 1 year. This is an extremely important measure.

We have had a number of different recommendations and suggestions from various groups. All have pretty well agreed that they would withhold their recommendations until later in the year when we will begin a very extensive examination of the whole series of extensions of the Public Health Service Act. This involves our planning legislation; it involves the NIH legislation, the cancer control, heart disease, and lung legislation, the basic extensions of the Public Health Service Act. We wanted to give the new administration the opportunity to examine these pieces of legislation and coordinate to the extent necessary with their approaches on health care generally.

It seems to me to be a wise way to proceed. It has the active support of the administration and the other interested groups. I am hopeful we can consider that extension legislation at an early time in the Senate calendar.

The PRESIDING OFFICER. The report will be received and printed.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

With amendments:

S. Res. 94. A resolution entitled "International Cooperation To Curb Nuclear Proliferation (Rept. No. 95-103).

By Mr. STEVENSON, from the Committee on Banking, Housing and Urban Affairs:

With an amendment:

S. 69. A bill to amend and extend the Export Administration Act (title amendment) (Rept. No. 95-104).

SUPPLEMENTAL HOUSING AUTHORIZATION ACT OF 1977—H.R. 3843—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I am submitting at this time a conference report on H.R. 3843, the Supplemental Housing Authorization Act of 1977.

Title I of this act would authorize additional funds for housing assistance for lower income Americans in fiscal year 1977; would extend section 8 assisted housing contract terms from the present 20 years to 30 years with respect to privately developed, newly constructed housing units; would extend Federal riot reinsurance and crime insurance programs to September 30, 1978; and would increase, to $1.341 billion, authorizations to cover losses incurred by the FHA insurance fund. In addition, title I also amends miscellaneous provisions relating to mortgage insurance programs and increases authorizations for HUD's very successful urban homesteading demonstration program.

Title II of the act would authorize the creation of a National Commission on Neighborhoods, comprised of 20 members representing local government officials, elected officers of recognized neighborhood groups, other outstanding individuals from fields such as finance, business, education, civic affairs, and the Congress. The establishment of a nongovernmental commission will provide the Nation with a unique opportunity to examine, in depth, the ways in which public and private policies affect our Nation's neighborhoods. The commission would be charged with the responsibility for developing policy recommendations that would result in a comprehensive and coordinated strategy for revitalizing our urban neighborhoods that are threatened by urban decay.

The conference report does not contain two provisions which were in the Senate bill. The first provision would have amended the Emergency Homeowners' Relief Act to add a congressional finding that—

Severe localized economic distress caused by the legal claims of the Mashpee Tribe in Mashpee, Massachusetts, may require the furnishing of assistance under this Act to avoid mortgage foreclosures and distress sales resulting from the temporary loss of employment and income.

The second provision would have provided that assistance under the act could be made available if a mortgagor's involuntary unemployment or underemployment is the result of adverse local, as well as national, economic conditions.

The conferees agreed that alternative legislative means would be found to address the problems arising out of the legal claims of the Mashpee Indians during consideration by the House and Senate of fiscal year 1978 housing and community development act authorizations.

Mr. President, the Senate conferees believe that this bill will greatly improve the administration of various HUD programs, increase the supply and availability of federally assisted housing for needy families, and, in the creation of the National Commission on Neighborhoods, lead to more rational and realistic policies for revitalizing neighborhoods.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

John Lovell Moore, Jr., of Georgia, to be President of the Export-Import Bank of the United States.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation:

Frank Alan Weil, of New York, to be an Assistant Secretary of Commerce.

Charles Linn Haslam, of North Carolina, to be General Counsel of the Department of Commerce.

Elsa Allgood Porter, of Virginia, to be an Assistant Secretary of Commerce.

Jordan J. Baruch, of New Hampshire, to be an Assistant Secretary of Commerce.

Langhorne McCook Bond, of Illinois, to be Administrator of the Federal Aviation Administration.

Quentin Saint Clair Taylor, of Maine, to be Deputy Administrator of the Federal Aviation Administration.

Frank Press, of Massachusetts, to be Director of the Office of Science and Technology Policy.

The following officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

Thomas T. Wetmore III

Benedict L. Stabile

Raymond H. Wood

The following-named captain of the Coast Guard Reserve to be a permanent commissioned officer in the Coast Guard Reserve in the grade of rear admiral:

Olin A. Lively

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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

Andrew J. Chishom, of South Carolina, to be U.S. marshal for the district of South Carolina.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WILLIAMS, from the Committee on Human Resources:

Wayne L. Horvitz, of the District of Co-

lumbia, to be Federal Mediation and Conciliation Director.

Graciela (Grace) Olivarez, of New Mexico, to be Director of the Community Services Administration.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred as indicated:

H.R. 5638. An act to amend the Fishery Conservation Zone Transition Act in order to give effect during 1977 to the Reciprocal Fisheries Agreement between the United States and Canada; to the Committee on Commerce, Science, and Transportation.

H.R. 5970. An act to authorize appropriations during the fiscal year 1978, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads, and for other purposes; to the Committee on Armed Services.

H.R. 6370. An act to authorize appropriations to the International Trade Commission for fiscal year 1978, to provide for the Presidential appointment of the chairman and vice chairman of the Commission, to provide for greater efficiency in the administration of the Commission, and for other purposes; to the Committee on Finance.

H.R. 5675. An act to authorize the Secretary of the Treasury to invest public moneys, and for other purposes; jointly, by unanimous consent, to the Committee on Banking, Housing and Urban Affairs, and the Committee on Finance.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was referred to the Committee on Rules and Administration:

H. Con. Res. 162. A concurrent resolution providing for the printing of twenty thousand additional copies of the subcommittee print of the Subcommittee on Consumer Affairs of the Committee on Banking, Finance, and Urban Affairs entitled "Give Yourself Credit: Guide to Consumer Credit Laws".

JOINT REFERRAL OF A BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this has been cleared with the Senator from Louisiana (Mr. LONG), the Senator from Wisconsin (Mr. PROXMIRE), and the minority leader—that when H.R. 5675 is received from the House of Representatives, it be jointly referred to the Committees on Banking, Housing, and Urban Affairs, and Finance.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MCCLELLAN (for himself, Mr. BARTLETT, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. EASTLAND, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. JOHNSTON, Mr. LAXALT, Mr. MCCLURE, Mr. ROTH, Mr. SCOTT, Mr. THURMOND, and Mr. ZORINSKY):

S. 1382. A bill to establish rational criteria for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 1383. A bill to amend the Employee Retirement Income Security Act of 1974 to clarify the status of the Hawaiian prepaid health care law under title I and title IV of such Act; to the Committee on Human Resources.

By Mr. JAVITS:

S. 1384. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit for certain contributions of literary, musical, or artistic compositions; to the Committee on Finance.

By Mr. HELMS:

S. 1385. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physician extenders; to the Committee on Finance.

By Mr. RANDOLPH (for himself and Mr. ROBERT C. BYRD):

S. 1386. A bill to provide the Corps of Engineers with continuing authority to provide technical assistance to States and political subdivisions thereof in the planning, design, and preparation of specifications for snagging and clearing projects in navigable streams and tributaries thereof; to the Committee on Environment and Public Works.

By Mr. RANDOLPH (for himself, Mr. ROBERT C. BYRD, Mr. FORD, and Mr. HUDDLESTON):

S. 1387. A bill to authorize necessary flood protection at locations in Kentucky and West Virginia on an expedited basis; to the Committee on Environment and Public Works.

By Mr. METCALF:

S. 1388. A bill to reaffirm the right of State education agencies and school districts to expend funds appropriated for school construction and other purposes under the Indian Self-Determination and Education Assistance Act; to the Select Committee on Indian Affairs.

By Mr. GRAVEL:

S. 1389. A bill for the relief of Louis Ike Ogbogu; to the Committee on the Judiciary.

By Mr. PELL:

S. 1390. A bill to amend section 8332(b) of title 5, United States Code, in order to authorize certain national guard employment to be credited for civil service retirement purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. HATHAWAY, and Mr. ANDERSON):

S. 1391. A bill to establish a transitional system of hospital cost containment by providing for incentives and restraints to contain the rate of increase in hospital revenues, to establish a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services, to provide for the publication and disclosure of information useful to the public in making decisions about health care, to provide for the development of permanent reforms in hospital reimbursement designed to provide incentives for the efficient and effective use of hospital resources, and for other purposes; jointly, by unanimous consent, to the Committee on Finance and the Committee on Human Resources.

By Mr. RIBICOFF (for himself, Mr. HATHAWAY, and Mr. KENNEDY):

S. 1392. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program and for other purposes; to the Committee on Finance.

By Mr. BAYH:

S. 1393. A bill to authorize actions by the Attorney General to redress deprivations of constitutional and other federally protected rights of institutionalized persons; to the Committee on the Judiciary.

By Mr. NELSON:

S. 1394. A bill to amend the Arms Export Control Act to require the President to provide certain information to the Congress with respect to any proposed major arms sales to a country which is not a member of the North Atlantic Treaty Organization and to provide the Congress with thirty days of continuous session in which to disapprove proposed arms sales; to the Committee on Foreign Relations.

S. 1395. A bill to amend the Arms Export Control Act to provide the Congress with an opportunity to disapprove proposed transfers from the recipient country to another country of defense articles or related training or other defense services supplied by the United States; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCLELLAN (for himself, Mr. BARTLETT, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. DECONCINI, Mr. DOLE, Mr. DOMENICI, Mr. EASTLAND, Mr. GARN, Mr. GOLDWATER, Mr. HATCH, Mr. HAYAKAWA, Mr. HELMS, Mr. JOHNSTON, Mr. LAXALT, Mr. MCCLURE, Mr. ROTH, Mr. SCOTT, Mr. THURMOND, and Mr. ZORINSKY):

S. 1382. A bill to establish rational criteria for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. MCCLELLAN and other Senators on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 1383. A bill to amend the Employee Retirement Income Security Act of 1974 to clarify the status of the Hawaiian prepaid health care law under title I and title IV of such act; to the Committee on Human Resources.

Mr. INOUYE. Mr. President, today I am introducing along with my colleague, Senator SPARK MATSUNAGA, legislation to specifically insure that the State of Hawaii's Prepaid Health Care Act will be exempted from the preemption provision of the Employee Retirement Income Security Act of 1974—ERISA.

In June of 1974 the State of Hawaii became the first State in our Nation to

enact a comprehensive scheme of mandatory employee health insurance. This statute required employers in the private sector to provide a minimum health benefit package to those regular employees who worked at least 20 hours a week. The minimum benefit package has been expanded and today it includes various medical and hospital benefits, such as maternity and mental health care, as well as treatment of illnesses resulting from alcoholism and substance abuse. By law, the maximum contribution by the individual employee may only be 1.5 percent of his wages. The Hawaii statute is not applicable when collective bargaining agreements provide for health benefits, and its provisions terminate upon the enactment of a national health insurance program.

It has recently come to my attention that the U.S. Department of Labor has taken the position that under the current statutory language of ERISA, the Hawaii Prepaid Health Care Act must be preempted with respect to those employers who are engaged in commerce, or in an industry or activity affecting commerce. The primary purpose behind the passage of ERISA was clearly not the enactment of a national health insurance program and accordingly, ERISA does not establish standards that are in any way comparable to Hawaii's statute. The legislation which I am introducing today would specifically modify ERISA so as to provide that health insurance laws such as Hawaii's would be treated in the same manner as disability insurance laws, worker's compensation laws, and unemployment compensation laws, and thereby be excluded from preemption.

It would be most tragic if what is perhaps the most progressive and comprehensive statewide health insurance program in our Nation was placed in jeopardy due to an inadvertent legislative oversight in drafting ERISA.

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

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

S. 1383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (3) of section 4(b) of the Employee Retirement Income Security Act of 1974 is amended by striking out "or unemployment compensation or disability insurance laws" and inserting in lieu thereof the following: ", or unemployment compensation laws, or disability or health insurance laws".

By Mr. JAVITS:

S. 1384. A bill to amend the Internal Revenue Code of 1954 to allow a tax credit for certain contributions of literary, musical, or artistic compositions; to the Committee on Finance.

Mr. JAVITS. Mr. President, I am introducing a bill to provide a tax credit for artists who contribute their original work to nonprofit organizations such as museums, libraries, and universities. While there is not a great deal of revenue loss to the Government, this is an important amendment for the institutions in our country which make it possible for the general public to enjoy the pleasures of viewing great works of art.

The bill provides a tax credit equal to 30 percent of the fair market value of an artistic work contributed by the artist to a tax-exempt organization such as a museum, library, or university. The amount of the credit may not exceed the amount of any tax on the income of the artist attributable to the sale of artistic works. Additionally, the credit cannot exceed the greater of: First, the artist's tax liability if it is not in excess of $2,500; or, second, 50 percent of the artist's tax liability. A last limitation is that no credit shall be allowed for any artistic work which exceeds $35,000 in value. If the credit is in excess of the limitations for any taxable year the excess may be carried over for the next 5 succeeding taxable years.

The bill also contains a prohibition against the credit being used for papers or similar property prepared by or for an individual during such time as that individual is holding public office.

The provisions of this bill are identical to those of an amendment I offered to the Tax Reform Act of 1976 which was agreed to by the Senate but which was not included in the final version of the tax bill enacted into law. A similar bill, H.R. 439, has been introduced in the House by Congressman ED KOCH of New York.

Mr. President, the basic reason for the bill is that the universities, libraries, and museums of the country are suffering from an existing provision of law which dates from 1969. Before 1969, the law was general and broad. If an artist gave his work to a museum, the value of that work was a gift, just like any other gift.

In 1969, the tax code was amended so that the artist was deprived of that opportunity. All a painter could deduct was the cost of his canvas and paint. But the collector was not deprived of that opportunity. If he were a buyer of art and the value appreciated—let us say he bought a painting for $500 and it became worth $50,000—he could give that to a museum and get a full $50,000 charitable deduction, and he can do that today. So the law discriminated as between the man or woman who did the work and the person who acquired such a work, even if he acquired it from that very same artist.

Another anomaly in the law was if that artist died and his estate had to be valued for tax purposes, his estate had to pay an estate tax on the full value, not on the value of the paint and the canvas but on the full value.

There is not much revenue loss involved. The estimate of the Treasury Department on my bill is about $5 million a year. It is an order of magnitude that, obviously, they cannot calculate exactly. But the consequences of this proposal of the American people are very great. Let me just describe what has happened.

The museums have suffered a drastic dimunition of gifts from artists, particularly those who have done contemporary work within this very same period from 1969 until today. I believe most of my colleagues have heard from museums precisely for that reason.

Let me give an example of the New York City Museum of Modern Act, one of the great museums of the country. During the 2-year period, 1968–69, the New York City Museum of Modern Art received 125 donations by artists of their own works. In the 4-year period, 1972–75, the museum received only 28 donations. In the critical and very valuable field of painting and sculpture, the reduction was from 42 works of art received in 1968 and 1969, to only one received in 1972–75.

The artists feel very strongly about this as evidenced from a very interesting point. The National Endowment on the Arts, which we established, and I am very proud to have been one of its initiators, wrote a letter to Senator LONG on April 29, 1976, stating these very considerations which I have described while commenting on an earlier version of this bill.

I ask unanimous consent that that letter may be printed in the RECORD.

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

APRIL 29, 1976.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The National Endownment for the Arts strongly recommends favorable consideration of S. 1435, the bill pending before your Committee which relates to the tax consequences of charitable contributions by creative artists and others of literary, musical, and artistic compositions, and similar property.

The bill under consideration would enable an artist to deduct from his adjusted gross income 75 percent of the fair market value of his works which he contributes to nonprofit institutions. Such legislation would restore part of the deduction available to creative artists prior to passage of the Tax Reform Act of 1969. (Of course, the Endowment would prefer to see the full deduction, i.e., 100 percent of the work's fair market value, restored.) The restoration of this deduction, far from being a windfall to individual artists is, in our view, an essential measure which must be taken in order to rectify the inequities existing under present law.

As you know, certain tax benefits attend the transfer, sale, or contribution of a capital assets. Under the Tax Reform Act of 1969, however, Section 1221 of the Internal Revenue Code of 1954 was amended to exclude from the definition of a capital assets (and therefore from the tax advantages) a copyright, literary, musical or artistic composition, a letter or memorandum, or similar property when any of the above are in the hands of the taxpayer whose personal effects created the property. Thus, in accordance with Section 170(e) of the Internal Revenue Code, when a taxpayer-creator donates one of his works to a non-profit institution, the allowable deduction is computed by reducing the fair market value of the work by the amount of the appreciation of such property. As a result, the artist may deduct from his adjusted gross income only the cost of the materials utilized to create the work. However, in the hands of a collector or one who procures a work of art from the creator the work is characterized as a capital asset and the collector who contributes the same work to a non-profit institution enjoys the benefits of deducting a portion of the fair market value of the work from his adjusted gross income.

The pending legislation, by affording the creative artist the same benefits as the purchaser/collector, would rectify the inequities which exist under the present law. The present distinction in the tax benefits available to donors of creative works based upon the donor's status as either a purchaser and collector on the one hand, or, on the other, a creative artist, is, in our view, contrary to the basic concept of equal treatment under the law. In any case, once the work is received by the donee/non-profit institution it is considered a capital asset regardless of the status of the donor. Therefore, we believe that the law as presently written could be viewed as having an unconstitutional taint in that it creates two classes of donors and applies to each separate and unequal treatment without justification.

The arbitrary treatment of the creative artist continues to affect the artist's estate after his death. Ironically (and unfairly), while he is entitled to deduct only the value of the utilized materials in cases of charitable contributions of his works during his lifetime, all works which become part of an artist's estate are taxed, for estate tax purposes, at 100 percent of their fair market value. As a result, under present law, an artist is faced with the undesirable alternative on the one hand, of selling, donating (without the attendant tax benefits), or otherwise transferring his works during his lifetime, or, on the other, subjecting his family to estate tax liability for the full fair market value of the creative works which become part of his estate.

Further, another adverse consequence of present law is a reported substantial reduction in donations of creative works to nonprofit institutions, such as museums, universities and libraries subsequent to passage of the 1969 Act.

By conferring on creative artists equitable tax treatment with respect to the donation of their works during their lifetime, S. 1435 would help to rectify the above described problems in a manner consistent with the nation's growing support and encouragement of the Arts, as manifested in the National Foundation on the Arts and the Humanities Act of 1965, as amended. Any adverse effect on the Federal Treasury caused by restoration of the deduction previously available to creative artists for the donation of their works would, in our view, be more than compensated for by the salutary benefits to this nation's artistic community, its cultural institutions, and the massive public audience, they serve.

For the above stated reasons, the National Endowment for the Arts strongly recommends favorable consideration of the bill now being studied. Such legislation is necessary in order to restore equality of treatment for our nation's artists and authors under our tax laws, and should provide the incentive for the contribution of more of their valuable works of art and literature to our libraries, universities, and museums, thereby enriching to a significant extent the cultural life of the nation.

The Office of Management and Budget has informed us that there is no objection to the submission of this report, although the Administration has not yet established a position as to the merits of this proposed legislation.

Sincerely,

NANCY HANKS,
Chairman.
JAMIE WYETH.

Mr. JAVITS. That letter protested very seriously both the diminution of the work moving to artists and the discrimination against artists as compared to collectors or other people who buy art. That letter was signed not only by Nancy Hanks, the chairman, but by a prominent member of the National Council of the Arts, Jamie Wyeth, one of our leading artists have been here to talk to Members of the Senate respecting the deep feeling which exists concerning this matter.

One of the points which has been made to me relates to the valuation which may be put on a work of art which is, under this amendment if it becomes law, gifted to a museum. Of course, before 1969 we had very serious trouble with the question of valuation. That was one of the reasons for the 1969 law which tightened up on philanthropic and charitable matters all along the line except, in this case, it really was retrogressive.

But valuation was a problem. Moreover, very material progress has been made in the matter of valuation, and an Art Advisory Panel of a very high order has been developed to advise the IRS Commissioner. I have a list of the members, and it is certainly one of the premier lists in this country. The panel meets 3 times a year, and does the evaluation under the general supervision and jurisdiction of a representative of the Treasury Department.

I have before me a charter for the Art Advisory Panel of the Commissioner of Internal Revenue, which lists the work which they do, and which is dated March 3, 1975. Included in the list of those on the art advisory panel, for example, is Adelyn Breeskin, the curator of the National Collection of Fine Arts, and a whole list, from Kansas City, New York, Cleveland, Washington, Boston, Los Angeles, Toledo, Ohio, of curators and directors of the leading museums of art in the United States.

I have been assured by the Treasury Department itself that they are perfectly satisfied that the question of valuation is now very tightly handled, and that we need have no worry on that score. To me, this is a very major point.

One other very interesting point which should especially interest us as Members of Congress is that not only the museums around the country have suffered from the dearth—and as I say, I think probably most Members have heard from museums on this subject—but the Library of Congress has suffered from it, because the Library itself collects literary, artistic, and musical donations in the way of original manuscripts and scores.

I ask unanimous consent that the charter and the membership list for the Art Advisory Panel of the Commissioner of Internal Revenue to which I referred be printed in the RECORD at this point.

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

THE ART ADVISORY PANEL OF THE COMMISSIONER OF INTERNAL REVENUE

This Charter is prepared and filed in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92-463, enacted October 6, 1972.

A. *Official Title.* The Committee's official designation is: The Art Advisory Panel of the Commissioner of Internal Revenue.

B. *Objectives and Scope.* The Committee's objectives and scope of its activity are: to assist the Internal Revenue Service by reviewing and evaluating the acceptability of property appraisals submitted by taxpayers in support of the fair market value claimed on works of art involved in Federal Income, Estate, or Gift taxes in accordance with sections 170, 2031, and 2512 of the Internal Revenue Code of 1954. This activity is based on the authority to administer the Internal Revenue law conferred upon the Secretary of the Treasury by section 7801 of the Code and delegated to the Commissioner of Internal Revenue.

C. *Time Period.* The period of time necessary for the Committee to carry out its purpose is indeterminate as the need recurs regularly during the audit of Federal Income, Estate and Gift tax returns. Two-day Panel meetings have been held three times a year since 1968.

D. *Reporting.* The agency or official to whom the Committee reports is the Commissioner of Internal Revenue.

E. *Support Service.* The agency responsible for providing the necessary support for the Committee is the Internal Revenue Service.

F. *Duties.* A description of the duties, all of which are solely advisory, for which the Committee is responsible follows:

1. Prior to a meeting of the Panel, each panelist independently examines copies of photography of the works of art and reviews the text of appraisal reports secured and submitted by the taxpayer in support of his claimed valuation. The panelists are not told the identity of the taxpayer, or of his appraiser, or the tax consequences of adjusting the valuation up or down.

2. At the Panel meeting each member is invited to express his opinion as to the acceptability of the claimed valuation. In the event a panelist disagrees with the taxpayer's valuation, the panelist may state his estimate of value and his reasoning.

This reasoning may include such matters as, challenging the authenticity of the claimed artistic attribution, citing sales prices of comparable works or art, introducing other expert opinions, and reassessing the work's condition, historic importance, or aesthetic qualities. Sometimes experts are identified for needed further studies or for possible use as government witnesses in event of litigation. In some circumstances, a panelist might serve as such a witness. Discussion on each appraised item continues until a consensus of value is reached. The consensus of value is announced as the official advisory conclusion by the chairman of the Panel who moderates the discussions. This full time IRS employee, who specializes in the appraisal of personal property, then so informs the IRS director of the district from which the case was referred.

G. *Annual Operating Costs.* The estimated annual operating cost in dollars and man-years is as follows: Since panelists are not paid for their time or services, the major operating costs consist of reimbursing the panelists for their travel and lodging expenses for three two-day meetings in Washington, D.C. each year. This amounts to approximately $6,000. One man-year of regular employee staffing is required to administer the Panel and to handle the preparation and follow though on the approximately 750 art appraisals reviewed annually by the Panel.

H. *Number and Frequency of Meetings.* The estimated number and frequency of committee meetings are: three two-day meetings each year.

I. *Termination Date.* The services of the Committee are expected to be needed for two years. Unless formally continued, the termination date will be two years from the filing date.

J. *Filing Date.* The date of filing of this Charter is March 3, 1975.

ART ADVISORY PANEL OF THE COMMISSIONER OF THE INTERNAL REVENUE

PRESENT MEMBERS—1976

Mrs. Adelyn D. Breeskin, Curator, Twentieth Century Paintings and Sculpture, National Collection of Fine Arts, Smithsonian Institution, Washington, D.C.

Mr. Ralph T. Coe, Assistant Director and Curator or Paintings and Sculpture, William Rockhill Nelson Gallery of Art, Kansas City, Missouri.

Mr. Everett Fahy, Director, Frick Collection, New York, New York.

Mr. Stephen Hahn, Owner, Director, Stephen Hahn Gallery, New York, New York.

Mr. Edward B. Henning, Curator of Contemporary Art, Cleveland Museum of Art, Cleveland, Ohio.

Mr. Sidney Janis, Owner, Sidney Janis Gallery, New York, N.Y.

Mr. James Maroney, Jr., Associate, Hirschl & Adler Galleries, New York, New York.

Mr. Thomas Kesser, Director, Guggenheim Museum, New York, New York.

Dr. John Seymour Thacher, Director (Ret.), The Dumbarton Oaks Research Library and Collection, Washington, D.C.

Mr. Maurice Tuchman, Senior Curator, Los Angeles County Museum of Art, Los Angeles, California.

Mr. Robert C. Vose, Jr., President, Vose Galleries, Boston, Massachusetts.

Mr Otto Wittman, Director, Toledo Museum of Art, Toledo, Ohio.

Mr. JAVITS. The Manuscript Division of the Library of Congress reports the following:

Prior to the enactment of the Tax Reform Act of 1969, the Manuscript Division received an average of 15 to 20 new manuscript gifts each year from authors and musical composers. The following table illustrates the gifts to the Library of Congress in this field:

Calendar year 1968	20
Calendar year 1969	17
Calendar year 1975	2
Calendar year 1976 to date	3

This is similar to the comparison I made for the Museum of Modern Art in the city of New York.

I ask unanimous consent that the report be printed in the RECORD.

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

Donations by artists of their own works of art to the Museum of Modern Art

Year, number of artists, and number of works of art:

PAINTING AND SCULPTURE		
1967	2	10
1968	1	1
1969	17	41
1972	1	1
1973	0	0
1974	0	0
1975	0	0
DRAWINGS		
1968	5	31
1969	8	23
1972	2	4
1973	2	6
1974	2	3
1975	0	0
PRINTS		
1968	7	12
1969	6	17
1972	2	2
1973	5	7
1974	3	5

Mr. JAVITS. This clearly illustrates that the very, very drastic fall off in donations is attributed to this particular change in law made in 1969. Also, the Music Division of the Library of Congress reports as follows:

It is estimated that some 35 well-known composers have ceased making gifts to the Library of Congress, including Samuel Barbour, Aaron Copland, and Walter Piston.

Likewise, the Prints and Photographs Division of the Library of Congress reports that a number of leading artists have ceased donating their original works to the Library of Congress since 1969. Mr. President, this is simply a way of demonstrating the results since 1969. The facts speak for themselves.

Who will be benefited and who will be hurt if we pass this particular measure? As I said, the order of magnitude is very small: $5 million a year. The National Endowment for the Arts, for example, will give grants to museums for acquisition. That is Federal taxpayers' money. And yet, when it comes to facilitating the giving by the artist of his own work, we seem to be holding back. Would we rather pay for it with taxpayers' money? That is what it comes down to, especially with the very tightened up procedure regarding valuation which I have described.

The other people who pay for it are students. Students are very much interested, and the letter from the National Endowment on the Arts makes that very clear.

Students are interested in the sketches and other preliminary works which go into the development of a major work of art. This is the very thing that the artists will not give on the present basis, but would be very much interested in giving on the basis of some ability to at least get the value of the gifts applied on their art-related income.

I believe that this bill would be of great value to the cultural institutions of our country and to the general public. I am hopeful that it will be enacted into law this year. This is an effort which has gone on for some time and I believe now is the time to address this problem in an equitable manner.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44B. CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 30 percent of the fair market value of a literary, musical, or artistic composition created by the personal efforts of that individual and contributed by that individual to an organization described in section 501(c)(3) which is exempt from tax under section 501(a).

"(b) LIMITATIONS.—

"(1) INCOME FROM LITERARY, MUSICAL, OR ARTISTIC COMPOSITION.—The amount of the credit allowed by subsection (a) for the taxable year may not exceed the amount of tax under this chapter attributable to the gross income of the individual for the taxable year attributable to the sale of literary, musical, or artistic compositions in that taxable year and in previous taxable years.

(2) AMOUNT OF CREDIT.—The amount of the credit allowed under subsection (a) to the taxpayer for the taxable year, after the application of paragraph (1), shall not exceed the greater of—

"(A) so much of the taxpayer's liability for tax under this chapter for the taxable year as does not exceed $2,500, or

"(B) 50 percent of the taxpayer's liability for tax under this chapter for the taxable year.

"(3) CREDIT DENIED FOR CERTAIN LETTERS, MEMORANDUMS, OR SIMILAR PROPERTY.—The credit allowed by subsection (a) shall not be allowed for the contribution of a letter, memorandum, or similar property which was written, prepared, or produced by or for the individual while he held an office under the Government of the United States or of any State or political subdivision thereof if the writing, preparation, or production of such property was related to, or arose out of, the performance of the duties of such office.

"(4) LIMITATION OF CONTRIBUTIONS.—No credit shall be allowed under subsection (a) for any literary, artistic, or musical composition to the extent that the total of such compositions contributed by such individual for the taxable year to organizations described in subsection 501(c)(3) exceeds $35,000.

"(c) CERTIFICATION REQUIRED.—No credit is allowable under subsection (a) for the contribution of a literary, musical, or artistic composition by the taxpayer unless the taxpayer received from the donee a written statement that the donated property represents material of artistic, musical, or literary significance and that the use of such property by the donee will be related to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in section 170(c)(2)(B)).

"(d) CARRYOVER OF EXCESS CREDIT.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitations provided by subsections (b)(2) and (b)(4) for the taxable year, the excess shall be added to the amount allowable as a credit under subsection (a) for the next five succeeding taxable years to the extent it may be used in those years.".

(b) Section 170(e) of such Code (relating to certain contributions of ordinary income and capital gain property) is amended by inserting at the end thereof the following:

"(4) DENIAL OF DEDUCTION FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—No deduction shall be allowed under this section for any contribution for which a credit is claimed under section 44B.".

(c)(1) The table of sections for such subpart A is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44B. Certain contributions of literary, musical, or artistic compositions.".

(2) Section 42(b) of such Code (relating to the taxable income credit) is amended by striking out "and" at the end of paragraph (4), by inserting "and" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) section 44B (relating to credit for certain contributions of literary, musical, or artistic compositions),".

(3) Section 56(c) of such Code (defining regular tax deduction) is amended by strik-

ing out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(9) section 44B (relating to credit for certain contributions of literary, musical, or artistic compositions).".

SEC. 2. The amendments made by the first section of this Act shall apply to taxable years beginning after December 31, 1976.

By Mr. HELMS:

S. 1385. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for services furnished by physician extenders; to the Committee on Finance.

Mr. HELMS. Mr. President, I am today introducing legislation which would amend the medicare law to authorize payment under part B for services furnished by physician extenders. The rural health clinics of America face possible extinction unless Congress acts quickly to correct a basic inequity in the medicare program.

As the law is presently written, medicare funds cannot be used to reimburse rural physicians extenders who are providing the same services as urban physician extenders. This inequity exists because reimbursements under the medicare program are permitted only when a licensed physician is actually on the premises at the time of treatment.

For urban clinics, where resident physicians are plentiful, this restriction does not pose a problem. But it is wholly unrealistic to apply it to rural health clinics. Physicians, as we know, are in short supply in the rural areas of America; the country doctor is a disappearing institution. In most rural clinics, therefore, there is no resident physician. Indeed, these clinics usually provide only basic or primary health care through physician extenders—nurse practitioners, nurse clinicians, nurse midwives, physician assistants, and Medex—medical extenders who are former military corpsmen—who have been specially trained in diagnosis and treatment for primary and emergency medical care. To require the presence of a physician for reimbursement purposes when there is no physician available to supervise the physician extender is like asking the physician to be in two places at once.

Furthermore, this restriction imposes an intolerable financial burden on rural health clinics, and clearly discriminates against the people they serve. My own State of North Carolina is a case in point. At present, there are 30 such clinics throughout the State, most of which are funded through State grants. Because of the medicare restriction regarding reimbursement for services of physician extenders, however, all of these clinics may soon be forced to close their doors—and the local citizens may be compelled to seek medical assistance in the urban areas.

Here is why: All of these clinics have a contractual relationship with a physician, who may live many miles away from the clinic and cannot visit the clinic on a daily basis. In his absence, a physician extender, working under the physician's written instructions, attempts to care for most of the patients who come to the clinic for medical treatment. Those who require the attention of a physician or specialist must either travel to another area or wait until the physician makes his next visit to the clinic. To avoid the burden of paperwork under medicare, most of the physicians working with the clinics receive a salary from the clinics and reassign their medicare payments to the clinics. But the clinics are unable to receive these payments because of the medicare restriction concerning the physician extenders.

In other words, Mr. President, the rural health clinics are currently providing primary health care to medicare patients but are not being reimbursed by medicare funds. This inequitable system of financing undermines the whole rural health care program. These clinics have been set up under 3-year grants, with a view toward economic self-sufficiency at the end of the 3-year period. This goal cannot be realized if the clinics continue to accumulate deficits as a result of nonpayment for medicare services. When the grant runs out, there will no longer be funds to cover the deficits.

And this is precisely the problem we now face. The first State-supported rural health clinic in North Carolina, the East Bend Clinic in Yadkin County, was established in the summer of 1974. In July of this year it will run out of funds. Some of the federally funded clinics, such as those in the small communities of Hot Springs, Walnut, and Laurel, will run out of funds this month. Within the near future, every rural health clinic in North Carolina may have to close down. The prospect of keeping these clinics open is just as bleak in other States, of course, as it is in North Carolina.

Mr. President, if the medicare law is not changed, the millions of dollars that have been expended to establish these clinics may go down the drain—to say nothing of the vast sums spent for Government-sponsored physician extender training programs. A greater waste of the taxpayers' money cannot be imagined.

The people of North Carolina are proud of their rural health clinics. Through private donations and local fundraising activities, the rural communities, as well as the legislature, of my State have worked hard to assist these clinics in getting established. In fact, North Carolina has taken an active lead in the Nation in establishing State-supported clinics and training programs for physician extenders. These clinics cannot make it on their own when their hands are tied. The medicare restriction which impedes their progress was written into the law before the extender clinics came into existence. It is time to bring our medicare program up to date.

The bill that I am introducing is similar in its scope and objectives to various proposals already pending in the Senate; but it is designed to avoid the problems which, in my judgment, may arise under these different approaches. The information that I have received from the Office of Rural Health Services in North Carolina and the Appalachian Regional Commission, and the discussions that I have had with several physicians in my home State—particularly Dr. Edgar T. Beddingfield, Jr., of Wilson, N.C., who has personal experience with the physician assistant utilization program, lead me to the conclusion that the extender reimbursement concept can successfully enhance the quality and accessibility of health care in rural America only if the assistant has received sufficient formal training from appropriately credited training programs, meets all State requirements for provision of services, and remains subject to, and answerable to, the supervision of a physician. The other proposals that are under consideration do not, in my view, adhere strictly to these standards.

METHOD OF REIMBURSEMENT

In the first place, we must recognize the essential nature of the physician extender. He is not an autonomous provider of health care services, but an extension of the physician. He is and should remain under the supervision and control of a physician. This is not to say that the physician must be physically present, or even that the service must be performed in his office, but rather that he be in direct communication with the extender for consultation and medical advice. Only by maintaining this close relationship can we be assured that the physician will be primarily responsible for the care rendered to his patients by the extender; only then can we be assured that a high standard of health care is maintained in the clinics.

An important, if not key, aspect of this relationship between the physician and the physician extender concerns the method of reimbursement. Services provided by the physician extender are billed in the physician's name, and properly so. This method strengthens the relationship by eliminating all questions of accountability. It not only recognizes the ultimate responsibility of the physician to the patient, but also avoids troublesome malpractice problems which might arise if the extender possessed the attributes of an independent practitioner. Moreover, this method allows approved extender services, whether performed in a clinic or private office, to be covered.

In light of these considerations, I question certain provisions of pending legislation which add a new payment authorization for "rural health clinic services." S. 708, for example, indicates that medicare should pay a specially recognized facility—the rural health clinic—for physician services performed by a nonphysician. Such a method of reimbursement, in my judgment, would tend to discourage close supervision of the extender by the physician. It would establish a mechanism whereby the extender, instead of being directly answerable to, or employed by, the physician, would in effect become an employee of the clinic. This could lead to a situation whereby the employer is a nonphysician, and the services provided are subject to the policies of nonphysicians. The legislation that I am proposing avoids the problem by following the current practice of limiting reimbursement to the physician.

STATE CONTROL OF PHYSICIAN EXTENDERS

In the second place, the several States should have exclusive power to determine the physician extender's qualifications and scope of practice. Physician extenders should, of course, complete a training program or have experience meeting training program standards of recognized accrediting agencies; but the standards required by the States are sufficient.

Some of the proposals introduced by Congress, unfortunately, call for Federal intervention through the Secretary of Health, Education, and Welfare in connection with the physician extender's training, education, and experience requirements.

Mr. President, the Federal Government should not be in the business of setting standards for physician extenders and their services. Once we have abandoned the principle that this power rests with the States, we have established a dangerous precedent. In fact, such a usurpation of State power would serve as an open invitation to Federal licensing of not only physician extenders but also physicians. It would, indeed, serve as a ladder to nationalized medicine. I, for one, believe that the American people do not want their system of medicine built on the British model, and I think we should be wary of legislative schemes which may provide the bricks and mortar.

My bill precludes these possibilities by stipulating that reimbursable physician extender services shall be those authorized under State law. The several States already have the exclusive power of deciding who shall be permitted to practice medicine within their jurisdictions, and it necessarily follows that they are equally capable of making those same decisions with respect to a physician's assistant.

Mr. President, my legislation addresses a very real need in a manner acceptable to the greatest number of those involved in meeting that need. It is legislation which can go a long way toward equalizing the relative opportunities for quality health care among our elderly—whether they live in an urban or rural environment. Let me also point out that studies have shown that health care provided by physician extenders can actually cut the costs of medicare by reducing the number of hospital days per patient. Reduced hospitalization, of course, results in cost savings to medicare.

As a member of Senate Committee on Agriculture, Nutrition, and Forestry, which has been examining the physician extender problem, I am interested in seeking ways to expand utilization of the special service which physicians' assistants may provide in medical care shortage areas. It is my hope that the Senate Finance Committee, which has appropriate jurisdiction, will be able to use my proposal as the basis for quick action.

Mr. President, for the benefit of my colleagues, I ask unanimous consent that the text of my physician extender reimbursement measure be printed in the RECORD at the conclusion of my remarks.

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

S. 1385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(1) of the Social Security Act is amended by inserting immediately before the semicolon at the end thereof the following: "(including physician extender services to the extent recognized under State law or State regulatory mechanisms, rendered under the supervision and direction of, and billed by, a physician, whether or not such services are performed in the physician's office or at a place where the physician is physically present)"; and

(b) Section 1861 of the Social Security Act is amended by adding to the end thereof the following new subsection:

"PHYSICIAN EXTENDER

"(aa) The term 'physician extender' means, a physician's assistant, medex, nurse clinician or nurse practitioner who performs (under the supervision and direction of a doctor of medicine or osteopathy who has an unrestricted license) such services as he is legally authorized to perform in the State in which he performs such services."

SEC. 2. The amendments made by the first section of this Act shall apply with respect to services furnished on or after the first day of the month following the month in which this Act is enacted.

By Mr. RANDOLPH (for himself and Mr. ROBERT C. BYRD):

S. 1386. A bill to provide the Corps of Engineers with continuing authority to provide technical assistance to States and political subdivisions thereof in the planning, design, and preparation of specifications for snagging and clearing projects in navigable streams and tributaries thereof; to the Committee on Environment and Public Works.

Mr. RANDOLPH. Mr. President, on behalf of myself and Senator ROBERT C. BYRD, I am today introducing legislation to authorize the Army Corps of Engineers to plan, design, and engineer projects for clearing, debris removal, and straightening of channels in small streams to relieve localized flooding.

Under this measure, the Corps of Engineers would provide technical assistance if requested by the Governor or appropriate local authorities in developing a plan for the removal of materials in small streams which increase the susceptibility of flooding. The corps would not construct the work but merely provide assistance to a local government so that it could ultimately construct the project.

The bill authorizes funds to the corps for the engineering but it remains silent as to the local governments funding mechanism of the construction project. The local or State government could use Federal revenue-sharing funds, public works funds, or any available source of local funds for completing the work designed and recommended by the engineers.

The authorization provided will do much to alleviate damage to communities from small stream flooding. It is often not economically feasible for the Corps of Engineers to construct a flood protection facility in small communities or rural areas but this does not mean the protection is not necessary. The legislation will provide a mechanism to address local needs and provide assistance for developing appropriate local responses.

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

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

S. 1386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266), as amended, is hereby further amended by adding subsection "b" as follows:

"(b) Upon request of the Governor of a State, or appropriate official of local government, the Secretary of the Army, acting through the Chief of Engineers, is further authorized to provide designs, plans and specifications, and such other technical assistance as he deems advisable, at Federal expense, to such State or political subdivision for its use in carrying out projects, for removing accumulated snags and other debris, and clearing and straightening channels in navigable streams and tributaries thereof."

By Mr. RANDOLPH (for himself, Mr. ROBERT C. BYRD, Mr. FORD, and Mr. HUDDLESTON):

S. 1387. A bill to authorize necessary flood protection at locations in Kentucky and West Virginia on an expedited basis; to the Committee on Environment and Public Works.

Mr. RANDOLPH. Mr. President, on behalf of myself and Senator ROBERT C. BYRD, I am today introducing legislation to authorize the Army Corps of Engineers to repair, replace, and rehabilitate flood protection structures damaged by recent flooding in southern West Virginia and eastern Kentucky. The flooding on the Tug Fork of the Big Sandy River in Mingo County, W. Va., was the most serious ever experienced in that area.

The flood waters virtually destroyed the towns of Williamson and Matewan and seriously damaged many smaller communities. Damage resulting from the April 1977, flood has been estimated to be in excess of $100 million. Cleanup operations and the recovery efforts are now underway. It will take time but the homes and businesses destroyed by this flood will be repaired or replaced.

It is essential that floodwalls, levees, and other facilities be provided on the Tug Fork which will prevent damage of the magnitude experienced in this flood. The Tug Fork crested 20 feet above normal. The existing structures provided little protection for the residents.

The legislation will authorize repair of existing facilities and completion of additional floodwalls and levees to protect the area from the ravages of this most severe flood if it should ever occur again.

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

S. 1387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct, at Federal expense, floodwalls, levees and other appurtenant facilities,

and to provide modifications to existing flood protection structures as appropriate, at or in the vicinity of Pikeville, Kentucky on the Levisa Fork of the Big Sandy River; Pineville, Kentucky on the Cumberland River; and Williamson and Matewan, West Virginia on the Tug Fork of the Big Sandy River, that the Chief of Engineers determines are necessary to afford these communities and their immediate environs a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977; *Provided*, non-Federal interests shall hold and save the United States free from damages due to the construction works, and maintain and operate all the works after their completion in accordance with regulations prescribed by the Secretary of the Army.

Mr. HUDDLESTON. Mr. President, I congratulate the Senator from West Virginia for developing this highly needed legislation to provide some additional flood protection to those people of Kentucky and West Virginia who have just suffered another series of devastating floods.

This legislation would authorize the Corps of Engineers to design and construct, at Federal expense, floodwalls, levees, and other appurtenant facilities in those areas hit hardest by the recent flooding.

I would hasten to add that this authorization does not include any new flood control dams; it merely applies to flood control structures such as levees, floodwalls, and modification of existing facilities.

Mr. President, I personally joined several of my colleagues from Kentucky in touring the flood areas of my State immediately after the floods hit. The devastation was tremendous. The persons whose homes were ruined will spend years and thousands of dollars trying to put their lives back together.

It seems so much more logical and humane to try to prevent these floods in the first place. And if it can be done through the use of floodwalls and levees and modification of existing structures then we should move with haste to do so.

By Mr. PELL:

S. 1390. A bill to amend section 8332 (b) of title 5, United States Code, in order to authorize certain National Guard employment to be credited for civil service retirement purposes; to the Committee on Governmental Affairs.

Mr. PELL. Mr. President, I send to the desk a bill to amend section 8332(b) of title 5, United States Code, in order to authorize certain National Guard employment to be credited for civil service retirement purposes.

This bill is designed to provide service credit for the period of time certain National Guard technicians performed services under the Federal-State contract agreements. There are a number of National Guard technicians who were originally employed as security guards under 5 U.S.C. 709, and were administratively separated from technician status with the Federal Government and placed as State employees under the Federal-State contract agreement, pursuant to 10 U.S.C. 2304. While employed as State employees under the service contract, they performed the same support services which they performed as National Guard technicians.

On January 1, 1969, the National Guard Technician Act, Public Law 90–486, became effective. This law legislated Federal employee status for National Guard technicians, shifting them from State to Federal employment effective January 1, 1969. However, it did not extend Federal status to pre-1969 service. Rather, it granted limited credit in the annuity computation, in certain cases, for prior State technician service, if such service were performed under 32 U.S.C. 709.

The Civil Service Commission Appeals Review Board, in its decision of December 12, 1974, said:

The only possible way this contract service can be considered creditable is for it to meet the requirement set out in the National Guard Technician Act, that it be performed under 32 U.S.C. 709. However, the contract was clearly authorized under 10 U.S C. 2304 . . . Therefore, the Board has no alternative but to concur in the Bureau's finding [the Commission's Bureau of Retirement, Insurance and Occupational Health] denying service credit for appellant's contract service.

I ask unanimous consent that the decision of the Civil Service Commission Appeals Review Board be printed at this point in my remarks.

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

[U.S. Civil Service Commission—Appeals Review Board]

DECISION

In the matter of Angelo Maiorisi.

Type Case: Ret'rement-Service Credit.

Before: Griffiths, McDonald and Roel, Board Members.

INTRODUCTION

Appellant is appealing from the decision of the Commission's Bureau of Retirement, Insurance, and Occupational Health denying him service credit for Civil Service retirement purposes for his period of employment as security guard under a Federal-State Service Contract Agreement.

STATEMENT OF THE CASE

Appellant is seeking service credit for the period of time during which he performed service under the Federal-State Contract Agreement with the State of Rhode Island. Appellant was originally employed as Security Guard under 5 U.S.C. 709, and was administratively separated from technician status with the Federal Government and placed as a state employee with the State of Rhode Island government under the aforementioned agreement. While he was employed as a state employee under the service contract, he performed the asme support services which he otherwise performed as National Guard technician.

Appellant submitted to the Bureau a copy of a letter from Major General Leonard Holland from the Office of the Adjutant General of the State of Rhode Island and another letter from Francis S. Greenlief, Major General, U.S.A., Chief, National Guard Bureau, to substantiate his claim that his service qualified under FPM Supplement 831–1, subchapter S3–3, which outlines the criteria for Federal employment.

On August 2, 1974, the Bureau issued its decision disallowing service credit for the service involved, on the basis it was performed under the authorization of 10 U.S.C. 2304 rather than 32 U.S.C. 709.

REPRESENTATIONS TO THE BOARD

By letter dated August 19, 1974, appellant appealed to the Board contending the decision of the Bureau is erroneous because the facts are that:

(1) His job did not change;

(2) His pay did not change;

(3) The method of payment, a federal check, did not change;

(4) The administrative procedures insofar as annual leave, sick leave, military leave, did not change;

(5) His duties and responsibilities were exactly the same as when he performed as an Air Technician providing security of buildings and aircraft.

He further contends that 10 U.S.C. 2304 did not relate to the service contract he was under. In addition he questions who his employer was during his service contract employment.

ANALYSIS AND FINDINGS

The Appeals Review Board has reviewed the entire record in the case and has given thorough consideration to appellant's representations in support of his contentions. However, the Board finds no basis to reverse the Bureau's decision.

Section 2304, tit.e 10, U.S.C., in pertinent part, reads as follows:

"(a) Purchases of and contracts for property or services covered by this chapter shall be made by formal advertising. However, the head of an agency may negotiate such a purchase or contract, if—

"(10) the purchase or contract is for property or services for which it is impracticable to obtain competition."

According to a copy of the contract contained in the record, this quoted provision of law gave birth to the Service Contract Agreement between the state of Rhode Island and the National Guard Air Base, by which appellant's employee status was changed coverage under 32 U.S.C. 709 to coverage under 10 U.S.C. 2304 for the period of time in issue. Obviously, this service contract agreement placed the appellant out of jurisdiction of 32 U.S.C. 709 which in pertinent part states:

"(a) Under such regulations as the Secretary of the Army may prescribe, funds allotted by him for the Army National Guard may be spent for the compensation of competent persons to care for material, armament, and equipment of the Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, funds allotted by him for the Air National Guard. A caretaker employed under this subsection may also perform clerical duties incidental to his employment and other duties that do not interfere with the performance of his duties as caretaker."

In reviewing the case file the Board finds that appellant has not introduced any new evidence to substantiate his claim for credit for the period of contract service. He has merely reemphasized the fact that there was no change in his duties, supervisor, or method of salary payment, during the period when he was employed under the service contract. The point, however, is that there was a change in appointing authority. That is, the National Guard Bureau transferred security guards from employment in the Air Technician Program to employment under the Air Service Contract in 1958. The appellant was so transferred and employed under the service contract until November 27, 1961, when he received an appointment within the Air Technician Program.

Appellant states that he wants to know who his employer was during the time he was employed under the service contract. The

answer, of course, is the State of Rhode Island. In fact, the State of Rhode Island was his employer until January 1, 1969, when the National Guard Technician Act (Public Law 90-486) became effective. This law legislated Federal employee status for National Guard Technicians, shifting them from State to Federal employment effective January 1, 1969. However, it did not extend Federal status to pre-1969 service. Rather, it granted limited credit in the annuity computation, in certain cases, for prior State (technician) service if such service were performed under 32 U.S.C. 709.

The very fact that it was necessary to legislate Federal status for National Guard Technicians establishes that, prior to the effective date of such legislation, this technician service was not considered Federal service. Since Mr. Maiorisi claims that the service performed under the contract is identical to technician service performed prior and subsequent to it, his service should be examined within this context.

Technician service is, by definition, State service if performed prior to January 1, 1969. As a result, the only possible way this contract service can be considered creditable is for it to meet the requirement, set out in the National Guard Technician Act, that it be performed under 32 U.S.C. 709. However, the contract was clearly authorized under 10 U.S.C. 2304 and this fact is not disputed by appellant. Therefore, the Board has no alternative but to concur in the Bureau's findings denying service credit for appellant's contract service.

DECISION

In view of the foregoing, the Appeals Review Board hereby affirms the decision of the Bureau of Retirement, Insurance, and Occupational Health issued on August 2, 1974.

The Civil Service regulations provide that the decision of the Board is final and that there is no further right of administrative appeal.

For the Commissioners:

WILLIAM P. BERZAK,
Chairman.

December 12, 1974.

Mr. PELL. Mr. President, the sole purpose of this bill is to provide service credit for civil service retirement purposes for those technicians whose employment shifted back and forth by virtue of transactions of Congress and the State, but who physically never changed their duties and responsibilities, their pay, their method of payment, their administrative procedures insofar as annual leave, sick leave, and military leave. I believe that equity demands that we follow through and give them retirement credit also.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 1390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (6) of Section 8332(b) of Title 5, United States Code, is amended to read as follows:

"(6) (A) employment under Section 709 of Title 32, or any prior corresponding provision of law;

"(B) employment under Section 2304 of Title 10, if the employee was employed under such Section 2304 immediately prior to his employment under Section 709 of Title 32 and the services performed by him under both such Sections were identical;".

By Mr. KENNEDY (for himself, Mr. HATHAWAY, and Mr. ANDERSON):

S. 1391. A bill to establish a transitional system of hospital cost containment by providing for incentives and restraints to contain the rate of increase in hospital revenues, to establish a system of capital allocation designed to encourage communities to avoid the creation of unneeded and duplicative hospital facilities and services, to provide for the publication and disclosure of information useful to the public in making decisions about health care, to provide for the development of permanent reforms in hospital reimbursement designed to provide incentives for the efficient and effective use of hospital resources, and for other purposes; jointly, by unanimous consent, to the Committee on Finance and the Committee on Human Resources.

Mr. KENNEDY. Mr. President, today I am pleased to introduce the administration's legislation regarding the urgent necessity to restrain hospital cost increases in the short term by limiting hospital revenue increases to a minimum level recognizing general inflation and including a small increment to allow hospitals to improve their quality of care. The need for such legislation is widely recognized.

The legislation, Mr. President, will also impose a limit on new capital expenditures for acute care hospitals. The program will fix a national level for such expenditures below that of recent years and allocate new capital spending among the States by formula. With the assistance of local planning agencies, each State will determine which facilities merit new capital expenditures.

Mr. President, I wish to acknowledge at this time that the task of controlling the escalating costs of health care has been a matter which has been under very considerable review by the senior Senator from Georgia (Mr. TALMADGE) and the members of the Senate Finance Committee. It is my understanding that the Health Subcommittee of the Ways and Means Committee and the Health Subcommittee of the Interstate and Foreign Commerce Committee are considering joint hearings on this legislation which was introduced yesterday in the House of Representatives.

Mr. President, as chairman of the Senate Subcommittee on Health and Scientific Research. I will hold extensive hearings on this and related legislation in full cooperation with the Senate Finance Committee. These hearings will be specifically designed to elucidate the relevant issues regarding methods for constraining the all too rapidly rising costs of health care with the intent to promptly report a bill.

Mr. President, national health expenditures tripled between 1965 and 1975. In fiscal year 1976, the annual expenditures for health totaled $139.3 billion, up 14 percent over the $122.2 billion spent in fiscal year 1975. This rate of increase was approximately twice the CPI for the same period. Without any intervention, it has been estimated that this $139 billion spent on health care in 1976 may grow to $230 billion in 3 years.

Expenditures for hospital services—which account for 40 cents of every dollar Americans spend on health care—have been escalating far faster than the overall cost of living for more than two decades.

Last year the Nation's total hospital bill jumped to $55.4 billion or more than $1,000 per family. Next year, without any control, the figure is predicted to increase dramatically to almost $64 billion.

Since 1950, the cost of a day of hospital care has climbed more than 1,000 percent. The average cost per day has risen from $15 to $176. In the last decade the cost of an average hospital stay has skyrocketed from less than $300 to more than $1,300. Not many of us can afford to get sick and go to the hospital.

Right now medicare and medicaid pay approximately one-quarter of the bill for hospital services and this went up by $5 billion last year. Individual States paid twice as much for medicaid in 1976 than they did in 1971.

We are all paying for these runaway costs. Americans today must work more than 1 full month of every year just to pay for their health care—2 weeks wages for hospital costs alone. If health care was not so expensive workers could have higher take home pay and better pensions.

We are pouring so much money into hospitals right now to cure illness that we have not had money to spend on basic preventive health care. It is more humane and a lot less expensive to prevent illness than to have to put someone into a hospital to cure them. Vital programs such as immunizing children have been overlooked for too long.

Two factors unique to the hospital industry lie behind the explosive growth in hospital costs.

The first factor is that most hospitals are presently reimbursed on the basis of the costs of services they provide. The budget is open-ended, and there is no economic incentive to hold down costs. In fact, the reimbursement system tends to encourage hospitals to add expensive new facilities and technologies. For example, over the past 6 years, the number of laboratory tests per hospitalization has increased by over 8 percent annually, from 2.9 billion tests in 1971 to more than 5 billion tests in 1975. The costs of these tests has risen during this same period from $5.6 billion to greater than $15 billion—a 10-percent annual growth. Laboratories' services now account for 11 percent of total health expenditures. And there is no evidence that all these tests make people healthier. This excess capacity in the medical care system means that the consumer must bear the burden of paying for the fixed costs of greatly underutilized facilities, services, and equipment. This Nation as a whole has 100,000 more hospital beds than it needs.

The second factor is that 90 percent of all hospital costs are paid for by someone other than the patients—by Blue Cross, medicare, medicaid, or other insurance carriers or public programs. Few

patients even know what their hospital stay costs. It is virtually impossible for consumers to do any kind of comparative shopping since most do not have the knowledge to diagnose or prescribe for themselves and must rely on the medical profession. Any permanent system to control cost must include programs for patient education so that consumers can be better informed about their own health needs and be part of the decision-making process.

Mr. President, the Hospital Cost Containment Act of 1977 is a purely transitional program, and I expect the Secretary of HEW to submit his recommendations for more permanent reforms in the way we finance and deliver health care, including his recommendations for national health insurance, by March 1, 1978. The success of any long-range program, however, will be severely limited unless we begin to bring the increase in hospital costs more in line with price trends in the rest of the economy.

The savings in fiscal year 1978 from the program outlined in this bill would total $1.8 billion including $578 million in medicare funds, $143 million in medicaid, and $879 million in private funds.

By 1980, net savings would triple to almost $5.6 billion including $1.755 billion under medicare, $429 million under medicaid, and $2.64 billion in private funds.

Mr. President, the legislation that I am introducing today presents the administration's view on how to slow down the escalating costs of hospital care. I believe, however, that the approach taken by the administration leaves several unresolved issues which I will address at the time of hearings held before the Senate Subcommittee on Health and Scientific Research.

Firstly, the limits on revenue increase are for inpatient hospital care only. Incentives must simultaneously be built to encourage use of ambulatory care facilities, outpatient departments, appropriate long-term care facilities, and home health agencies. We must insure that no one in need of care is denied care because of present limitations on the reimbursement system.

Secondly, I feel strongly that in order to effect larger changes in our system of health care we must develop better methods for controlling the intensity of services provided, for reducing the inappropriate utilization of ancillary services, and for influencing physician behavior. The physician determines, for the most part, whether or not a patient should be hospitalized, how long he will stay, what diagnostic tests he will receive, and the therapeutic procedures he will undergo. Clearly, any cost-control system should encourage the elimination of unnecessary or marginal testing and therapeutic procedures, and it should encourage hospitals to have their medical staffs eliminate marginal and unnecessary admissions.

Third, no one yet knows what is the best reimbursement system. Therefore, while we are planning for more permanent and long-term solutions, we should be encouraging experimentation with alternative systems. These systems could address, for example, various methods of hospital grouping, case mix adjustments and prospective reimbursement.

Fourth, as the health systems agencies and the State health planning and development agencies have increased responsibilities under the administration's bill, I would anticipate that these agencies, which are already understaffed, will receive increased funding.

Finally, although the administration's bill requires hospitals, for the first time, to make available to the public certain financial information, we must insure that this information is easily understood by all consumers so that they can make truly informed decisions about the type of health care they will purchase.

These are some of the concerns that I have, and I encourage witnesses at future hearings to comment on the administration's proposal, the issues I have raised, and to express their own concerns.

I ask unanimous consent that the bill and a detailed summary and rationale of the bill be printed at this point in the RECORD.

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

DETAILED SUMMARY AND RATIONALE

I. BASIC METHOD

Total hospital revenue would be constrained by limiting *increases* in payments from each third-party cost payor—such as Blue Cross, Medicaid and Medicare—and from charge payors—including private insurance and individuals who pay their own bills—as a class. The limit would be about 9 percent in the first year of the program. The program would begin October, 1977.

Rationale

The approach can be implemented and administered quickly and simply.

It requires no new data collection or reporting forms and can be readily understood by hospitals.

It guarantees immediate savings to the Medicare and Medicaid programs, to private insurance and to the public.

Future year savings will be even greater as hospital managers alter employee staffing patterns and take a more cost-conscious view of expenditures for new services and equipment.

II. COVERAGE

The program would cover the in-patient revenues of about 6,000 acute-care and speciality hospitals. It would exclude chronic-care hospitals, new (less than 2-year-old) hospitals, and those getting at least 75 percent of their revenues from Federally defined Health Maintenance Organizations (HMOs) on a capitation basis. Federal hospitals would not be covered directly; such hospitals would be directed by the President to stay within the limits.

Rationale

The cost-containment program would apply only to inpatient services because they represent the most expensive mode of treatment. The Administration views as desirable shifts from in-patient to out-patient care when quality of care is maintained, since out-patient care is considerably less costly.

Federal Government hospitals would not specifically be included in the legislation because these facilities already operate under budget constraints—and these constraints would be modified with respect to short-term in-patient units to reflect the objectives of the overall national system and to set an example for the private sector.

Exemption of hospitals dealing predominantly with Federally defined HMOs provides an added incentive for further development of these cost-effective organizations. Chronic care hospitals would be excluded because they do not have the same inflationary problems as acute-care hospitals.

To prevent hospitals from shifting costs of in-patient services outside the hospital to avoid the revenue limit, the ceiling would exclude from the base any services previously performed in the hospital that were moved out of the hospital.

III. SETTING THE BASIC LIMIT

The basic limit on increases in total-in-patient care revenues would be set by a formula reflecting general price trends in the economy as a whole, plus an additional amount to accommodate some increase in intensity of patient services.

The formula would use the "GNP deflator," published by the Commerce Department, which measures price changes in the whole economy, and would work as follows:

The allowable increase would equal the increase in the GNP deflator for the most recently published 12-month period, plus ⅓ of the difference between the average annual increase in hospital costs in the preceding two years and the increase in the GNP deflator in that same period.

Example: Assume for 1975 and 1976 that the increase in hospital costs was 15 percent and the increase in the GNP deflator for the relevant periods was 6 percent.

Allowable increase equals 6 (GNP deflator) plus (15 minus 6) divided by 3 equals 6 plus 9 divided by 3 equals 6 plus 3 equals 9.

In future years, as the gap between overall price increases and hospital costs narrowed, the allowable increase would come down.

Rationale

A legislated formula based on a general economic price index plus an allowance for limited expansion of services should serve to reassure hospitals that unreasonably low limits will not be set.

A formula based on the overall rate of price increases in the economy will reflect increases in the costs of the things hospitals buy, in most instances.

The additional allowance for expansion of services provides a cushion to hospitals with above-average increases in the prices of what they buy.

IV. ADJUSTING THE BASIC LIMIT FOR CHANGING PATIENT LOAD

The basic limit would be adjusted to reflect any major changes in patient load:

Increases in total allowable revenue would remain constant where patient load, measured by admissions, increased 2 percent or decreased by 6 percent (10 percent in the case of small hospitals—those with fewer than 4,000 annual admissions).

Revenue increases equal to one-half of average revenue per stay in the base year would be allowed for each increased admission beyond 2 percent. However, no additional allowance would be made for admissions beyond 15 percent in the case of large hospitals unless a specific exception were granted.

Similarly, revenue decreases equal to one-half of average revenue per stay would be imposed for decreased admissions below 6 percent. For reductions in patient load beyond 15 percent, full revenue reduction would be imposed, except for small hospitals.

Example

Assume that the basic revenue increase limit is 9 percent and that Hospital X's base year revenue figure is $10,000,000 derived from 10,000 admissions—$1,000 an admission. If Hospital X's admissions in the year begin-

ning October 1, 1977, are the same as in the base year then the total revenue allowed to the hospital is $10,900,000—$900,000 more than in base year.

If the number of admissions in the hospital increased to 11,000, 1,000 or 10 percent more than in the base year, the hospital is allowed a $500 increase in revenue—50 percent of the revenue per admission in the base year—for 800 of these admissions (the excess over 2 percent), or $400,000.

Thus, the total revenue allowed for Hospital X would be $11,300,000 (representing the basic increase of $900,000 plus the increase of $400,000, reflecting the increased patient load). The limit on payments per admission by each major type of third-party payor would be adjusted accordingly.

Rationale

The adjustment provides incentives for hospitals to identify and reduce unnecessary hospital utilization.

Limiting to 50 percent the automatic upward adjustment in revenues for major changes in patient load reduces the incentive to increase admission arbitrarily.

Special treatment for small hospitals, which are subject to wider percentage changes in patient load from year to year, would not seriously undercut the effectiveness of the overall constraint, and would ease Federal administration of the Act.

V. APPLYING THE LIMIT

To meet the overall limit of about 9 percent, the allowable increase in revenue per admission would be calculated by estimating the expected changes in hospital admissions. For example, with an overall limit of 9 percent and an estimated increase in hospital admissions of 2 percent, a hospital would be permitted an increase in average revenue per admission of 7 percent. Cost payors would estimate the limit per stay for purposes of interim reimbursement, based on any anticipated changes in patient load, and apply the actual limit in final settlement, using final fiscal year data on actual changes in patient load.

In addition, the Medicare intermediary would assume responsibility for determining any excess charges per stay for commercial carriers or self-pay patients, from data routinely reported on Medicare cost reports.

If total charges per stay exceeded the rate of increase allowed for the hospital, it would be required to reduce charge increases in the following year accordingly. Adequate public notice of the hospital's violation would be required. Any hospital or third-party payor that was found to have paid or received funds in violation of this Act could be required to pay a tax to the U.S. Treasury equal to 150 percent of the amount in violation.

Example

If Hospital X overcharged charge-payors by $10,000 in a year, then refused to put the overcharge in escrow to be deducted from the following year's ceiling, it would be subject to a tax of $15,000.

Rationale

Applying the allowable percentage increase by major type of payor is administratively simple, permits each major third-party payor (Medicare, Medicaid, Blue Cross) to make final settlements without waiting for all other payors, and would not require any additional reporting forms or audit.

The approach is neutral with regard to type of payor, neither favoring nor discriminating against any type of payor.

Imposing the tax and requiring hospitals to publicize any overcharges should be a significant deterrent to excess charge increases.

VI. BASE FOR APPLYING THE LIMIT

The base would be the dollar total of the hospital's revenue from each class of payor for calendar 1976 (or, in the case of hospitals with a non-calendar fiscal year, for its accounting year that ended in 1976). To bring the 1976 base up to date, an adjustment would be made that would treat the revenue increases in 1977 as though they had been the same as the average annual increase in the two years 1975 and 1976. However, the adjustment rate could not exceed 15 percent or be lower than 6 percent.

Rationale

This method would assure that any hospital which raised charges after public announcement of the Administration's hospital cost containment effort would not benefit from that action.

It would reward hospitals with increases in their revenues of less than 6 percent annually in recent years.

Using previous trends from a period of generally high cost increases is a generous standard, and should not impose a burden on hospitals.

VII. EXCEPTIONS

Exceptions to the total revenue limit would be permitted on only two grounds:

(1) Exceptional changes in patient load (anticipated to encompass about 3 percent of all hospitals); and

(2) Major increases in capacity or types of services, or major renovation or replacement of physicial plant.

Local and state health planning agencies would review and comment on exceptions. To receive added revenues under any exception, a hospital would also have to demonstrate a relatively poor financial condition. Specifically, it would have to show that its ratio of current assets to current liabilities put it in the bottom 25 percent of hospitals covered by the program.

HEW would have to act on requests for exceptions within 90 days or the hospital and third-party payors could presume approval.

Any hospital granted an exception would be subject to an operational review of effectiveness and efficiency by the HEW Audit Agency or its agents. The report of the HEW findings would be made public.

Rationale

Limited criteria for exceptions are necessary to maintain the effectiveness and administrative simplicity of the program.

Strong tests of community necessity for new services by health planning agencies and the requirement that a relatively poor financial condition be demonstrated should ensure a limited number of exceptions.

VIII. ADJUSTMENT FOR NONSUPERVISORY EMPLOYEES

To avoid an inequitable impact on the earnings of low-wage hospital workers, hospitals would be permitted an adjustment of the revenue limit based on actual increases in pay they granted to non-supervisory employees. At the end of 18 months, the Secretary of HEW would determine if the adjustment should be continued.

Under this method the hospital revenue-increase limit is computed by making a separate calculation for the wages of non-supervisory employee.

Example

Assume that Hospital X's costs in the base year are distributed as follows: 35 percent for wages of non-supervisory employees and 65 percent for all other costs. Assume that the earnings per non-supervisory employee have increased 11 percent in the current year. In this case, the revenue-increase limit is 9 percent for 65 percent of the hospital's costs and 11 percent for the remainder, or a total of 9.7 percent.

Rationale

This provision is needed to assure that low-wage hospital workers do not bear the brunt of the cost containment program.

IX. MAINTENANCE OF EFFORT

Hospitals would be required to maintain their charity patient load shares. Enforcement would be on the basis of investigation by health planning agencies of complaints by other area hospitals.

Rationale

Although it is not expected to be a major problem, there is a possibility that some hospitals would seek to avoid the intent of the limits by replacing patients without any insurance coverage with those covered by government or private insurance. This provision would reduce that possibility.

X. DISCLOSURE

Hospitals would be required to make available to the public current charge schedules and cost-reimbursement reports. The local health service agency would publish every six months a list of hospitals with their charges for typical services.

Rationale

These provisions would foster better understanding of hospital costs by consumers and other concerned parties and provide an incentive for self-enforcement of the Act by hospitals.

XI. STATE PROGRAMS

Hospitals in States which receive a waiver from the Federal cost containment program would not be covered. A State would have to meet the following conditions:

a. A hospital cost containment program must have been in effect in the State for at least one year prior to the requested waiver;

b. That program included all payors in the State (except Medicare) and covered at least 90 percent of the hospitals that would be included in the Federal program;

c. The State agrees to comply, on an aggregate basis, with the basic Federal ceiling;

d. There is the expectation, based on demonstrated performance, that the State will achieve the Federal objective under its own program;

e. The State plan provides that any excess revenues generated will be returned to payors.

The requirement that all payors except Medicare have been included in the State plan can be waived if the States has had a program covering at least 50 percent of total hospital payments for one year and the State adds all payors to its plan effective no later than the time of the requested waiver.

New State programs could be added over time, but only under the strict criteria of the experimental programs established under present law.

Rationale

Recognition should be given to State activity in hospital cost containment since the methods developed by some States are more sophisticated and refined than the initial national effort.

XII. ENFORCEMENT

Payment above the cost containment limits would be disallowed under the Medicare and Medicaid programs.

Payment by Blue Cross or other cost payors, or receipt of hospitals of excess revenues, would be subject to a tax at the rate of 160 percent unless rebated to the payors.

Local Health Systems Agencies (HSAs) and State health planning agencies would be required to comply with provisions of the program or face loss of their designation and of Federal funding under the Public Health Service Act.

Rationale

Unless all hospital revenues are controlled, hospitals would have an incentive to discriminate against Federal beneficiaries for whom they receive lower payments, and to compensate for revenue reduction by increasing costs to private plans and individual payors.

XIII. CAPITAL EXPENDITURE PROGRAM

First, the program would set an annual national limit on new capital expenditures by acute care hospitals. The limit would be set at a level somewhat below expenditures in recent years.

The national limit would be allocated to the States by a formula based on population for at least the first year. In later years, the Secretary of HEW could adjust the formula to take into account factors other than population—such as costs of construction and need for capital expansion or modernization. States would award new certificates of need to hospitals up to their limit. HSAs would assist the States by reviewing and commenting on applications of certificates.

Medicare and Medicaid would deny reimbursement to hospitals for unapproved projects. The Federal Government would operate the program in States which do not agree to participate.

Second, in any health service area in which the number of hospital beds exceeds 4 per 1,000 population, or in which the average hospital occupany rate is less than 80 percent, no certificates of need would be allowed if they would yield a net increase in beds in the area. In addition, no Federal grants, loan guarantees or tax subsidies for construction of beds in excess of the existing number would be permitted.

Rationale

A cost containment effort can only be effective over a long period of time if steps are taken now to slow the rate of growth of bed capacity and the duplication of expensive technology.

An effective capital spending constraint will have further benefits by reducing the number of hospitals qualifying for exceptions in future years.

S. 1391

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Hospital Cost Containment Act of 1977".

REPORT ON PERMANENT REFORM IN THE DELIVERY AND FINANCING OF HEALTH CARE

SEC. 2. The Secretary of Health, Education, anid Welfare (hereinafter in this Act referred to as the "Secretary") shall submit to the Congress, no later than March 1, 1978, a report setting forth his recommendations for permanent reforms in the delivery and financing of health care which will increase the efficiency, effectiveness, and quality of health care in the United States and which will replace the transitional provisions of title I of this Act.

TITLE I—TRANSITIONAL HOSPITAL COST CONSTRAINT PROVISIONS

PART A—PURPOSE AND GENERAL DESCRIPTION OF THE PROGRAM

PURPOSE

SEC. 101. It is the purpose of the transitional hospital cost containment program established by this title to constrain the rate of increases in total acute care hospital inpatient costs, beginning October 1, 1977, and continuing until the adoption of the permanent reforms referred to in section 2, by limiting the amount of revenue which may be received, by the hospitals involved, from government programs, private insurers, and individuals who pay directly for such care.

GENERAL DESCRIPTION OF PROGRAM

SEC. 102. (a) In order to carry out the purpose of the transitional program as set forth in section 101, the inpatient revenues of short-term acute care and specialty hospitals (excluding new hospitals and certain HMO-related hospitals) are to be limited in the manner outlined in the succeeding provisions of this section (and more particularly described in parts B and C of this title).

(b) The increase in total revenue which a hospital (as defined in section 121) may receive in any accounting year in the form of—

(1) reimbursement paid under the medicare and medicaid programs, and by cost payers, for inpatient services, and

(2) charges imposed upon other persons for inpatient services,

may not, on a per-admission basis, exceed the average inpatient reimbursement due or inpatient charges imposed per inpatient admission in the base period (in general, the hospital's accounting year ending in 1976) by more than the percentage which is applicable to the hospital for such accounting year under section 111.

(c) Such percentage, in the case of any hospital for any accounting year, is to be determined by—

(1) establishing for such year, under section 112(b), an "inpatient hospital revenue increase limit" based on increases in the GNP deflator and in total hospital expenditures nationwide,

(2) modifying the limit so established by the "admission load formula", as promulgated under section 113, to take account of major changes in patient loads experienced by that particular hospital, in order to arrive at an "adjusted inpatient hospital revenue increase limit" for that hospital in such year, and

(3) applying such adjusted limit for periods after September 30, 1977, with recognition being given under section 111(a)(1) to cost increases prior to that date. (d) An exception from the limits otherwise established may be granted in accordance with section 115 (for a particular period) to any hospital which is experiencing substantially higher costs as a result of extraordinary changes in patient loads or major changes in facilities and services, to the extent required to assure that the necessary additional revenue will be available where necessary to meet actual community needs.

(e) Compliance with these limits is to be enforced, in accordance with section 116, in various ways. Such compliance is required under the medicare program by directly applying the limits for purposes of both interim and final reimbursement. Amounts paid to hospitals under the medicaid program in excess of such limits will be disallowed as a basis for Federal matching payments. Hospitals and nongovernment cost payers exceeding the limits will be subject to a Federal excise tax in an amount equal to 150 percent of the excess (except in the case of a hospital which is exempt as a result of corrective actions as prescribed under section 116(d)(2)).

(f) The Secretary is authorized, under section 117, to waive the limits otherwise established for all hospitals located in any State which has had in effect for at least one year a hospital cost containment program which covers at least 90 percent of all acute care hospitals in the State, applies to all payers except the medicare program, limits inpatient hospital revenue increases to a rate no greater (in the aggregate) than the rate established for the period involved under section 112(b), and provides for return of excess hospital revenues.

PART B—ESTABLISHMENT OF HOSPITAL COST CONTAINMENT PROGRAM

IMPOSITION OF LIMIT ON HOSPITAL REVENUE INCREASES

SEC. 111. (a) The average reimbursement paid to a hospital for inpatient services under title XVIII of the Social Security Act, under a State plan approved under title V or title XIX of such Act, or by any cost payer, and the average charges imposed by a hospital for inpatient services, in any accounting year any part of which falls within a period subject to this title, may not (except as provided in subsection (b)) exceed the base inpatient hospital revenue per inpatient admission (as established under section 114) by a percentage greater than the sum of—

(1) the percentage by which the costs involved would have increased in the period elapsing after the close of the hospital's base accounting year and prior to October 1, 1977, if such costs had increased (during that period) at the average annual rate actually experienced by the hospital during the two-year period ending with the close of such base accounting year, except that such percentage as applied for purposes of this section shall not be more than 15 percent nor less than 6 percent,

(2) the percentage by which such costs would have increased in the period elapsing after September 30, 1977, and prior to the first day of the accounting year for which the limit is being imposed if such costs had increased (during such period) at an annual rate consistent with the inpatient hospital revenue increase limit determined and promulgated under section 112(b), and

(3) the percentage by which such costs would have increased in the accounting year for which limit is being imposed if such costs had increased (during such year) at an annual rate consistent with the adjusted inpatient hospital revenue increase limit applicable to the hospital under section 112(a).

(b) Where less than a full accounting year falls within a 12-month period subject to this title, the limit set forth in subsection (a) of this section, and the limit established under section 112(a), shall apply with respect to reimbursement due or charges imposed for the part of such accounting year which falls within such period in the same proportion as the number of days in such accounting year that fall within such period bears to the total number of days in such accounting year.

DETERMINATION OF ADJUSTED INPATIENT HOSPITAL REVENUE INCREASE LIMIT

SEC. 112 (a) The "adjusted inpatient hospital revenue increase limit" which is applicable to any hospital for purposes of section 111(a)(3) with respect to any accounting year shall (subject to section 111(b) and section 124) be equal to the inpatient hospital revenue increase limit determined and promulgated under subsection (b) of this section for the 12-month period in which such accounting year or any part thereof falls, modified by the application of the "admission load formula" which is promulgated under section 113 and applied to that hospital.

(b)(1) Between July 1 and October 1 of each calendar year beginning with 1977, the Secretary shall promulgate a figure which (subject to paragraph (2)) shall be the "inpatient hospital revenue increase limit" applicable to the 12-month period beginning October 1 in such year (with each such 12-month period being referred to in this title as a "period" or a "period subject to this title"). Such figure shall be the sum of—

(A) the implicit price deflator of the Gross National Product as calculated by the Bureau of Economic Analysis of the Department of Commerce and published in the

Survey of Current Business (hereinafter in this title referred to as the "GNP" deflator") for the 12-month period ending June 30 of such year, and

(B) one-third of the difference between—

(i) the average annual rate of increase in total hospital expenditures which is found by the Secretary to have occurred during the 24-month period ending on the day preceding January 1 of such calendar year, and

(ii) the annual rate of increase in the GNP deflator for the 24-month period ending on the day preceding January 1 of such calendar year.

(2) If the Secretary finds during any period subject to this title that the GNP deflator with respect to such period is expected to exceed by more than one percentage point the GNP deflator which was used in making the determination under paragraph (1) (or in making a prior adjustment under this paragraph), the Secretary shall increase (or further increase) the GNP deflator so used by the amount of such excess; except that no adjustment made under this paragraph shall be effective with respect to any accounting year ending prior to the calendar quarter preceding the calendar quarter in which such adjustment is made.

PROMULGATION OF ADMISSION LOAD FORMULA

SEC. 113. The "admission load formula" shall be promulgated by the Secretary by October 1, 1977, and shall be such that—

(1) a hospital will be allowed an increase in total revenue from inpatient services in any accounting year to the extent (and only to the extent) consistent with the inpatient hospital revenue increase limit promulgated under section 112(b), for the period in which such accounting year or any part thereof falls if admissions in such accounting year have increased by less than 2 percent or declined by less than 6 percent as compared to the base accounting year (2 percent and 10 percent, respectively, in the case of a hospital with no more than four thousand admissions in the base accounting year);

(2) in the case of a hospital whose admissions in any accounting year are beyond the applicable range set forth in paragraph (1), the amount of total revenue from inpatient services in such year which is otherwise allowed under paragraph (1) shall be further increased for each admission above such range by one-half of the average revenue per admission that would have been allowed under paragraph (1) if the actual percentage change in admissions (as compared to the base accounting year) had been zero, or shall be reduced for each admission below such range by one-half of the average revenue per admission that would have been so allowed, except as provided in paragraph (3); and

(3) in the case of a hospital which had more than four thousand admissions in the base accounting year, no additional revenue will be allowed for increased admissions (with respect to any accounting year) beyond 15 percent above those in the base accounting year, but the revenue otherwise permitted such a hospital under paragraphs (1) and (2) shall be reduced (dollar for dollar) for decreased admissions (in that year) beyond 15 percent below those in the base accounting year.

BASE INPATIENT HOSPITAL REVENUE

SEC. 114. (a)(1) The revenue base for application of the adjusted inpatient hospital revenue increase limit with respect to any hospital in any accounting year shall (subject to subsection (b)) be the revenue from reimbursement due and inpatient charges imposed for inpatient hospital services provided in the hospital's base accounting year (as defined in paragraph (2)).

(2) For purposes of this title, a hospital's "base accounting year" is its accounting year which ended in 1976, or, in the case of a hospital which did not meet the definition contained in section 121 for at least one full accounting year prior to an accounting year ending in 1976 in which it met such definition, the accounting period immediately prior to the first accounting year in which it satisfied such definition.

(b) The base revenue established for any hospital by subsection (a) shall (except as provided in subsection (c)) be reduced by an amount equal to any inpatient charges in such base accounting year for elements of inpatient services for which payment is not made to the hospital in an accounting year any part of which falls within a period subject to this title.

(c) Subsection (b) shall not apply with respect to revenue for inpatient services which have been found inappropriate under section 1523(a)(6) of the Public Health Service Act by the State health planning and development agency designated under section 1521 of such Act for the State in which the hospital involved is located.

ESTABLISHMENT OF EXCEPTIONS

SEC. 115. (a) The Secretary shall have authority to grant exceptions from the limits established under this title to individual hospitals for particular periods, but in any case only to the extent that the hospital requesting the exception provides evidence satisfactory to the Secretary—

(1) of the extent to which costs of providing inpatient hospital services in an accounting year any part of which falls within a period subject to this title exceed such costs in the base accounting year as the result of—

(A) changes in admissions beyond the range specified in section 113(3), or

(B) changes in capacity or in the character of inpatient services available in the hospital or major renovation or replacement of physical plant, but only if such changes have increased inpatient costs per admission by more than one-third of the difference specified in section 112(b)(1)(B) over inpatient care costs per admission in the previous accounting year;

(2) that the revenue otherwise allowable (taking into account all other available resources) is insufficient to assure the solvency of the hospital as indicated by the existence of a current ratio of assets to liabilities (determined in accordance with the last sentence of this subsection) of less than the ratio which the Secretary estimates is being experienced by 25 percent or less of the hospitals subject to this title; and

(3) that the changes in admissions, capacity, plant, or services available generating the excess costs described in paragraph (1) have been found to be needed under section 1523(a)(5) of the Public Health Service Act or appropriate under section 1523(a)(6) of the Public Health Service Act by the State health planning and development agency, designated under section 1521 of such Act for the State in which the hospital involved is located.

For purposes of paragraph (2), the term "current ratio of assets to liabilities", with respect to any hospital, means the sum of the cash, notes and accounts receivable (less reserves for bad debts), marketable securities, and inventories held by such hospital divided by the sum of all liabilities of such hospital falling due in an accounting year for which the exception is requested under this section.

(b) The Secretary shall either approve any request for an exception made by a hospital under subsection (a), or deny such request, within a period not to exceed 90 days after the hospital has filed in a manner and form prescribed by the Secretary the evidence required by such subsection. Any such request not denied within such 90-day period shall be deemed approved.

(c) Any hospital granted an exception under this section must make itself available for an operational review by the Secretary. The findings from any such review shall be made public, and continuance of the exception shall be contingent on implementation of any recommendations which may be made (as a result of such operational review) for improvements to increase efficiency and economy.

(d)(1) If the Secretary grants an exception with respect to any accounting year to a hospital which had 4,000 or more admissions in the base accounting year on the grounds set forth in subsection (a)(1)(A), such hospital shall be allowed increased revenue for purposes of this title as though it were a hospital with fewer than 4,000 admissions in such base year under section 113.

(2) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (a)(1)(B), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year and all subsequent accounting years (and the limit on its allowable rate of increase in inpatient hospital revenues shall be adjusted upward accordingly) in an amount no greater than the amount necessary to maintain the current ratio of its assets to liabilities (determined in accordance with the last sentence of subsection (a)) at the level specified in subsection (a)(2).

(e)(1) Any hospital which is dissatisfied with a determination of the Secretary under this section may obtain a hearing before the Provider Reimbursement Review Board established under section 1878 of the Social Security Act, if the amount in controversy is $25,000 or more and the request for such hearing is filed within 180 days after receipt of the Secretary's determination.

(2) For purposes of paragraph (1), the Secretary (notwithstanding section 1878(h) of the Social Security Act) shall appoint five additional members to the Provider Reimbursement Review Board, following the specifications for expertise applicable to the existing five members. Such five additional members shall constitute the Board for purposes of reviewing appeals under this title. All other provisions of section 1878 of the Social Security Act shall apply except that the Board as so constituted shall be considered as reviewing decisions of the Secretary rather than of a fiscal intermediary, and subsection (b) of such section shall not apply.

ENFORCEMENT

SEC. 116. (a) Notwithstanding any provision of title XVIII of the Social Security Act, reimbursement for inpatient hospital services under the program established by that title shall not be payable, on an interim basis or in final settlement, to the extent that it exceeds the applicable limits established under this title.

(b) Notwithstanding any provision of title V or XIX of such Act, payment shall not be required to be made by any State under either such title with respect to any amount paid for inpatient hospital services in excess of the applicable limits established under this title; nor shall payment be made to any State under either such title with respect to any amount paid for inpatient hospital services in excess of such limits.

(c) Notwithstanding any other provision of law, receipt by any hospital of payment for inpatient hospital services in excess of the applicable limits established under this title, or payment by any cost payer (as defined in section 122(e)(2)) for inpatient hospital services on a cost basis in excess of such limits, shall subject such hospital or cost payer—

(1) to the Federal excise tax imposed by section 4991 of the Internal Revenue Code of 1954 (as added by section 128 of this Act), and

(2) to exclusion, at the discretion of the Secretary, from participation in any or all of the programs established by titles V, XVIII, and XIX of the Social Security Act.

(d)(1) Where the Secretary determines that average charges per admission billed for inpatient services by a hospital during an accounting year any part of which is included in a period subject to this title exceed the applicable limits established under this title, he shall promulgate (or shall require the hospital to promulgate in such manner as he may prescribe) the percentage by which the average charge per admission billed in that accounting year by the hospital exceeded the applicable limitation on average charges per admission established under this title.

(2) Any hospital described in paragraph (1) shall be exempt from the penalties set forth in subsection (c) if it holds in escrow an amount equal to the percentage promulgated under such paragraph multiplied by the hospital's total inpatient charges less its inpatient charges applicable to cost payers (as defined in section 122(e)), imposed on the accounting year referred to in such paragraph, until such time as charges below the applicable limits established under this title, equal in the aggregate to such amount, are experienced; but any such hospital which fails to do so shall be subject to such penalties.

EXEMPTION FOR HOSPITALS IN CERTAIN STATES

SEC. 117. (a) At the request of the Governor (or other Chief Executive) of any State (including the District of Columbia and Puerto Rico) the Secretary may exclude from the application of this title all hospitals physically located in such State if the Secretary finds that—

(1) such State has had in effect for at least one year as of the date of such request a program for containing hospital costs in the State which covers at least 90 percent of the hospitals in the State which would otherwise be covered under the program established by this title;

(2) the State program applies at least to all inpatient care revenues of such hospitals (except revenues received under title XVIII of the Social Security Act);

(3) the Governor (or Chief Executive) certifies, and the Secretary determines, that the aggregate rate of increase in inpatient hospital revenues for all hospitals in the State will not exceed the rate promulgated by the Secretary under section 112(b); and

(4) the Governor (or Chief Executive) has submitted, and had approved by the Secretary, a plan for recovering any excess of revenue which (notwithstanding paragraph (3)) may occur.

(b) A State which would meet the conditions of this section except that its program does not satisfy subsection (a)(2), but whose program did cover at least 50 percent of all inpatient care revenues during the 12-month period preceding the date of its request under subsection (a), will nonetheless be eligible under this section if, by the date of such request, it does have a program which satisfies such subsection.

EXEMPTION FOR HOSPITALS ENGAGED IN CERTAIN EXPERIMENTS OR DEMONSTRATIONS

SEC. 118. A hospital may be excluded from the application of this title if the Secretary determines that (1) such exclusion is necessary to facilitate an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967 or section 222 of the Social Security Amendments of 1972, and (2) such experiment or demonstration is consistent with the purposes of this title.

PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS

DEFINITION OF HOSPITAL

SEC. 121. (a) For purposes of this title (subject to subsection (b) of this section), the term "hospital", with respect to any accounting year, means an institution (including a distinct part of an institution participating in the program established under title XVIII of the Social Security Act) which—

(1) satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act, and

(2) had an average duration of stay of 30 days or less in the preceding accounting year.

(b) An institution shall not be considered a "hospital" during any part of a period subject to this title if with respect to such period it—

(1) is a Federal hospital;

(2) has met the conditions specified in subsection (a) (under present and previous ownership) for less than two years before such period; or

(3) derived more than 75 percent of its inpatient care revenues on a capitation basis, disregarding revenues received under title XVIII of the Social Security Act, from one or more health maintenance organizations (as defined in section 1301(a) of the Public Health Service Act).

OTHER DEFINITIONS

SEC. 122. For purposes of this title—

Accounting Year

(a) The term "accounting year" with respect to any period means—

(1) in the case of a hospital participating in the program established by title XVIII of the Social Security Act, a period of 12 consecutive full calendar months including the same months as the last full reporting period allowed for reimbursement purposes under such title;

(2) in the case of a hospital not participating in the program established by title XVIII of the Social Security Act, a period of 12 consecutive full calendar months including the same months as the last full accounting period used by such other cost payer as the Secretary may designate; and

(3) in the case of a hospital which is not participating in the program established by title XVIII of the Social Security Act and for which the Secretary does not designate an accounting year under paragraph (2), a calendar year.

Inpatient Hospital Services

(b) The term "inpatient hospital services" has the meaning given it by section 1861(b) of the Social Security Act (including in addition the services otherwise excluded by paragraph (5) thereof).

Inpatient Charges

(c) The term "inpatient charges" means regular rates, applied to all inpatient hospital services, that meet the requirements of section 405.452(d)(4) of the Federal regulations applicable to title XVIII of the Social Security Act.

Admissions

(d) The term "admission" means the formal acceptance of an inpatient by a hospital, excluding newborn children (unless retained after discharge of the mother) and transfers within inpatient units of the same institution.

Cost Payer

(e) The term "cost payer" means—

(1) a program established by or under title V, XVIII, or XIX of the Social Security Act, and

(2) any organization which (A) meets the definition of contained in section 1842(f)(1) of the Social Security Act, and (B) reimburses a hospital subject to this title for inpatient hospital services on the basis of cost as defined for purposes of such reimbursement.

DETERMINATION OF INPATIENT REIMBURSEMENT

SEC. 123. For purposes of section 111, inpatient reimbursement under the programs established by titles V, XVIII, and XIX of the Social Security Act shall be determined without regard to adjustments resulting from the application of section 405,460(g), 405.455(d), 405.415(f), or 405.415(d)(3) of the Federal regulations applicable to such title XVIII.

EXEMPTION OF NONSUPERVISORY PERSONNEL WAGE INCREASES FROM REVENUE LIMIT

SEC. 124. (a) At the request of any hospital which is subject to the provisions of this title and which provides the data necessary for the required calculation, the Secretary shall modify the inpatient hospital revenue increase limit and the adjusted inpatient hospital revenue increase limit otherwise established for such hospital with respect to any accounting year under section 112 to allow such hospital to receive, without restriction, revenue equal to the average amount of any increase in regular wages granted in such year to employees who do not meet the definition of "supervisor" as that term is used for purposes of the National Labor Relations Act and (if not employees of a State or political subdivision thereof) who are covered by such Act.

(b) Such modified limits for any accounting year shall be calculated by adding together—

(1) the average percentage increase in regular wages granted to the employees referred to in subsection (a) since the close of the preceding accounting year multiplied by the percentage of total inpatient cost (as determined for purposes of title XVIII of the Social Security Act attributable to such wages in such preceding year; and

(2) the inpatient hospital revenue increase limit or, as appropriate, the adjusted inpatient hospital revenue increase limit otherwise applicable to the hospital under this title multiplied by the percentage of revenues (as determined for purposes of title XVIII of the Social Security Act) attributable to all other expenses in the preceding accounting year.

(c) The modified inpatient hospital revenue increase limit and adjusted inpatient hospital revenue increase limit established under subsection (b) for any hospital with respect to any accounting year shall constitute such hospital's inpatient hospital revenue increase limit or, as appropriate, the adjusted inpatient hospital revenue increase limit for such year under section 111 for all of the purposes of this title.

(d) This section shall apply to accounting years beginning after March 31, 1979, only to the extent the Secretary so determines.

DISCLOSURE OF FISCAL INFORMATION

SEC. 125. (a)(1) Every hospital shall (A) submit semiannually to the health systems agency designated under section 1515 of the Public Health Service Act for the health service area in which it is located, by March 1 and September 1 of each year, its average semi-private room rate and the charges for the 10 other services which the health systems agency finds represent the services which are most freqeuntly used or most important for purposes of comparing hospitals, and make available all cost reports submitted to cost payers, and (B) submit annually its overall plan and budget described in section 1864(z) of the Social Security Act.

(2) Failure by any hospital to comply with the requirement of paragraph (1) shall subject it to exclusion, at the discretion of the Secretary, from participation in any or all of the programs established by titles V, XVIII, and XIX of the Social Security Act.

(b) Each health systems agency designated under section 1515 of the Public Health Service Act shall publish every April 1 and October 1, in readily understandable language for public use, the information it receives under this section, in a manner designed to facilitate comparisons among the hospitals in its area.

IMPROPER CHANGES IN ADMISSION PRACTICES

SEC. 126. Upon written complaint by any institution meeting the conditions set forth in paragraphs (1) and (7) of section 1861(e) of the Social Security Act that one or more hospitals subject to this title in a health service area for which a health systems agency has been designated under section 1515 of the Public Health Service Act has changed its admission practices in a manner that would tend to reduce the proportion of inpatients of such hospital or hospitals for whom reimbursement at less than the inpatient charges (as defined in section 122(c) of this Act) applicable to such inpatients is anticipated, such health systems agency shall investigate the complaint and, upon a finding by such agency that the complaint is justified, the Secretary may impose the sanction set forth in section 116(c)(2) of this Act.

REVIEW OF CERTAIN DETERMINATIONS

SEC. 127. Any determinations made on behalf of the Secretary under this title with respect to the application of its provisions to individual hospitals (other than determinations made under section 115 or 126) shall be subject to the provisions of section 1878 of the Social Security Act in the same manner as determinations with respect to the amount of reimbursement due a provider of services under title XVIII of such Act.

EXCISE TAX ON EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

SEC. 128. (a) Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—TAX ON CERTAIN EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

"Sec. 4991. Imposition of tax.

"SEC. 4991. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed, with respect to the receipt by any hospital of payment for inpatient hospital services in excess of the applicable limits established by title I of the Hospital Cost Containment Act of 1977, and with respect to any payment made by any cost payer as defined in section 122(e)(2) of such Act for inpatient hospital services on a cost basis in excess of such limits, a tax equal to 150 percent of the amount of such excess. The tax imposed by this subsection shall be paid by the hospital or cost payer.

"(b) EXCEPTION.—The tax imposed by subsection (a) shall not apply with respect to any hospital so long as it is determined by the Secretary of Health, Education, and Welfare to be taking the corrective action described in section 116(d)(2) of the Hospital Cost Containment Act of 1977.

"(c) DEFINITIONS.—Terms used in subsections (a) and (b) have the meanings given them by title I of the Hospital Cost Containment Act of 1977.

"(d) ADMINISTRATION.—Under and to the extent provided by regulations of the Secretary, the appropriate provisions of subtitle F (relating to procedure and administration) shall be made applicable with respect to the tax imposed by subsection (a) of this section.".

(b) The table of chapters for subtitle D of such Code is amended by adding at the end thereof the following new item:

"Chapter 45. Tax on Certain Excessive Payments for Inpatient Hospital Services.".

TITLE II—LIMITATION ON HOSPITAL CAPITAL EXPENDITURES

SEC. 201. (a) Part A of title XV of the Public Health Service Act is amended by adding at the end thereof the following new section:

"LIMITATION ON HOSPITAL CAPITAL EXPENDITURES, CEILING FOR THE SUPPLY OF HOSPITAL BEDS, AND STANDARD FOR OCCUPANCY OF HOSPITAL BEDS

"SEC. 1504 (a)(1) Before the beginning of the fiscal year beginning October 1, 1977, and at least 60 days before the beginning of each succeeding fiscal year, the Secretary shall promulgate a sum as a hospital capital expenditure limit applicable to such fiscal year. The sum promulgated as a limit under the preceding sentence for any period shall be an amount which may not exceed $2,500,000,000.

"(2) The Secretary shall apportion the sum promulgated under paragraph (1) for any fiscal year among the various States on the basis of the population of the various States; except that for any fiscal year beginning more than 18 months after the date of enactment of this section the Secretary shall apportion the sum promulgated under paragraph (1) for such fiscal year among the various States, taking into account the population of the various States; and also taking into account, to the extent feasible, variations among the States in the costs of construction, population patterns and growth, the need for hospital facilities and equipment and for modernization of existing hospital facilities and equipment, and other factors important to the equitable apportionment of such sum.

"(b)(1) At the time the Secretary promulgates under subsection (a) a hospital capital expenditure limit the Secretary shall also promulgate for the fiscal year to which such limit is applicable—

"(A) a national ceiling for the supply of hospital beds within health service areas established under section 1511 (hereinafter in this title referred to as the 'supply ceiling'), and

"(B) a national standard for the rate of occupancy of hospital beds within such areas (hereinafter in this title referred to as the 'occupancy standard').

"(2) The supply ceiling promulgated for any fiscal year under paragraph (1)(A) may not exceed the ratio of 4 hospital beds per 1,000 of population; but the Secretary may promulgate under such paragraph a different supply ceiling for health services areas which have special characteristics or which meet special requirements established by the Secretary.

"(3) The occupancy standard promulgated under paragraph (1)(B) for any fiscal year may not be less than 80 percent; but the Secretary may establish a different occupancy standard for health service areas which have special characteristics or which meet special requirements established by the Secretary.".

(b)(1) Part C of title XV of the Public Health Service Act is amended by adding at the end thereof the following new section:

"CERTIFICATE OF NEED PROGRAM

"SEC 1527. (a) The certificate of need program required by section 1523(a)(4)(B) shall provide for the following:

"(1) Review and determination of need under such program of institutional health services, health care facilities, and health maintenance organizations shall be made before the time such services, facilities, and organizations are offered or developed or substantial expenditures are undertaken in preparation for such offering or development.

"(2) The program shall be administered in such a manner that only those services, facilities, and organizations found to be needed shall be offered or developed in the State in which the program applies.

"(3) In issuing a certificate of need for any such service, facility, or organization, the State shall specify in the certificate the maximum amount of capital expenditures which may be made for such service, facility, or organization under such certificate.

"(4) The aggregate of the maximum amounts of capital expenditures authorized in a fiscal year in accordance with paragraph (3) for hospitals may not exceed the portion of the sum promulgated under section 1504(a)(1) and apportioned to the State under section 1504(a)(2) for such fiscal year, as adjusted in accordance with this paragraph. For any fiscal year the sum apportioned to a State under section 1504(a)(2) shall (A) if the aggregate of the maximum amounts of capital expenditures authorized by the State in the preceding fiscal year in accordance with paragraph (3) for hospitals was less than the portion of such sum so apportioned to the State for such fiscal year, the difference between each authorized maximum amounts and the sum so apportioned shall be added to the sum so apportioned to the State for the fiscal year following such fiscal year, and (B) if in the fiscal year there was a closure of a hospital (or part thereof) through which institutional health services found under section 1523(a)(6) to be inappropriate were provided, then the amount by which the historical cost (as defined for purposes of title XVIII of the Social Security Act) of such hospital or part exceeds the total amount of depreciation of such hospital or part claimed for purposes of establishing the reasonable costs of services provided by the hospital for purposes of receiving reimbursement under title XVIII of the Social Security Act shall be added to the portion of such sum so apportioned to the State for such fiscal year.

"(b)(1) Under such a certificate of need program a certificate of need may not, except as provided in paragraph (2), be granted for an institutional health service or health care facility within a health service area established under section 1511 if the development of such service or facility under such certificate would result in a number of hospital beds within such area which is in excess of the applicable supply ceiling promulgated under section 1504(b)(1)(A).

"(2) If in a health service area the number of hospital beds is in excess of the supply ceiling applicable to a fiscal year, then a certificate of need may be granted for such a service or facility the development of which would result in a number of new hospital beds which is not more than one-half the number of hospital beds removed permanently from service in such area in such fiscal year.

The amount by which the number of new hospital beds with respect to which certificates of need may be issued in a fiscal year under the preceding sentence is less than the number of new hospital beds with respect to which certificates of need were issued in such fiscal year may be added to the number of new hospital beds with respect to which certificates of need may be issued in the succeeding fiscal year.

"(c)(1) Under such a certificate of need program a certificate of need may not, except as provided in paragraph (2), be granted for an institutional health service or health care facility within a health service area if the development of such service or facility could reasonably be expected to produce a number of hospital beds which would result in a hospital bed occupancy rate within such area which is less than the applicable occupancy standard promulgated under section 1504(b)(1)(B).

"(2) If in any fiscal year the hospital bed occupancy rate within a health service area is less than the occupancy standard applicable for such fiscal year, then a certificate of need may be granted for a service or facility the development of which would result in a number of new hospital beds which is not more than one half of the number of hospital beds removed permanently from service in such area in such fiscal year. The amount by which the number of new hospital beds with respect to which certificates of

need may be issued in a fiscal year under the preceding sentence is less than the number of new hospital beds with respect to which certificates of need were issued in such fiscal year may be added to the number of new hospital beds with respect to which certificates of need may be issued in the succeeding fiscal year.

"(d) In granting certificates of need under such a program a State shall take into account priorities recommended by health systems agencies within the State under section 1513(h).".

(2) The second sentence of section 1523(a)(4) of the Public Health Service Act is repealed.

(c) Section 1531 of the Public Health Service Act is amended (1) by striking out "For purposes of this title" and inserting in lieu thereof, "Except as otherwise, provided for purposes of this title", and (2) by adding after paragraph (5) the following new paragraphs:

"(6) For purposes of sections 1504 and 1527, the term 'hospital', with respect to any accounting year, means an institution (including a distinct part of an institution participating in the program established under title XVIII of the Social Security Act) which—

(A) satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act, and

(B) has an average duration of stay of 30 days or less in the preceding accounting year,

except that for any fiscal year such term does not include a Federal hospital or an institution which during such fiscal year derived more than 75 percent of its inpatient care revenues on a capitation basis, disregarding revenues received under title XVIII of the Social Security Act, from one or more health maintenance organizations (as defined in section 1301(a)).

"(7) For the purposes of sections 1504 and 1527, the term 'capital expenditure' means an expenditure which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and which (A) exceeds $100,000, (B) changes the bed capacity of the facility with respect to which such expenditure is made, or (C) substantially changes the services of the facility with respect to which such expenditure is made, except that such term includes expenditures for obtaining a facility or part thereof, or equipment for a facility or part, under a lease or comparable arrangement but does not include the acquisition of an existing hospital facility if such acquisition does not make a change in the services or bed capacity of such hospital facility. For purposes of clause (A) of the preceding sentence, the cost of the studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which such expenditure is made shall be included in determining whether such expenditure exceeds $100,000. If a person makes an acquisition of equipment for a hospital and donates it to the hospital, the expenditure for such acquisition shall be considered a hospital capital expenditure for purposes of sections 1504 and 1527.".

(d) Section 1532(b)(2) of the Public Health Service Act is amended (1) by striking out "ninety days" and inserting in lieu thereof "one year", and (2) by adding before the period "or longer than such shorter period from such date as the Secretary may prescribe".

SEC. 202. (a)(1) Section 1122 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j)(1) Except as provided in paragraph (2), in determining the Federal payments to be made under titles V, XVIII, and XIX with respect to services furnished in a health care facility located in a State—

"(A) which has not entered into an agreement with the Secretary under this section, or

"(B) which does not have a certificate of need program approved under title XV of the Public Health Service Act,

the Secretary shall not include an amount equal to ten times any amount which is attributable to depreciation, interest on borrowed funds, and return on equity capital (in the case of proprietary facilities) or other expenses related to capital expenditures after September 30, 1977, for such health care facility unless the Secretary has approved, in accordance with procedures and criteria established by the Secretary, such expenditures after taking into account any recommendation made by a State agency designated under section 1521 of the Public Health Service Act. With respect to any organization which is reimbursed on a per capita or a fixed fee or negotiated rate basis, in determining the Federal payments to be made under titles V, XVIII, and XIX, the Secretary shall exclude an amount which in his judgment is a reasonable equivalent to the amount which would otherwise be excluded under this subsection if payment were to be made on other than a per capita or a fixed fee or negotiated rate basis.

"(2) Paragraph (1) shall not apply with respect to determination of Federal payments to be made under title V, XVIII, or XIX with respect to services furnished in a health care facility located in a State which has a certificate of need program, approved by the Secretary for purposes of this section, which applies to capital expenditures for hospitals and with respect to which such capital expenditures meet the requirements of section 1527 of the Public Health Service Act.".

(2) Subsection (e) of such section 1122 is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (d) or (j)".

(3) Subsection (b) of such section 1122 is amended by inserting before the period at the end thereof the following: "or does not meet any applicable requirement of subsection (a)(4), (b), or (c) of section 1527 of the Public Health Service Act".

(4) Subsection (d)(1) of such section 1122 is amended by striking out "any amount" in the matter following subparagraph (B) of the first sentence of such section and inserting in lieu thereof "an amount equal to ten times any amount".

(b) The amendments made by subsection (a) shall apply with respect to capital expenditures made after September 30, 1977.

SEC. 203. (a) Section 103 of the Internal Revenue Code of 1954 (relating to exclusion from gross income of interest on certain governmental obligations) is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) Obligations Supporting Increases in Acute Care Hospital Beds.—Any obligation issued by a State or territory for an institutional health service, health care facility, or health maintenance organization—

"(1) the development of which would result in a number of hospital beds within a health service area which number is in excess of the applicable supply ceiling for such area promulgated under section 1504(b)(1)(A) of the Public Health Service Act, or

"(2) for which a certificate of need has not been issued under a certificate of need program approved under title under title XV of the Public Health Service Act,

shall be treated as an obligation not described in subsection (a)(1).".

(b) The amendments made by subsection (a) shall apply with respect to taxable years beginning after the date of the enactment of this Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the bill be referred jointly to both the Committee on Finance and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be received and appropriately referred.

Mr. HATHAWAY. Mr. President, I am joining with the Senator from Massachusetts (Mr. KENNEDY) to introduce President Carter's proposed Health Cost Containment Act of 1977. This act represents the culmination of much careful study and attention by this administration to the problem of rising hospital expenditures. While I am not necessarily convinced that the specific provisions or overall approach of the President's measure will successfully answer all the questions generated by health care inflation, I do agree that such inflation has reached intolerable levels and must be curbed.

Moreover, it is clear that considerable thought and effort went into fashioning this measure, and it therefore represents a good point from which Congress can begin to consider ways to bring these inflationary trends under control.

An ever growing share of our GNP is consumed by health care today. While 20 years ago only 5 percent of our GNP was spent in the health sector, over 8.6 percent is spent for these purposes today. Few people understand or appreciate that this health care crisis is as serious for us in America today as the energy crisis, or any other crisis we face.

Just as there comes a point when the cost of energy causes our standard of living to decline, there comes a time when health care costs will diminish the attainment of other human needs.

Today, nearly 12 cents of every Federal dollar goes for health care—nearly 9 cents for hospital care alone. Just as States have had to raise taxes and cut services to cover their skyrocketing medicaid costs, so the Federal Government has had to set more money aside for hospital costs, which consume 40 percent of the Nation's health care budget and which have been escalating faster than the cost-of-living for more than two decades.

Since 1965, for example, the cost of an average hospital stay climbed from less than $300 to more than $1,300. Americans today must work an average of more than 1 full month of every year just to pay for their health care, which will just pay for their hospital costs. This is reflected in an average 15 to 20 percent rise in private health insurance premiums. And the end of the upward spiral is nowhere in sight. In calendar year 1976 the cost of a stay in a hospital increased more than 15 percent, or 2½ times the 6 percent increase in the Consumer Price Index. The hospital cost increase even outstripped increases in energy and food. Based on these inflationary patterns, the need for controlling increases in hospital costs is clear and compelling.

The Hospital Cost Containment Act of 1977 will—

Limit the in-patient reimbursements

of acute care hospitals, excepting new hospitals, Federal hospitals, and Health Maintenance Organization, HMO, hospitals.

Provide an automatic formula to adjust the 9 percent limit for moderate changes in expected patient load. The formula will contain strong incentives to discourage unnecessary hospitalization.

Include an adjustment for hospitals which provide wage increases to their nonsupervisory employees.

Provide an exceptions process for the small percentage of hospitals which will undergo extraordinary changes in patient loads or major changes in capital equipment and services. The program will require the Department of HEW to respond to any application for an exception within 90 days.

Disallow in the computation of a hospital's base cost any unwarranted expenditures made in anticipation of the implementation of this program.

Allow States which operate cost containment programs, and are capable of meeting the Federal program's criteria, to continue their own regulatory approaches.

The administration maintains that this program will save about $2 billion in fiscal year 1978—over $650 million in the Federal budget, over $300 million in State and local budgets, and almost $900 million in private health insurance and payments by individuals. In fiscal year 1980, total savings will exceed $5.5 billion.

As a member of both the Finance and Human Resources Committees, to which the administration's proposal will be jointly referred, I have agreed to cosponsor this measure because I strongly agree with its overall goals and objectives. However, I also agree with those of my colleagues who believe we should move only with great caution in this area, and that in the process we should make our own careful analysis of all the needs of all the participants in our Nation's health care system today.

For example, the problems and questions that will almost certainly need to be addressed in the weeks and months ahead include:

The need to provide carrots as well as sticks in order to convince hospitals to operate more efficiently;

The need to examine rising costs in all kinds of health care facilities, such as nursing homes, or intermediate care facilities, as well as in hospitals;

The need to differentiate among different types of hospitals, with different needs and clienteles, so as to be able to adjust a system of controls to each individual hospital's unique situation;

The need to insure that cost controls are not achieved at the expense of meeting the health care needs of the poor and the disadvantaged;

The need carefully and critically to examine those elements that contribute to rising hospital costs, such as physician's fees, hospital supply companies, and other areas, as well as simply examining the hospital charges themselves;

The need to examine other contributing factors that may well be generated by the Federal Government itself, such as increased paperwork or unrealistic requirements generated by an ever-growing body of Federal regulations;

The need to insure equitable treatment for all classes of salaried hospital employees, including nurses, and to insure that it does not fall to them alone to bear the burden of supporting cost containment; and

The need to insure that expenses completely beyond the hospital's control, such as energy costs, are adequately accounted for in the process of containing costs.

This is by no means an exhaustive list of the very serious questions and problems we will confront in attempting to enact an effective, equitable cost containment proposal into law. Yet, I am convinced that we can obtain such a law, and I believe the President's proposed legislation is an excellent starting point for congressional consideration of this profound and significant national problem.

By Mr. RIBICOFF (for himself, Mr. HATHAWAY, and Mr. KENNEDY):

S. 1392. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program and for other purposes; to the Committee on Finance.

Mr. RIBICOFF. Mr. President, I am pleased to introduce the administration's new child health assessment program.

This initiative will expand and improve the existing early periodic screening, diagnosis, and treatment program. It is important. Poor children have a greater number of illnesses than other children. They lose more days from school, and they have less access to a doctor's care. Discovery and treatment of these health problems at an early age improves a child's chance of having a productive adulthood.

We all recognize the importance of preventive health care for young children. However, implementation of the early and periodic screening, diagnosis, and treatment program has been incredibly slow. The program became law in January 1968. It took the Department of Health, Education, and Welfare 3 years to issue regulations. Today only about 2 million of the 12 million children eligible for medicaid are screened. Twenty-two percent of those found to need treatment do not get it. And the program competely ignores approximately 700,000 children under 6 who are poor but ineligible for medicaid.

This new child health assessment program strengthens our efforts to screen and to treat children. It extends medicaid eligibility to children under 6 whose families meet the income requirements for medicaid but do not meet other State eligibility requirements.

Most of these children are in intact families. All of these children will now be eligible for medicaid and for screening, diagnostic, and treatment services. Immunization against childhood diseases will also be provided.

The quality of care will be improved by phasing in a requirement that assessments be performed by centers or physicians capable of delivering treatment.

The child health assessment program includes regularly scheduled health assessments and treatments for conditions and problems diagnosed.

These improved State services will be made possible through an increase in the Federal matching rate for the program. The matching rate for assessment and treatment of children will increase from an average of 55 percent to an average of over 75 percent. States which meet performance standards will also have their Federal matching payment for medicaid administration costs increased.

The administration estimates that this program will cost $180 million in the next fiscal year. This is a tiny sum in comparison to the overall medicaid budget. This money is an investment in our future. It gives us a chance to offer poor children a healthy and productive life.

Mr. President, I ask unanimous consent that a summary of this bill and a breakdown of the costs be printed immediately following my remarks.

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

SECTION-BY-SECTION SUMMARY

The first section of the draft bill would provide the short title of the Act—the "Child Health Assessment Act".

Section 2 of the draft bill would provide the purposes of the Act—to expand the availability of health care to financially needy children, to improve the quality of such care, and to increase immunization levels of children.

Section 3 of the draft bill would amend section 1902(a)(13) of the Social Security Act by adding two new subparagraphs to the Medicaid State plan requirements. The first would require that, effective October 1, 1977, all children under the age of six who are members of families who meet the income and resources eligibility requirements in each State for aid to families with dependent children (AFDC) be eligible under the State plan for the program currently referred to as early and periodic screening, diagnosis, and treatment (EPSDT). Other provisions in the draft bill are designed to improve the quality of care under this program and would modify the terms used to describe the program. Currently, the federal law requires that the EPSDT program and Medicaid be made available only to recipients of federal categorical cash assistance, although States may, at their option, make eligible for Medicaid and EPSDT other children under 21 whose families are within the federal income limitations for Medicaid.

The second new paragraph which would be added to the State plan requirements by section 3 of the draft bill would require each State to make available to any assessed child—whether the child was assessed as required by federal law or at the option of the State—all medical care and services for which federal financial participation under Medicaid is available, other than those for the treatment of mental illness, mental retardation, developmental disabilities and dental problems not discovered during an assessment. Currently, services which are required to be provided are specified in regulations and are limited to services each State already makes available under its Medicaid

plan, as well as services for the treatment of vision, hearing, and certain dental problems.

Section 4(a) of the draft bill would amend section 1902(a)(10) of the Social Security Act to require that States make eligible for Medicaid all children under the age of six who are members of families who meet the income and resources eligibility requirements for AFDC in each State.

Section 4(b) of the draft bill would make conforming changes in title XIX of the Social Security Act to make clear that child health assessments and follow-up services provided as a result of amendments contained in the draft bill are not thereby to be required to be provided to individuals not meeting the appropriate age requirements.

Section 5 of the draft bill would add a new section to title XIX of the Social Security Act. That section describes the child health assessment program which would be required by the law. The program would be available to AFDC recipients under 21 (as under current law), certain income eligible children under 6 as previously described (currently optional in each State), and other income eligible children under 21 at each State's option. The section would require each health care provider in the program to enter into an agreement with the State Medicaid agency to (1) perform periodic health assessments as required by regulations of the Secretary; (2) assume over the next three years gradually increasing responsibility for the provision of a minimal range of diagnostic and treatment services as required by regulations of the Secretary so that (except in areas where the Secretary grants a waiver) diagnostic and treatment services will be provided directly at the end of the three year period; (3) refer children for other appropriate services; (4) take responsibility for case management; (5) be available to meet the continuing health needs of assessed children; and (6) make reports required by the State or Secretary. The new section 1912 would also make eligible for continued Medicaid services for a period of six months any child who has been assessed but whose family income has increased, or who has become ineligible for AFDC, and would thereby otherwise become ineligible for Medicaid.

Section 6 of the draft bill would add an additional State plan requirement that States encourage participation by physicians and health care centers in the child health assessment program. It also would require appropriate coordination among relevant State and local agencies and arrangements for the provision of appropriate support services.

Section 7(a) of the draft bill would provide for increased federal financial participation in the cost of health assesments and all related or follow-up care and services provided to assessed children. Currently, the federal share of the cost of such care is the "medical assistance percentage" for each State. The range of that percentage is between 50 percent and 78 percent (and averages 55 percent). Section 7 would increase the percentage for purposes of the child health assessment program to the average of the current medical assistance percentage in each State and 90 percent or to 75 percent, whichever is greater.

Section 7(b) of the draft bill would provide a fiscal sanction for any State which fails to meet certain program standards specified in the bill. The sanction would be a reduction by 20 percent of the amount payable to a State for administration of the Medicaid program. Currently the reduction is one percent of federal financial participation in a State's AFDC costs. Other changes in the fiscal reduction provision are that it would be applied only with respect to fiscal quarters after a State is notified of a shortcoming (currently the sanction applies retroactively as well) and that the Secretary could postpone any reduction for up to six months to permit a State to correct its program. The amendment also would allow the Secretary to set by regulation the standards of performance a State must attain.

Section 7(b) would also provide a financial bonus to any State meeting the standards of good performance which the Secretary would specify in regulations. The bonus would be an increase from 50 to 75 percent in federal reimbursement for general State administrative costs for Medicaid.

Section 8 contains three conforming amendments. One would repeal, effective with respect to fiscal quarters after September 30, 1977, the current financial sanction applicable to the AFDC program. The others would modify the terms currently used in title XIX to refer to the child health program and would provide for the transition into the revised program of children currently being served under LPSDT.

Fiscal year 1978 costs—Child health assessment program

[In millions]

Expanded coverage for currently eligible children	$60
Extending care to poor children not currently eligible	48
Guaranteeing eligibility for treatment for at least 6 months after screening	27
Increased administrative expenses	20
Additional or expanded resources (especially rural health centers	25
Total	180

Mr. HATHAWAY. Mr. President, with increasing public and private concern over escalating health care costs and the administration's stated commitment to a national health policy, it becomes incumbent upon us to find more effective means of promoting and maintaining health. And at least on its face, no investment of public resources is better spent than on the prevention, early detection and treatment of disease and disability in children. Whether one couches the decision in the rhetoric of cost-benefit ratios and life-years or in the humanistic phrases of equality, access, quality of care and the right to health, the allocation of public moneys for the detection of illness in poor children and its followup is money well spent. The Child Health Assessment Act of 1977 would do this through improving the EPSDT program by reaching more poor children with more comprehensive, continuing primary and preventive health health care.

When the Social Security Act was amended by Public Law 92-603, it was hoped that the early periodic prevention, screening detection, and treatment program would reach all eligible children in need. These hopes were not fully realized.

Current efforts to improve health services for poor children are clearly inadequate. The major existing program seeks to provide health screening and treatment for medicaid-eligible children.

EPSDT reaches only 30 percent of the 12 million children currently eligible for medicaid.

Approximately 22 percent of the children screened under EPSDT and found to need treatment do not get the service required.

The program does not reach an estimated 700,000 children under 6 who are in families whose income meets State financial requirements for medicaid but whose family structure—the father is present, for example—makes them ineligible for medicaid. States now have the option of covering children in such families under medicaid, but only 16 States now do so. I am pleased to say my own State of Maine is one of those that does cover these children.

Even now, over a decade after medicaid and 5 years after the passage of the law setting up the EPSDT program, children do not receive adequate and continuous health care.

Poor children are likely to have twice as many hospital days as children with adequate income.

They lose more days from school.

They are bedridden more days.

They have more chronic diseases.

They have less access to a regular source of physician's care.

The proposed new child health assessment program—CHAP—would substantially strengthen the existing program by:

Requiring States to provide medicaid and EPSDT services to the estimated 700,000 poor children under 6 whose family structure makes them ineligible for medicaid.

Providing an incentive to States to improve their current service to all poor children by increasing the Federal medicaid matching rate for all assessment performed for currently eligible children by the States, all such assessment for new children who will not be eligible for the program, and for all ambulatory—nonhospital—medical care required by children who have been assessed. The new Federal match will average over 75 percent of the cost of providing these services, as opposed to the current nationwide average Federal share of 55 percent of all services.

Providing net fiscal relief to the States of some $18 million in fiscal year 1978. The increase in the Federal match will more than offset the higher costs to States of serving more children.

Improving the quality of care for children assessed under this program by gradually phasing in over the next 3 years the requirement that assessments be performed through comprehensive health care centers or primary care physicians capable of delivering necessary followup diagnosis and treatment.

Requiring that all children reached by this program be immunized against childhood diseases.

Providing additional incentives to States to meet certain goals and standards by increasing the Federal matching payments from 50 to 75 percent for all medicaid administrative expenses in States which meet such goals while assessing a penalty against the Federal share of medicaid administrative costs for failure to meet certain standards under the current law.

The essential features of this legislation are:

First. Medicaid eligibility is extended to children under 6 years old whose families meet the State's income test for AFDC or medically needy, but do not meet the family characteristic requirements. Thus, children in two-parent families and working parent families become eligible.

Second. The Federal matching rate

will be increased to cover health assessments and all ambulatory treatment to assessed children. The higher rate will be one-half of the distance between the State's current matching rate and 90 percent, but not less than 75 percent. The current average is 55 percent; the new average is 75 percent.

Third. When a child has been assessed, eligibility for medical care continues for 6 months after AFDC or medically needy status terminates.

Fourth. The States will be required to provide treatment for all conditions found in the assessment, with limitations on mental illness, mental retardation, developmental disabilities, and dental care.

Fifth. A fund of $23 million will be provided to establish, expand or improve agencies which can provide assessment and needed diagnosis and ambulatory treatment.

Sixth. A major aim of the modified program is to encourage States to enroll children with health care providers—physicians or health centers—who will render preventive and continuing care. After 3 years, reimbursement will not be provided to agencies which can perform only the screening and cannot render the needed follow-up treatment.

Seventh. States which meet performance standards will receive 75 percent reimbursement for medicaid administrative costs. States which fail to meet process standards will have their Federal reimbursement for administrative expenses reduced.

The savings to States will be $18 million, while the cost to the Federal Government will be $180 million. In the long run, this could prove an excellent investment in health capacity and the development of a continuum of care.

Mr. KENNEDY. Mr. President, I am pleased to join today with my good friend and colleague, Senator RIBICOFF, in introducing the administration's legislation that will expand and improve the availability of health care for poor children, the Child Health Assessment Act of 1977.

For too long we have been spending many billions of dollars on curative medicine when some of these resources could be better allocated to preventive medicine.

In many respects the children of the desperately poor are the individuals who can benefit the most, and benefit society the most, from efforts designed to prevent the crippling and disabling diseases, which may otherwise afflict them.

In the last decade, the percentage of children 1 to 4 years old immunized against polio has dropped from 84 percent to 60 percent. Other diseases tragically show similar trends. The major existing health program for poor children, entitled early and periodic screening, diagnosis and treatment—EPSDT—has reached only 30 percent of the 12 million children currently eligible for medicaid. Almost a quarter of the children originally screened under the EPSDT program failed to get the treatment or services they needed, and the program never reached the over half-a-million children under 6 who are in poor families not categorically eligible for medicaid.

Mr. President, the new child health assessment program—CHAP—introduced today will go a long way toward improving health care for many children. It will expand the number of children eligible for federally supported health care and will provide financial incentives to States to improve their current services to all poor children by increasing the Federal medicaid matching rate.

Mr. President, the program will include a uniform health assessment, including hearing and vision tests, and will insure that any disease detected is adequately treated. A uniform schedule for assessment at specific ages would be established, and it would be required that all children reached by the program be immunized against childhood diseases.

The Neighborhood Health Centers have played an important role in delivering comprehensive health services to children. This bill will expand the funds available for these centers.

Mr. President, as chairman of the Senate Subcommittee on Health and Scientific Research, I hope the Congress will take early and positive action on this important legislation.

By Mr. BAYH:

S. 1393. A bill to authorize actions by the Attorney General to redress deprivations of constitutional and other federally protected rights of institutionalized persons; to the Committee on the Judiciary.

Mr. BAYH. Mr. President, today I am introducing legislation designed to give statutory authority to the Justice Department to initiate suit to enforce constitutional and other federally guaranteed rights of institutionalized persons. This legislation codifies the authority exercised by the Deparment in the past to intervene in and to initiate civil actions on behalf of persons confined to mental hospitals, prisons, mental retardation facilities, reformatories for juvenile delinquents, facilities for emotionally disturbed children, and nursing homes.

The institutionalized are uniquely unable to assert their own rights. Whether for lack of intellectual or emotional capacity to aid in their own lawsuit, or merely for lack of funds to finance the extensive discovery necessary to document widespread abuses in large institutions, such persons cannot hope to present their cases effectively before a court of law. Recognizing this, the Justice Department has, during the past decade, brought a number of actions against State institutions, successfully documenting widespread deprivations of residents' constitutional and Federal rights, and compelling State officials to upgrade conditions of confinement and treatment.

Two recent Federal court decisions however, now threaten to halt the Department's litigation program. In *U.S.* v. Solomon, 419 F. Supp. 358 (D. Md. 1976) and *U.S.* v. *Mattson*, D. Mont., C.A. No. 74-138, Sept. 28, 1976, district court judges in Maryland and Montana ruled that, absent specific statutory authority, the Executive lacks standing to sue on behalf of the institutionalized. Only by codifying the Department's authority to assert the rights of such persons can Congress insure that the constitutional and Federal rights of those least able to protect themselves will be guaranteed vindication.

I. BACKGROUND—CONDITIONS IN INSTITUTIONS

A brief look at the cases brought on behalf of the institutionalized will highlight the need for continued participation by the Justice Department. In 1971, a case arising in the Federal district court in Alabama brought to the attention of the lay and legal communities alike the appalling conditions prevalent in State institutions designed to house and allegedly rehabilitate the mentally ill. In that landmark case, *Wyatt* v. *Stickney*, 325 F. Supp. 781 (M.D. Ala. 1971), 334 F. Supp. 1341 (1971), 344 F. Supp. 373 (1972), 344 F.Supp. 387 (1972), *aff'd sub nom. Wyatt* v. *Aderholt*, 503 F. 2d 1305 (5th Cir. 1974), the Justice Department was instrumental in developing a record of institutionwide abuses to which inmates of mental hospitals were being subjected. Retarded persons were tied to their beds at night and confined to strait jackets for years in the absence of sufficient staff to care for them.

To avoid additional cleanup work for staff, inmates were denied access to toilet paper and in lieu of proper sanitary maintenance, were required to walk naked—like vehicles in a car wash—through intersecting streams of water; the atrocities resulting from misuse of of hoses by institution inmates and inadequate regulation of water temperature were documented in all too graphic detail in the reported decisions. *Wyatt* v. *Aderholt*, 503 F. 2d 1305, 1310–11 (5th Cir. 1974).

Evidence of insect infestation was found in the kitchen and dining rooms, while the less than 50 cents per patient per day spent on food resulted in meals "coming closer to punishment by starvation than nutrition." *Wyatt* v. *Aderholt*, 503 F. 2d at 1310. At one institution, inadequate staff, insufficient supervision, and uncontrolled brutality of other inmates resulted in the deaths of four residents. *Wyatt* v. *Aderholt*, 503 F. 2d at 1311.

Later cases revealed no less appalling conditions in the State's prisons. Just last year a Federal district court found in one State facility "as many as six inmates packed in 4-foot by 8-foot cells with no beds, no lights, no running water, and a hole in the floor for a toilet which could only be flushed from the outside." *Pugh* v. *Locke*, 406 F. Supp. 318, 327 (M.D. Ala. 1976).

The conditions in Alabama's institutions were by no means exceptional. In New York's Willowbrook State Developmental Center, the largest mental retardation facility in the country, residents were subjected to massive overdrugging to compensate for inadequate staff supervision. Unsanitary conditions resulted in an outbreak of hepatitis affecting 100 percent of the patients. *New York Association for Retarded Children* v. *Rockefeller*, 357 F.Supp. 752 (E.D. N.Y. 1973); *sub nom. NYARC* v. *Carey*, 393 F. Supp. 715 (1975).

In the course of litigation brought to correct abuses in Texas' juvenile reformatories, a Federal court found the State juvenile system rampant with officially sanctioned brutality, including beatings,

tear gasings, and placement in homosexual dormitories as a form of punishment. *Morales* v. *Turman*, 364 F.Supp. 166 (E.D. Texas 1973); 383 F.Supp. 53, 70–87 (1974); rev'd on procedural grounds, 535 F.2d 864 (5th Cir. 1976).

II. THE ROLE OF THE JUSTICE DEPARTMENT

If there is a bright side to this dismal picture, it is that in all of the cases I have referred to, the Justice Department's efforts succeeded in securing relief for the residents of the institutions in question. Judge Johnson, who initially ordered the Department to appear as *amicus curiae* in Wyatt, was sufficiently impressed to commend government lawyers for having "performed exemplary service for which this court is indeed grateful." *Wyatt* v. *Stickney*, 344 F.Supp. at 375, n.3.

Following Wyatt and other cases in which the Department participated, a number of States adopted statutes providing a right to treatment for mentally ill institutionalized persons, and a series of Federal court cases further substantiated a constitutional right to such treatment. The Department of Health, Education, and Welfare followed suit by adopting many of the standards first enunciated in Wyatt as conditions for participation in federally funded programs of care for the mentally handicapped. See 45 CFR 249.13 (1974).

Public attention was brought to the efforts of the Justice Department as writers in nationally distributed periodicals commented favorably on the Department's litigation program. (See, e.g. Herr, *Civil Rights, Uncivil Asylums and the Retarded*, 43 CIN. L. REV. 679, 779 (1974); Wald & Schwartz, *Trying a Juvenile Right to Treatment Suit: Pointers and Pitfalls for Plaintiffs*, 12 AMERICAN CRIM. L. REV. 125, 153 (1974); Wooden, WEEPING IN THE PLAYTIME OF OTHERS, Ch. I, McGraw-Hill (1976); Velie, *Is Anybody Watching?* READERS DIGEST, page 114 (March 1976).) By late last year, the Department was involved in approximately 20 cases concerning the rights of institutionalized persons, including the mentally ill and retarded, juvenile delinquents, dependent and neglected children, the aged, and the chronically physically ill.

III. THE SOLOMON AND MATTSON DECISIONS

The first serious setback to these efforts came last year, when a Federal district court in Maryland dismissed a suit brought by the Justice Department concerning the conditions at the Rosewood State Hospital for the mentally retarded. In *U.S.* v. *Solomon*, 419 F. Supp. 358 (D. Md. 1976), the court held that the Justice Department lacked inherent or common law authority to sue to enforce constitutional and Federal rights of hospital inmates. Following the Solomon decision, a Federal district court in Montana dismissed another suit initiated by the Department challenging conditions in a State mental retardation hospital, again declaring that, absent express statutory authority, the Department lacked standing to sue. *U.S.* v. *Mattson*, D. Montana, C.A. No. 74–138, September 28, 1976.

The impact of these two cases on the Justice Department's litigation program on behalf of the institutionalized cannot be overstated. Louis M. Thrasher, Director of Special Litigation in the Civil Rights Division, has stated that with the *Solomon* and *Mattson* decisions outstanding,

> There will be substantial question in the minds of potential defendants as to whether or not there is any federal agency that can proceed to enforce such rights. Moreover, given the present status, defendants will continue to file motions to dismiss our lawsuits which will of course have a delaying effect.

Letter to Senator FRANK E. MOSS, chairman, Senate Subcommittee on Long-term Care, September 23, 1976.

Though appeals have been filed in both cases, their outcome is not dispositive of the need for the legislation I propose today. The Justice Department has made clear that regardless of the result of those two cases on appeal, the need for authorizing legislation is immediate and unconditional. In the words of Mr. Thrasher,

> There can be no doubt that a statute specifically authorizing the Attorney General to bring such suits would have a beneficial effect upon the willingness of state and local governments to take action to protect the rights of our mentally handicapped (and other institutionalized) persons. . . . It is clear that statutory authority would assist in ensuring a sustained and orderly effort to ensure that the Constitution protects all of our citizens. (Id.).

IV. EFFECT OF LEGISLATION

As the following section-by-section analysis demonstrates, this bill creates no new substantive rights, nor does it open the doors of the Federal courthouse to a new class of litigants. Under the standards I have proposed, the authority of the Department to bring suit on behalf of the institutionalized is limited to cases alleging widespread deprivations of constitutional and Federal rights, and thus poses no threat to state officials of repeated Federal intervention on behalf of individuals alleging isolated instances of abuse. In fact, by clarifying once and for all the authority of the Department to participate in suits to redress systematic ongoing violations of institutionalized persons' rights, this legislation will minimize proliferation of separate suits by individual litigants.

V. SUPPORT FOR LEGISLATION

Mr. President, the need for this legislation has already been recognized. H.R. 2439, a bill substantially similar to the one I am proposing, was introduced in the House earlier this session by Representative KASTENMEIER, and the Justice Department will be appearing later this week to testify on it. The American Bar Association's House of Delegates, following a recommendation of its Commission on Correctional Facilities and Commission on the Mentally Disabled, adopted a resolution in support of similar legislation introduced last session, and can be expected to lend its support to this proposal. Numerous organizations working on behalf of institutionalized persons have indicated interest in and support for such legislation. It is now the responsibility of Congress to recognize and act upon this acknowledged need.

VI. CONCLUSION

The struggle to secure the rights of the institutionalized has been called the last great frontier in civil rights litigation. Whether the guarantees of the Constitution and Federal laws become reality for the thousands of institutionalized persons throughout the country depends on Congress' willingness to provide an effective enforcement mechanism for securing those guarantees. The Justice Department stands ready to commit its resources to the task; the Constitution and laws of this land demand no less.

Mr. President, I ask unanimous consent to print in the RECORD the text of the proposed law and a section-by-section analysis.

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

S. 1393

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

SECTION 1. Whenever the Attorney General has reasonable cause to believe that a State or its agent is subjecting persons confined in an institution, as defined in Section 4, to conditions which deprive them of any rights, privileges, or immunities secured by the Constitution or laws of the United States, and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General is authorized to institute a civil action for or in the name of the United States in any appropriate district court of the United States against such party or parties for such relief as he deems necessary to insure the full enjoyment of such rights, privileges, or immunities. The district courts shall exercise such jurisdiction without regard to whether the aggrieved party or parties shall have exhausted any administrative or other remedies provided by law. Whenever, in a proceeding instituted under this Section, any official of a State or subdivision thereof is alleged to have committed any act or practice subjecting persons confined in an institution to the deprivation of any rights, privileges, or immunities secured by the Constitution or laws, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant. If, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

SEC. 2. Prior to the institution of a suit under Section 1, the Attorney General shall certify that he has notified appropriate officials of the institution of the alleged deprivations of rights, privileges, or immunities secured by the Constitution or laws of the United States, that following such notification he is satisfied that the institution of an action will materially further the vindication of such rights, privileges, or immunities, and that such a suit by the United States is in the public interest.

SEC. 3. Whenever an action has been commenced in any court of the United States seeking relief from conditions which deprive persons confined in institutions of any rights, privileges, or immunities secured by the Constitution or laws of the United States, the Attorney General for or in the name of the United States may intervene in such action upon timely application if the Attorney General certifies that the case is of general public importance. In such case, the United

States shall be entitled to the same relief as if it had instituted the action.

SEC. 4. As used in this Act, "institution" means—

(1) any treatment facility for mentally ill, disabled, or retarded persons;

(2) any facility for the chronically physically ill or handicapped;

(3) any nursing home;

(4) any jail, prison or other correctional facility, or any pretrial detention facility; or

(5) any facility in which juveniles are held awaiting trial or in which juveniles have been placed for purposes of receiving rehabilitative care or treatment or for any other state purpose.

SECTION-BY-SECTION ANALYSIS

Section 1 of the bill, modeled after a similar provision in Title II of the Civil Rights Act of 1964, 42 U.S.C. 2000a–5, empowers the Attorney General to initiate suit for or in the name of the United States to enforce constitutional and other federally guaranteed rights of institutionalized persons whenever he has reasonable cause to believe that a State or its agent is subjecting institutionalized persons to a systematic deprivation of such rights. The requirement that the Attorney General have cause to believe the deprivations are pursuant to a pattern or practice of resistance to the full enjoyment of such rights is designed to limit actions initiated under this section to cases involving widespread abuses of institutionalized persons' federally guaranteed rights.

The section gives the federal district courts original jurisdiction over such suits and specifically provides that the aggrieved party or parties need not have exhausted other remedies before invoking the jurisdiction of the federal court. A similar provision appears in a subsection of the Civil Rights Act of 1957, 42 U.S.C. 1971(d). Since private parties suing to enforce constitutional and federal rights under 42 U.S.C. 1983 are not required to exhaust state remedies, *Monroe v. Pape*, 365 U.S. 167, 81 S.Ct. 473 (1961), there is no reason to require the United States to do so.

The section further provides that where the person or persons allegedly responsible for the unlawful deprivation is an official of the State, the State may be made a party defendant in a proceeding initiated under this section. This provision is modeled after a similar subsection of Title VI of the Civil Rights Act of 1960, 42 U.S.C. 1971(c), enacted pursuant to the enforcement clause of the fifteenth amendment and upheld as a proper exercise of Congress' enforcement powers under Section 2 of that amendment. *U.S. v. State of Mississippi*, 380 U.S. 128 (1965). The analogous enabling clause of the fourteenth amendment, Section 5, provides corresponding authority for this provision.

Section 2 requires the Attorney General, before initiating suit, to notify state officials of the alleged grievances which the proposed action seeks to redress. It further requires him to determine that the action will materially further the vindication of these consitutional or federal rights sought to be enforced. This requirement presupposes a determination by the Attorney General that, absent such action, the State or its officials cannot reasonably be expected to remedy the alleged violations. Finally, the Section requires the Attorney General to find that the proposed action is in the public interest. This too insures that actions initiated by the United States will be limited to those designed to redress widespread—as opposed to isolated—violations of institutionalized persons' rights.

Section 3 provides for intervention by the Attorney General in any action initiated by another party or parties seeking to vindicate constitutional or federal rights of institutionalized persons, provided the Attorney General certifies that the case is of general public importance. As provided in Section 3, this requirement again limits intervention by the United States to actions involving potentially broad-ranging relief. The Attorney General may request and receive the same relief as if the action had been initiated under Section 1.

Section 4 of the bill defines the term "institution." This definition is intended to encompass all facilities in which prisoners, pretrial detainees, juveniles, the mentally ill, the mentally retarded, the physically handicapped, and the aged reside.

By Mr. NELSON:

S. 1394. A bill to amend the Arms Export Control Act to require the President to provide certain information to the Congress with respect to any proposed major arms sales to a country which is not a member of the North Atlantic Treaty Organization and to provide the Congress with 30 days of continuous session in which to disapprove proposed arms sales; to the Committee on Foreign Relations.

S. 1395. A bill to amend the Arms Export Control Act to provide the Congress with an opportunity to disapprove proposed transfers from the recipient country to another country of defense articles or related training or other defense services supplied by the United States; to the Committee on Foreign Relations.

ARMS SALES

Mr. NELSON. Mr. President, the two bills which I am submitting today are designed to fill several loopholes in the present reporting requirements of the Arms Export Control Act. Together, they: First, give Congress a longer period of time to review thoroughly arms sales proposals made by the executive branch; second, provide Congress automatically with more information upon which it can base better analyses of arms sales proposals; and third give Congress veto authority over third country transfers of arms produced by the United States.

I have previously introduced legislation to bring about all three of these objectives in earlier Congresses. Identical legislation has also been introduced in this—the 95th Congress—by Congressman SOLARZ and 39 cosponsors.

It is now only too well documented that the United States is the world's leader in selling arms abroad. From 1966 to 1975, this country sold $34.9 billion worth of armaments to other countries, or more than the rest of the world's major suppliers combined. In the last fiscal year alone, the United States agreed to sell abroad military equipment and weapons worth over $14 billion.

TRENDS

The trends are disturbing. We have witnessed over the last several years an alarming growth in the volume of military equipment and arms sold abroad by the United States. As recently as 1970, our entire foreign military sales program accounted for less than $1 billion worth of equipment and weapons, this in stark contrast to last year's total, which represents nearly 14 percent of the dollar value of all U.S. foreign military sales in the last quarter century.

There has also been a dramatic change in the identity of those receiving our arms largesse. A program originally designed to assist major NATO Allies has become the chief means by which many nations of the so-called Third World acquire weapons. The developing countries bought over half—53 percent—their weapons from the United States during 1966–75. Our share of this market totaled $27.5 billion. This included 96 percent of their imports of air-to-surface and air-to-air missiles. More than half of our foreign military cash sales in recent years have been made to nations of the newly oil-rich Persian Gulf and Mideast. By fueling local arms races, the United States advances the potential for the creation or exacerbation of regional tensions and conflicts, which in turn increase the likelihood of major-power confrontation.

In addition, the United States is selling increasingly destructive and sophisticated military equipment. In contrast to the days when the United States drew only on surplus stocks for foreign military sales, we now sell some of our most advanced missiles, warplanes, and electronic gear. This policy has deleterious effects on our own armed services readiness as well as our overall national security. With the move away from U.S. military aid and toward payment by the recipient country for its arms, the recipients are more often demanding—and receiving—our most sophisticated armaments off the same assembly line that supplies our own forces, and sometimes before we are fully supplied. Foreign orders for highly advanced weaponry are made even before we proceed to their full-scale production. Maintenance of our technological superiority is threatened by such concurrent sales of advanced weaponry. This is especially so when sales are made to unstable regimes, whose successors may not be friendly to the United States, or when such equipment falls into hostile hands in a regional conflict.

Mr. President, in 1973 I first introduced legislation giving Congress a voice in controlling the burgeoning U.S. arms trade. Passed by Congress in 1974 and enacted in 1975, this measure gave Congress the opportunity to consider—and if necessary, reject—any proposed foreign military sale of $25 million or more by concurrent resolutions of each House. Strengthened in 1976 with passage of the Arms Export Control Act (Public Law 94–329), congressional review now extends to the proposed sale of any major defense equipment or arms over $7 million. Congressional oversight has been further improved by the addition of more stringent reporting requirements. There remain obstacles, however, to the establishment of a truly comprehensive congressional oversight capability with regard to U.S. foreign military sales policy. It is with the intention of removing some of these barriers that I introduce this legislation.

PROVIDING CONGRESS ADEQUATE TIME TO CONSIDER ARMS SALES PROPOSALS

Existing law is based on an amendment which I offered and which was included

as part of the Foreign Assistance Act of 1974—Public Law 93-559—under which the President is required to submit to Congress any proposed foreign military sale in excess of $25 million. According to the provision finally adopted by the conference committee and by both Houses in 1974, the Congress had a period of 20 calendar days in which to veto the proposed sale by the passage by both the Senate and the House of a concurrent resolution of disapproval.

Last Congress, I introduced an amendment which was essentially the same as the one I am introducing today. Final congressional action on that legislation resulted in extending the period of congressional review to 30 calendar days. It seems to me, however, that Congress still requires greater time to review major arms sales. And for that reason, I am resubmitting the amendment which gives the Congress 30 days during which Congress is in continuous session in which to veto a proposed arms sale. This would give Congress more than a mere 30 calendar days. It would mean that the days on which either House is in adjournment for more than 3 days would not be included in the 30-day computation.

The change embodied in this amendment is clearly needed. The present time period of 30 calendar days for the passage of a concurrent resolution by both Houses is clearly inadequate. It is extremely difficult for Congress to act this quickly on almost any matter of importance.

It is simply not realistic to expect that a resolution of disapproval of a proposed arms sale, a matter which would require comprehensive review and hearings in both Houses, could possibly be passed in such a short time frame. In addition, since even after an arms sale is agreed to, delivery time can extend over several months or years, there is no reason to believe that this slightly extended period of time for congressional consultation would be onerous either for the prospective arms buyer or for the State or Defense Departments. In fact, $32 billion worth of arms have been approved by the Congress but have not yet been delivered to their destined country. Moreover, this proposed change in the language of the law would also prevent a situation in which an administration could report several proposed sales during the August recess, for example, and thus effectively prevent a congressional veto.

Mr. President, let me only say in final argument for this legislation that this bill is identical to part of legislation previously passed by the Senate when it originally voted on my arms sales proposal in 1973. The need that I foresaw at that time for a sufficiently long period for review has been demonstrated in the practical application of the Nelson amendment since its original passage. The 1975 sale of Hawk missiles to Jordan constituted a major test of the Nelson amendment procedure. In that instance, Congress forced debate on the important foreign policy ramifications of the sale, exposed serious disagreement within the administration on the wisdom of the sale as proposed, and in the end extracted significant concessions in the form of assurances from the President that the weapons would not be transferred in such a way as to allow their use in an offensive capacity against Israel. Those were not insignificant accomplishments. In the words of Judith Miller of the Progessive magazine, Congress effectively "Served notice that it is able and willing to exercise supervisory authority in some cases over administration arms sale policy."

But one will recall that the case of the Jordan Hawk missile sale also pointed out very serious shortcomings in the present congressional veto procedure. At the very least, it became apparent that 20 calendar days was altogether too short a time for both Houses of Congress to consider adequately a significant and controversial arms sale proposal.

If Congress is to act responsibly, hearings must be held and adequate time allowed for genuine debate of the merits of a specific sale.

Moreover, notification of the sale, coming as it did shortly before the August recess, further dramatized the inadequacy of the present time frame. Nothing presently stops any administration from submitting a sale when Congress is not in session, thus precluding any congressional action.

Last year, Congress increased the time period from 20 to 30 calendar days, but 30 calendar days is still inadequate considering that the clock on that 30 days does not stop ticking over the weekends. The 30-calendar-day procedure makes no distinction between workdays and recesses.

Events in the closing days of the last session dramatically demonstrated the shortcomings even of the 30-calendar-day period. On Wednesday evening, September 1, 1976, on the eve of Congress traditional Labor Day recess, the President informed Congress of a decision to sell arms to 11 separate countries for a total dollar figure of $6.024 billion in 37 separate transactions. Starting from the moment Congress received the executive announcement, the clock began ticking toward the 30-day deadline. Failure to act meant that the sales could go through exactly as proposed by the President. The clock had ticked over the recess. When Congress returned from the Labor Day recess, it had only 24 days in which to act.

Therefore, Mr. President, I have concluded from the history of the Nelson amendment in practice, that we need a 30-day period to review a sale in Congress that would exclude from the counting any period of adjournment of more than 3 days or the adjournment of the Congress sine die.

GREATER JUSTIFICATION OF PROPOSED SALES

Another lesson learned in the closing days of the last Congress was that Congress should have at its disposal greater executive justification for the arms sales they propose to Congress for approval. As the law stands now, Congress is only informed what country is involved, the total estimated value of the transaction, a description of the articles and services offered, which U.S. military service is involved, and the sales commission being paid in connection with the sale. This information is insufficient and in the past at least has appeared to be sketchy and lacking in thought of the full range of the implications of such sales.

Such bits and pieces are clearly not adequate to reach any sort of responsible judgment as to the ramifications and advisability of any given sale. What is even worse, frequently such little data as is transmitted is classified in the actual notification to Congress.

Pursuant to section 36(b)(1) of the Arms Export Control Act, more detailed and analytical information is available to Congress upon its request. This includes data outlining the impact of the proposed sales on U.S. foreign policy, on regional balances and arms sales, on arms control policies and negotiations, on the military preparedness of U.S. Armed Forces and on war reserve stocks. But Congress is allowed only 30 calendar days to act on a proposed arms transfer. Notification, hearings, consideration and any legislative initiatives must all be completed within this time, which has proved inadequate. The 30-day clock, moreover, begins ticking the moment notification is transmitted to Congress. Clearly, Congress has not the time—once notification is given—to wait for the Executive to formulate responses on request to submitted questions on complicated issues. Although the information outlined in section 36(b)(1) (A-M) should be in the Executive's hands before any decision to make an arms transfer is made, experience has shown that it is not.

The legislation I am introducing today requires that this comprehensive analytical information, now available only on request, be transmitted as a matter of course at the same time that notification is given. This provision would not apply to NATO or its member countries.

THIRD COUNTRY TRANSFERS

The third objective of the legislation extends the Nelson amendment mechanism, including its veto procedure, to review of third country transfers of U.S. supplied military equipment.

Present law allows the President to permit transfers of American made equipment to third countries, provided only that he notify Congress of his intentions. The legislation which I am introducing today brings Congress into this year's decisionmaking process by permitting the Congress to scrutinize such a Presidential grant of permission for a weapons transfer. However, the amendment makes provision for a Presidential waiver of the congressional review requirement, if in his judgment an emergency exists which requires a transfer in the national security interests of the United States.

Both Houses of Congress approved this oversight capability in last year's original International Security Assistance and Arms Export Control Act, S. 2662. President Ford, however, vetoed the entire bill and the third country provision was sacrificed to make S. 2662's successor more palatable to Ford's taste.

In my view, if Congress has the right and responsibility to review and possibly

reject a sale in the first instance, it should also have the right and responsibility to disapprove the transfer of those weapons to other countries. The volume of sales has increased geometrically and thus the potential for those weapons to get passed along to other countries is also vastly expanded. This legislation would, for example, enable Congress to consider potentially controversial transfers where the President has given his permission but Congress has not, such as the transfer of a number of F–5 aircraft from Iran to Jordan.

Mr. President, I am encouraged by President Carter's stance on restraining the heavy flow of arms abroad. His administration reflects a philosophy in refreshing contrast to that of recent administrations. As Vice President MONDALE asserted at the end of his European trip, the sale of arms has "reached disgraceful proportions, and is robbing nations of resources they need." The Vice President has also voiced his opinion that "international control of arms transfers" should be placed "at the front rank of the world's agenda." The President also assured us that:

> The Secretary of State will be more hesitant in the future to recommend to the Defense Department the culmination of arms sales agreements. I have asked that all approval of arms sales, for a change, be submitted to me directly before the recommendations to Congress.

I would hope that the President will move forward in actions as well as words. As pleased as I am by such Executive pronouncements, however, they ought not serve to obstruct further congressional progress in reasserting its participation in the conduct of foreign affairs.

This is not a partisan issue. It is a question of the constitutional need for adequate input by the legislative branch into the process by which this country relates to others. This requirement speaks to the proper congressional role, and is independent of Executive intent.

The Congress should take pride, moreover, in the fact that it was the legislative branch which first recognized and focused on the significance of U.S. arms transfers, and brought the issue into the public forum. Foreign military sales constitute major foreign policy decisions involving the United States in military activities and potential de facto commitments without sufficient deliberation or participation by those outside the confines of the executive branch. These matters require serious consideration by the Congress in an institutionalized fashion, and should not be the exclusive domain of the executive branch.

If Congress is serious about exercising its full constitutional duty in the formulation of U.S. foreign policy, it must clearly fashion substantive tools with which to forge a responsible arms control policy.

Mr. President, I ask unanimous consent that the texts of the legislation I am introducing today be printed in the RECORD at this time.

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

S. 1394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 36(b)(1) of the Arms Export Control Act is amended—

(1) by amending so much of the second sentence as precedes subparagraph (A) to read as follows: "In addition, if the letter of offer is to be issued to a country which is not a member of the North Atlantic Treaty Organization or is to be issued to an international organization other than the North Atlantic Treaty Organization, the President shall transmit to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate a statement setting forth—"; and

(2) by inserting the following new sentence immediately after subparagraph (M) and before the third sentence: "If the letter of offer is to be issued to a country which is a member of the North Atlantic Treaty Organization or is to be issued to the North Atlantic Treaty Organization, the President shall, upon the request of either the Committee on International Relations or the Committee on Foreign Relations, transmit promptly to both such committees a statement setting forth, to the extent specified in such request, the information described in subparagraphs (A) through (M)".

SEC. 2. Section 36(b)(1) of the Arms Export Control Act is amended by striking out "thirty calendar days after receiving such certification" in the last sentence and inserting in lieu thereof "the first period of 30 days of continuous session of Congress (as determined in accordance with section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) which begins after the date on which such certification is received by the Congress".

S. 1395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(d) of the Arms Export Control Act is amended—

(1) by striking out ", 30 days prior to giving such consent," in the text preceding paragraph (1);

(2) by redesignating such section as section 3(d)(1) and redesignating paragraphs (1) through (5) thereof as subparagraphs (A) through (E), respectively; and

(3) by adding the following new paragraph at the end thereof:

"(2) Unless the President states in the certification submitted pursuant to this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until the end of the first period of 30 days of continuous session of Congress (as determined in accordance with section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) which begins after the date of such submission and such consent shall become effective then only if the Congress does not adopt, within such 30-day period, a concurrent resolution disapproving the proposed transfer.".

ADDITIONAL COSPONSORS

S. 49

At the request of Mr. MATHIAS, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 49, to establish a Small Business Administrative Review Court.

S. 123

At the request of Mr. INOUYE, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 123, to amend the Social Security Act.

S. 223

At the request of Mr. INOUYE, the Senator from Maryland (Mr. SARBANES) and the Senator from Minnesota (Mr. ANDERSON) were added as cosponsors of S. 223, to amend the Social Security Act.

S. 233

At the request of Mr. INOUYE, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 233, relating to the medicare and medicaid programs.

S. 247

At the request of Mr. GOLDWATER, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of S. 247, to provide recognition to the Women's Air Force Service Pilots.

S. 327

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 327, relating to the retired salaries of certain Federal judges.

S. 359

At the request of Mr. STEVENS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 359, to amend title 5, United States Code.

S. 695

At the request of Mr. PROXMIRE, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 695, the Defense Production Act Amendments of 1977.

S. 716

At the request of Mr. INOUYE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 716, to amend title 5 of the United States Code.

S. 845

At the request of Mr. DOLE, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 845, the Dole-McGovern Food Stamp Act of 1977.

S. 939

At the request of Mr. BAYH, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 939, the Trade Adjustment Assistance Act amendments.

S. 995

At the request of Mr. WILLIAMS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 995, to amend the Civil Rights Act of 1964.

S. 1021

At the request of Mr. BAYH, the Senator from Oregon (Mr. HATFIELD) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 1021, to extend the Juvenile Justice and Delinquency Prevention Act of 1974 for 5 years.

S. 1077

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1077, the Essential Maritime Transportation Act of 1977.

S. 1180

At the request of Mr. CHURCH, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1180, the endangered American wilderness bill.

S. 1181

At the request of Mr. HATHAWAY, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of

S. 1181, to amend the Social Security Act.

S 1284

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. ANDERSON) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1284, to amend the Internal Revenue Code of 1954.

S. 1310

At the request of Mr. DOLE, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 1310, providing for a telecommunication device to be installed in the Congress.

S. 1346

At the request of Mr. BAYH, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 1346, to amend the Civil Rights Act of 1964.

SENATE RESOLUTION 76

At the request of Mr. HAYAKAWA, the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Wyoming (Mr. HANSEN), the Senator from Kansas (Mr. DOLE), the Senator from Florida (Mr. STONE), and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Resolution 76, relating to unilateral regulations by the European Economic Community.

SENATE RESOLUTION 117

At the request of Mr. NELSON, the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from New Hampshire (Mr. DURKIN), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Alaska (Mr. STEVENS), the Senator from Illinois (Mr. STEVENSON), the Senator from South Carolina (Mr. THURMOND), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 117, requesting the President to designate the week of May 22 through 28, 1977, as National Small Business Week.

SENATE RESOLUTION 120

At the request of Mr. HUMPHREY, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Resolution 120, relating to the ban on saccharin.

SENATE RESOLUTION 124

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Resolution 124, relating to negotiations for a Comprehensive Test Ban Treaty.

SENATE RESOLUTION 138

At the request of Mr. MATHIAS, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of Senate Resolution 138, to designate Fair Housing Month.

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. BAYH, the Senators from Minnesota (Mr. HUMPHREY and Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senators from Massachusetts (Mr. KENNEDY and Mr. BROOKE), the Senator from Arkansas (Mr. BUMPERS), the Senators from New Jersey (Mr. WILLIAMS and Mr. CASE), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. DANFORTH), the Senators from Ohio (Mr. GLENN and Mr. METZENBAUM), the Senators from Alaska (Mr. GRAVEL and Mr. STEVENS), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senators from New York (Mr. JAVITS and Mr. MOYNIHAN), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Maine (Mr. MUSKIE), the Senator from Michigan (Mr. RIEGLE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Nebraska (Mr. ZORINSKY), and the Senators from Maryland (Mr. MATHIAS and Mr. SARBANES) were added as cosponsors of Senate Concurrent Resolution 6, to place a statue of Martin Luther King, Jr., in the Capitol.

SENATE CONCURRENT RESOLUTION 15

At the request of Mr. WEICKER, the Senator from Indiana (Mr. BAYH) and the Senator from California (Mr. CRANSTON) were added as cosponsors of Senate Concurrent Resolution 15, to reduce the risk of chemical warfare.

AMENDMENT NO. 186

At the request of Mr. KENNEDY, the Senator from Iowa (Mr. CLARK) and the Senator from California (Mr. CRANSTON) were added as cosponsors of amendment No. 186 intended to be proposed to S. 826, to create an Office of Assistant Secretary for Competition and Consumer Affairs within the new Department of Energy.

AMENDMENT NO. 190

At the request of Mr. CHURCH, the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Maine (Mr. HATHAWAY) were added as cosponsors of amendment No. 190, intended to be proposed to H.R. 3477, the Tax Reduction and Simplification Act of 1977.

AMENDMENT NO. 207

At the request of Mr. PROXMIRE, the Senator from New Jersey (Mr. WILLIAMS), the Senator from California (Mr. CRANSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Connecticut (Mr. WEICKER), the Senator from Maine (Mr. HATHAWAY), the Senator from North Carolina (Mr. MORGAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of amendment No. 207, intended to be proposed to Senate Concurrent Resolution 19, the first resolution on the budget.

SENATE RESOLUTION 151—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

(Referred to the Committee on Rules and Administration.)

Mr. MAGNUSON, from the Committee on Commerce, Science, and Transportation, reported the following resolution:

S. RES. 151

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation, or any subcommittee thereof, is authorized from July 1, 1977, through February 28, 1978, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $1,987,831, of which amount not to exceed $405,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(1) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1978.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SENATE RESOLUTION 152—SUBMISSION OF A RESOLUTION RELATING TO THE U.S. BROADCASTING INDUSTRY

(Referred to the Committee on Foreign Relations.)

Mr. MOYNIHAN (for himself, Mr. ALLEN, Mr. ANDERSON, Mr. BURDICK, Mr. CHILES, Mr. GRAVEL, Mr. HELMS, Mr. JAVITS, Mr. MAGNUSON, Mr. MELCHER, Mr. METCALF, Mr. RIEGLE, Mr. SASSER, Mr. SCHMITT, Mr. SCHWEIKER, Mr. STAFFORD, Mr. WILLIAMS, and Mr. YOUNG) submitted the following resolution:

S. RES. 152

Whereas, the people of the United States place the utmost value on their enduring friendship and special relationship with the people of Canada;

Whereas the people of Canada and the people of the United States have established singular standards of openness and candor in discussing mutual interests and concerns;

Whereas the Senate seeks to amend certain provisions of the United States Internal Revenue Code, which provisions appear to inhibit travel by Americans to Canada; and

Whereas recent amendments to the Canadian tax code appear to inhibit commercial relations between Canadian businesses and American broadcasters: Now, therefore, be it

Resolved, That the Senate call on the President to raise with the Government of Canada the question of the impact of the recent provisions of the Canadian tax code on the United States broadcasting industry with a view to adjusting outstanding differences.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President.

SENATE RESOLUTION 153—SUBMISSION OF A RESOLUTION PROVIDING FOR RADIO AND TELEVISION COVERAGE OF SENATE PROCEEDINGS

(Referred to the Committee on Rules and Administration.)

Mr. METCALF (for himself, Mr. ABOUREZK, Mr. ANDERSON, Mr. BAYH, Mr. BELLMON, Mr. BUMPERS, Mr. CHILES, Mr. CLARK, Mr. DECONCINI, Mr. DOLE, Mr. GARN, Mr. GOLDWATER, Mr. GRAVEL, Mr. HASKELL, Mr. HEINZ, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JAVITS, Mr. LEAHY, Mr. LUGAR, Mr. MCCLURE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MATHIAS, Mr. MATSUNAGA, Mr. PERCY, Mr. RIBICOFF, Mr. RIEGLE, Mr. ROTH, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. STONE, and Mr. ZORINSKY) submitted the following resolution:

S. RES. 153

Resolved, That (a) beginning as soon as possible during the second session of the Ninety-fifth Congress and continuing for the remainder of that session, the Committee on Rules and Administration (hereafter in this resolution referred to as the "committee") is authorized to provide for radio and television coverage of the proceedings in the Senate Chamber. Such coverage shall be provided for continuously at all times while the Senate is in session, except for any time when a meeting of the Senate is ordered with closed doors.

(b) The committee shall maintain videotapes of such coverage and shall maintain separately recording of the audio portion of such coverage. Copies of such videotapes and recordings shall be made available to public and commercial broadcasting stations as provided in this resolution. Copies of such videotapes and recordings shall be deposited with the Library of Congress and, under rules and regulations prescribed by the committee, shall also be made available to educational institutions, libraries, and other organizations.

SEC. 2. (a) The committee shall initially provide for monitors with which to receive the television coverage of the proceedings in the Senate Chamber to be located in such offices in the Capitol and the Senate office buildings as it considers desirable. As soon as practicable, the committee shall make the television coverage of the proceedings, and the videotapes thereof, available to public and commercial television broadcasting stations in accordance with the provisions of section 4.

(b) The committee shall, at the request of any Member or officer of the Senate or the House, any committee of the Senate or the House, or any joint committee of the Congress, provide for transmission of the audio portion of the coverage of such proceedings into the office of such Member, officer, committee, or joint committee. As soon as practicable, the committee shall make such audio portion, and recordings thereof, available to public and commercial radio broadcasting stations in acordance with the provisions of section 4.

SEC. 3. The committee shall also provide a daily written summary of the proceedings of the Senate and other information pertaining to legislative activity. Under rules and regulations prescribed by the committee such information shall be made available, by means of teletype printers or other written means to the news media and Members, officers, and committees of the Senate.

SEC. 4. The radio and television coverage of the proceedings in the Senate Chamber, videotapes of such coverage, and recordings of the audio portion of such coverage shall be made available to public and commercial broadcasting stations subject to the following terms and conditions:

(1) Such coverage, videotapes, and recordings shall be broadcast solely for the education, enlightenment, and information of the general public.

(2) No part of such coverage, videotapes, or recordings may be used in any commercial advertisement.

(3) No part of such coverage, videotapes, or recordings may be broadcast with commercial sponsorship, except as part of bona fide news programs and public affairs documentary programs.

(4) No part of such coverage, videotapes, or recordings may be used to promote or oppose the candidacy of any person for elective public office, whether in a paid political broadcast or otherwise.

SEC. 5. (a) The committee is authorized to employ such professional, technical, and other personnel as may be necessary to carry out the provisions of this resolution. The committee is also authorized to enter into contracts with individuals, corporations, and organizations to carry out its functions and duties under the resolution.

(b) the expense of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SEC. 6. As soon as possible after the conclusion of the second session of the Ninety-fifth Congress the committee shall evaluate, and report to the Congress with respect to—

(1) the effectiveness of audio and video systems as a means of monitoring activities in the Senate Chamber,

(2) the effect radio and televison coverage on proceedings in the Senate Chamber, and the attitude of Members of the Senate toward such coverage,

(3) the extent and nature of the use of the radio and television coverage, and videotapes and recordings thereof, by public and commercial broadcasting stations in accordance with this resolution.

(4) the response of the general public to broadcasts of such coverage, videotape, and recordings, and

(5) the effectiveness of the information provided and made available under section 3 for the viewpoint of the news media and Members, officers, and committees of the Senate.

SEC. 7. As soon as possible after the report required in section 6 has been filed, the committee shall report to the Senate with respect to the radio and television coverage of proceedings in the Senate Chamber and other activities carried out under this resolution, together with its recommendations thereon, including its recommendations for continuing such coverage and other activities.

BROADCAST COVERAGE OF SENATE PROCEEDINGS

Mr. METCALF. Mr. President, the resolution that I am resubmitting today authorizes a year's experiment with radio and television broadcast coverage of Senate floor sessions—the most practical, immediate, and direct way to improve public understanding of this institution's functions and operations.

Additionally, the resolution provides for installation of a closed-circuit audio and video system, permitting Senators to monitor Chamber activities while away from the floor, together with a running summary of debate transmitted by teletype to Members' offices and to the news galleries.

Cosponsors of the resolution—which is identical to Senate Resolution 39 of the 94th Congress—are Senators ABOUREZK, ANDERSON, BAYH, BELLMON, BUMPERS, CHILES, CLARK, DECONCINI, DOLE, GARN, GOLDWATER, GRAVEL, HASKELL, HEINZ, HUDDLESTON, HUMPHREY, JAVITS, LEAHY, LUGAR, MCCLURE, MCGOVERN, MCINTYRE, MATHIAS, MATSUNAGA, PERCY, RIBICOFF, RIEGLE, ROTH, SCHWEIKER, STAFFORD, STEVENSON, STONE, and ZORINSKY.

Mr. President, in 1974, after a comprehensive, 2-year study and extensive hearings, the Joint Committee on Congressional Operations recommended opening the Chambers of the Senate and House to broadcast coverage, not as a device to improve the "image" of Congress but as a practical way to involve more citizens in the workings of representative democracy.

Since then, the Commission on the Operation of the Senate, a special study group headed by former Senator Harold Hughes, has strongly urged an extended test of television coverage of Senate floor activities. And a closed circuit video system is presently in operation in the House, on an experimental basis, along with a teletype summary of debate.

Moreover, because of continuing technical advances in broadcasting, it is now possible to provide for coverage in the Senate Chamber without installing additional lights. According to the Architect of the Capitol, the lighting level in the Chamber—which was upgraded last summer—is 50 foot candles and is considered adequate for color coverage with the new cameras that have been available to broadcasters for the past year or so.

In short, broadcast coverage can be accomplished today without intruding unduly upon Senate proceedings and without disturbing or discomforting Senators on the floor. The time has come—now—to take this step, to increase public interest in and understanding of the legislative process in the Senate, to communicate more effectively about the issues we must resolve in our debates and, ultimately, with our votes.

Mr. President, to realize the full potential of broadcast coverage, it is essential that we carefully consider the technical requirements and procedures for installing and operating cameras and microphones.

A system planned solely with closed circuit television in mind—as a means of improving communications within the Senate—will not produce a video "feed" of sufficiently high quality to be useful to broadcasters. A system designed entirely for the convenience of the broadcasters will not meet our needs for improved internal communication or, equally importantly, for creation of a complete audio and visual record of Senate Chamber action for historical and educational purposes.

Further, we must insure that the design and operation of the system serves the interests and requirements of local broadcast outlets. These are the stations, throughout the Nation, which are most likely to find video and audio tapes dealing with matters of local or regional concern informative and useful. As a practical matter, other than occasional, brief segments for the nightly news broadcasts, the major commercial networks are not likely to televise lengthy portions of Senate floor debate in any but the most exceptional circumstances.

What this means is that whoever operates the system—whether a network pool, the public broadcasting system, or

the Senate itself, perhaps through a contract arrangement with a private entity—the video and audio "feed" must be readily available to local broadcasters for bona fide news or public affairs programing at a reasonable cost.

Mr. President, the resolution that I am reintroducing today is designed to insure the proper balance between internal communication and broadcast interest, and to reduce to a minimum any possible disruption of Senate proceedings resulting from broadcast coverage.

It specifies, first, that the cameras will be "on" and the microphones "open" continuously while the Senate is in session. Provision of a continuous "feed" is absolutely necessary, not only for service to closed-circuit monitors and for creation of a complete record of the day's floor action but as a means of "routinizing" television coverage.

Experience in the State legislatures—44 of which now provide for some type of broadcast coverage—indicates that cameras which are "on" continuously are far less intrusive than those which are switched on for specified periods during the day's proceedings, thereby signaling that coverage is about to begin.

Under terms of this resolution, the Senate would exercise no control over the selection of materials for broadcast use. Instead, whenever the local or network broadcasters wished to use a segment they would be free to begin taking the "feed" for a "live" telecast or radio program, or for taping segments for later use. The continuous feed thus would be available for airing at their discretion, and no agency of the Senate would be involved in making choices between debates to be covered, or selecting in any way portions of the proceedings to be provided for their use.

As a necessary supplement to the closed-circuit capability of the system, Mr. President, the resolution also provides for a running summary of floor debate, to be transmitted on teletype printers. Without such a written record, video and audio monitors can only be of limited utility, unless staff employees are assigned by their individual offices to watch or listen to them throughout much of the daily session.

Furthermore, the debate summary, plus daily committee schedules, bill status and other relevant information, would be made available for use in the press galleries by the wire services and other media outlets, as well as in the offices of Senators.

Mr. President, the resolution does not specify who would set up and operate the cameras. I believe that this could be done most efficiently—particularly during the year's experimental period—by the Corporation for Public Broadcasting, the Public Broadcasting Service, and National Public Radio. But I also believe that the Senate Committee on Rules and Administration, which would be responsible for overall supervision of the experiment, should have sufficient flexibility to decide, after further hearings, which is the best and least expensive alternative for development of this system.

It is my hope that such hearings can be held soon, and that the Senate will move to open its floor proceedings—where policies are debated, ideas challenged, positions defended and, finally, decisions made—to the most powerful of all media, to the news broadcasters who today are the source of most Americans' information about Government.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REDUCTION AND SIMPLIFICATION ACT OF 1977—H.R. 3477

AMENDMENT NO. 220

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

Mr. KENNEDY submitted an amendment intended to be proposed by him to H.R. 3477, an act to provide for a refund of 1976 individual income taxes and other payments, to reduce individual and business income taxes, and to provide tax simplification and reform.

AMENDMEKT NO. 221

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

Mr. ALLEN (for himself and Mr. SPARKMAN) submitted an amendment intended to be proposed by them jointly to H.R. 3477, supra.

BABYSITTER AMENDMENT

Mr. ALLEN. Mr. President, along with my distinguished senior colleague, Mr. SPARKMAN, I am introducing today an amendment to the tax bill, H.R. 3477, which is identical to an amendment adopted by the Senate last year during consideration of H.R. 10612, the Tax Reform Act of 1976. The amendment is designed to permit employment agencies placing companion sitters to be exempt from the Internal Revenue Code requirements imposed on employers in regard to FICA—social security, and FUTA—unemployment—taxes. The amendment would also exempt such agencies from the requirement of withholding Federal income taxes inasmuch as the agencies involved are not the actual source of wages.

The amendment is made necessary by revenue ruling 74-414, which defines a companion sitter agency as an employer within the meaning of the employment tax regulations. In my judgment, the ruling was ill-advised, because in practical effect it would drive out of business many agencies performing a valuable public service and because it fails to acknowledge the fact that sitter agencies are not employers but are rather agents acting either for the sitter or the party employing the sitter. The effect of the ruling has been to drive companion sitter agencies out of business or to bring them to the brink of bankruptcy.

Typically, a companion sitter agency will work from a list of names and phone numbers of persons willing to act as sitters. When contacted by an individual desiring a sitter, the agency will check from its list and put a sitter in touch with the person needing those services. Obviously, if a sitter agency is required to act as an employer for tax purposes of some 50 to 100 employees, then the administrative and financial burden is overwhelming. Unless Congress acts, in effect, virtually all such owner-operated agencies will fail and only those with substantial financial resources will be able to remain in business—with corresponding costs to the public in increased sitter fees to cover administrative overhead.

Although the amendment adopted last year was dropped in conference with the House of Representatives, the conference agreement noted the seriousness of the problem and urged the Internal Revenue Service to withdraw revenue ruling 74-414. Yet, Mr. President, the IRS has not withdrawn the revenue ruling involved and, in fact, is pursuing vigorously many of these small sitter placement agencies and is demanding from them payment of the various taxes associated with their alleged status as employers.

Obviously, Mr. President, we were mistaken in our belief that the IRS would react favorably to the request set forth in the conference report on the Tax Reform Act of 1976. Apparently the guidance and the desire of Congress is not going to be sufficient and the matter is going to have to be nailed down and made crystal clear before the Service will relent. The IRS has never been noted for its flexibility, and I guess this is going to be one more example of Congress being required to resolve fully a problem which should never have existed in the first instance.

My hope is, Mr. President, that the Senate will again see the wisdom of adopting the amendment I have proposed and that our efforts in this case will not go down the drain as a result of a desire to accommodate the sensibilities of the one agency of the Federal Government whose attention is difficult to get except with a club.

AMENDMENT NO. 222

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

Mr. BENTSEN submitted an amendment intended to be proposed by him to H.R. 3477, supra.

AMENDMENT NO. 223

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

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 3477), supra.

NOTICES OF HEARINGS

CONDUCT OF MONETARY POLICY

Mr. PROXMIRE. Mr. President the Committee on Banking, Housing and Urban Affairs will hold 2 days of public hearings on the conduct of monetary policy on May 3 and 10, each day at 10 a.m. in room 5302 of the New Senate Office Building.

On Tuesday May 3, 1977 the committee shall receive the testimony of the Honorable Arthur F. Burns, Chairman, Board of Governors of the Federal Reserve System.

On Tuesday May 10, 1977, the committee shall receive the testimonies of a panel of four distinguished economists: Dr. Albert M. Wojnilower, senior vice president and director of the First Boston Corp., New York; Prof. James Tobin, Sterling professor and chairman, Department of Economics, Yale University, New Haven, Conn.; Prof. William Poole, professor of economics, Brown Univer-

sity, Providence, R.I.; and Prof. Allan Sinai, professor of economics, Massachusetts Institute of Technology, Cambridge, Mass.

CHANGE OF HEARING NOTICE

Mr. NELSON. Mr. President, the hearing scheduled on the Small Business Administration fiscal year 1978 authorization for April 27 at 10 a.m. in room 424 of the Russell Senate Office Building, is now rescheduled for May 2, 1977, at 10 a.m. in room 424 of the Russell Senate Office Building.

NOMINATION HEARING

Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold hearings on the nomination of Alan K. Campbell, of Texas, to be a Commissioner of the Civil Service Commission, on Monday, May 2, 1977. The hearings will begin at 9 a.m. in room 3302, Dirksen Senate Office Building.

NOMINATION HEARING

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Human Resources has scheduled a hearing on Friday, May 13, 1977, at 9 a.m. in room 4232, Dirksen Senate Office Building, on the nominations of Peter G. Bourne of the District of Columbia to be Director of the Office of Drug Abuse Policy and Lee I. Dogoloff of Maryland to be Deputy Director of the Office of Drug Abuse Policy.

Persons wishing to testify or submit statements, please contact: Nancy Olson, room 4230, Dirksen Senate Office Building, of the committee staff.

ADDITIONAL STATEMENTS

MR. WARNKE'S HIT LIST

Mr. GOLDWATER. Mr. President, a large number of Senators, including this one, did not vote for Mr. Paul Warnke when his appointment came before us to represent us in arms control and disarmament. The reason, as I told Mr. Warnke to his face, was that I thought he was too soft. Now here are other reasons creeping in that make his appointment seem even worse than it did at the time we were talking about it in committee. Mr. Anthony Lake, who is President Carter's national security helper, asked for a list of civil servants and career foreign service officers, with information about their careers. These are careers connected with the Arms Control and Disarmament Agency. Mr. William Safire has written a very penetrating analysis of what has gone on so far under the guidance of Mr. Lake with the compliance, I suppose, of Mr. Warnke. I think each Member of this body should read this analysis because Mr. Warnke and Mr. Vance are now the people who are going to represent us across the table from the Soviets, and the last thing we need at this point in our history is any semblance of weakness. I thank Mr. Safire for this penetrating article and I hope he will continue to write on this subject. If he does, I will continue to make them available to the Members of the Senate. I ask unanimous consent that Mr. Safire's article be printed in the RECORD.

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

MR. WARNKE'S HIT LIST

(By William Safire)

WASHINGTON.—Before the Inauguration, the Arms Control and Disarmament Agency received a demand from Anthony Lake, Mr. Carter's dovish national security helper, for a list of its civil servants and career Foreign Service officers, with information about their careers.

Properly, the agency turned down the demand; although there is nothing wrong with sweeping out Presidential political appointees at the change of Administrations, there is a great deal wrong with compiling a "hit list" of civil servants for the purpose of changing an agency's ideology.

At his stormy Senate confirmation hearings, Paul Warnke—who had been Senator McGovern's foreign policy adviser and was President Carter's sop to the doves as disarmament chief—was asked under oath about reports of a planned "purge" at the agency. He replied firmly that there was "no substance" to those reports.

The Senators were particularly concerned about "verification" at the A.C.D.A. Those are the people who work with the C.I.A. and National Photographic Interpretation Center to put into SALT agreements some way of seeing if the Soviets are cheating. Neither the Soviets nor our doves like our persnickety "verifiers." To ingratiate himself with skeptical Senators, Mr. Warnke took a hard line saying: "An agreement which is not verifiable is worse than no agreement."

Off went Mr. Warnke on Secretary Vance's arms control mission to Moscow last month, grumping about the United States position that had been based on a 17-page letter from Senator Henry Jackson and the first SALT paper in four years siged by the Joint Chiefs of Staff.

When the Russians stonewalled, the U.S. team held a seven-hour strategy session. As might be expected, Mr. Warnke's hearing-toughness vanished; he persuaded Mr. Vance to make a significant concession to the Soviets.

The Warnke concession was to offer to limit cruise missiles to 600 kilometers on non-heavy bombers. We had been willing originally to limit the cruise missile's range to 2,500 kilometers because we don't need another intercontinental missile—but we do need a theater weapon. Mr. Warnke in making the cruise missile acceptable to the Soviets, makes it far less valuable to us.

The Russians turned up their nose to this concession; most Americans do not even know it was offered. But as the Vance party returned in disarray, the career "verifiers" back home in the agency began to point out some big problems in the concessions.

The Soviet Union has a large cruise missile of its own, the AS-4 to be carried by its Backfire bomber. Although it would be easy for the Russians to check on any United States cheating in cruise missiles (by reading Aviation Week), it would be more difficult for us to verify Soviet compliance.

That is because the cruise missile, unlike the ICBM, does not have to fly 3,000 miles to a target to be tested, inviting surveillance; instead, they can be tested in a "racetrack pattern," flying in circles locally. The ICBM crashes on the target, requiring it to send back data in flight, which our verifiers intercept; but the cruise, which can land by parachute, is silent.

"Verification" is the name of the arms control game. Now consider what has happened to this crucial watchdog function since the return from Moscow.

The ideological "hit list" has been activated. Throughout the Arms Control and Disarmament Agency, the hard-line professionals—not the political appointees, but the career officials—have been told to quit or find jobs elsewhere. Civil servants, Foreign Service Officers and active-duty military like Robert Behr, Leon Sloss, William Steerman, Lee Niemela, Charles Estes, Paul Wolfowitz, William Graves and dozens of others are being "relocated"—to make room for men who won't make waves when U.S. strategic interests are conceded away.

Worst of all, the Verification Bureau has been abolished. The civil servant in charge, GS-18 Fred Eimer—nonpolitical—was asked to find work elsewhere. The next man, GS-17 Burt Aschenbrenner, was pushed out last week, and Cairns Lord, Philip Jackson, Eric Erlinson and other experienced verifiers have fanned out to other Government agencies or to universities.

Thus the only group in the Government whose sole job is to develop systems to verify arms control has been systematically disbanded.

The dovecote that is now our Arms Control Agency will say that no verification bureau is needed, that the function can be handled at C.I.A. or sprinkled around the agency. But every savvy bureaucrat can see through that: the verifiers must have no vested interest, no bureacuratic loyalty other than to curtail possible Soviet duplicity.

Nor is the C.I.A. empowered to come up with treaty language or arms control negotiation suggestions dealing with verification. That is what should be the responsibility of an objective body within our State Department.

Firing political appointees is a legitimate function of a new broom; but compiling a "hit list" on an ideological basis, aimed at dispersing a group of nonpolitical professionals, deserves investigation. Ironically, Mr. Warnke's abuse of power is a step toward American strategic impotence.

TWENTY-EIGHT YEARS OF SILENCE

Mr. PROXMIRE. Mr. President, it has been almost 28 years since President Truman signed and transmitted the Genocide Convention to the Senate of the United States. It has been 26 years—since January 12, 1951—that the Genocide Convention has actually been in effect. We have stood silent for that long.

The Genocide Convention represents the voice of mankind condemning the mass destruction of any people on ethnic, cultural, or religious grounds. The world body of nations has spoken out against this horrible crime by ratifying the Genocide Treaty. The world has said that it will not support, nor condone, any such genocidal acts.

More than 80 nations have joined their voices in this cry of conscience, but the United States has remained mute. We have stood silent by refusing to ratify the Genocide Convention. We have said nothing. We have not lived up to our heritage.

Mr. President, we have gained nothing by our refusal to ratify the Genocide Convention. Our world image and our national credibility have suffered, as has the treaty itself because of our long absence from the rolls of its supporters. In this instance, Mr. President, silence on our part has been anything but golden.

We have seen the Genocide Convention in effect for 28 years and we have observed no ill effects. The Genocide Convention does not make the world perfect, as recent events in Uganda have shown, but it points us in the right direction.

Mr. President, I urge my colleagues to

end our long silence by ratifying the Genocide Convention. Let us put our votes where our hearts are. We have nothing to lose and a conscience to gain. Please, gentlemen, not one more year of deafening silence.

THE SMITHSONIAN INSTITUTION

Mr. MATHIAS. Mr. President, as a native of nearby Frederick, Md., I have been able to visit Washington and to enjoy its cultural attractions all my life. I first visited the Smithsonian Institution as a young boy when its collections were housed in those two marvelous Victorian buildings on Independence Avenue—the Castle and the Arts and Industries Building—and in the Museum of Natural History on Constitution Avenue. I have been visiting it ever since and have watched its growth with pleasure and satisfaction. It has added the same kind of intellectual dimension to my children's lives as it has to my own—only many times magnified thanks to the imaginative direction of S. Dillon Ripley, who in 13 years has brought it to a magnificent fruition.

I was delighted to find my view of the Smithsonian shared in the lead editorial in the April 5 Washington Star, which summarized the spirit of the Smithsonian and urged that it continue to enjoy the flexibility which has made its remarkable growth possible.

I am confident anyone who has visited any of the Smithsonian enterprises from the National Zoo to the recently opened triumphant Air and Space Museum cannot fail to agree. I ask unanimous consent that the Star editorial be printed in the RECORD.

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

[From the Washington Star, Apr. 5, 1977]

BOOKKEEPING AT THE SMITHSONIAN

It is our impression, but not ours alone, that the Smithsonian Institution is administered with a skill and imagination that other agencies would do well to emulate.

It has nonetheless been the target of persistent congressional and journalistic potshotting and has now been subjected to two investigations by the General Accounting Office, one in 1970, the other just concluded.

What the problem boils down to is a disagreement—considerably colored by journalistic hype—over accounting and money-handling practices—as well as the style of the Smithsonian's estimable secretary, S. Dillon Ripley. One columnist, with a heavy dose of the journalistic hype we noted above, wrote last October of the "free-wheeling" Mr. Ripley and spoke of the Smithsonian as a "sacred cow" immune to ordinary standards of public accountability.

There is room for honest disagreement about the Smithsonian's budgetary procedures—or at least some of those necessitated by its quasi-private character and its need to be as free as possible of bureaucratic apron strings. But we know of no evidence—certainly none has turned up in either GAO investigation—to support the suggestion of one "Hill source" last fall that there may be "some kind of laundering operation at the Smithsonian": the implication of which, we suppose, is that procedures questioned by the staff of a Senate subcommittee are necessarily dubious.

Indeed, the GAO, though critical of the payout of funds by two non-public corporations set up by the Smithsonian to administer grants, found its own criticism "muted by the fact that there is nothing to suggest that appropriated funds were spent on anything but the programs authorized."

If so, what is all the shouting about? It has been the contention of two senators, and certain other critics, that the Smithsonian is insufficiently accountable for the way it handles—and commingles with public appropriations—approximately $17 million (fiscal 1976 figures) in endowed and donor income. Yet it is far from clear that the mystery is the Smithsonian's fault; it has made no attempt, so far as we can determine, to conceal its practices—how could it, when it is governed, under law, by a board of regents which includes prominent members of Congress, the administration and the judiciary? Those who are mystified might, at any rate, be referred to the Secretary's annual Statement, with its detailed tables and report from the Smithsonian's accountants.

If the Smithsonian's budgetary procedures are unusual or "questionable," their aim would seem to be effectiveness in that "diffusion of knowledge" enjoined by its original benefactor, James Smithson. That some question those procedures does not, of course, make them unwise or unacceptable public procedure. The Smithsonian's quasi-private character—Mr. Ripley's salary, for instance, is paid from private funds—affords flexibility. Nothing could more quickly limit its effectiveness than rigid or puritanical notions of the public purpose.

Tell-tale in this regard are the cheap shots at Secretary Ripley's travels, and at his ornithological studies at Litchfield, Conn. The test of Mr. Ripley's abilities is not whether he is chained to a desk in Washington 365 days a year; it is whether the Smithsonian under his direction is flourishing and is serving as its founder intended it do. And none of Mr. Ripley's critics deny that it is.

In response to the more recent GAO report, the Smithsonian has said that it is ready, even eager, to co-operate with the Senate Interior subcommittee in revising its practices to assure greater accountability. And so it should be. But the Smithsonian ought to resist the kind of budgetary regimentation some of its critics seem to have in mind for it, and it should be supported in that resistance by the American public. A creative institution needs room to maneuver.

SENATE JOINT RESOLUTION 47

Mr. INOUYE. Mr. President, with my colleague, Senator MATSUNAGA, I have introduced Senate Joint Resolution 47 to remedy a serious deficiency in the collection of current population statistics by the U.S. Bureau of the Census and several executive departments. For too long, public policymakers and citizen groups have suffered from a lack of accurate and timely data on this country's Asian and Pacific Island American population.

The joint resolution I propose seeks to assure that the Federal Government develops methods to improve and expand on the collection, analysis, and publication of a wide variety of population statistics relating to Americans of Asian and Pacific Island descent.

It is no small problem that worthwhile data about this group has been lacking through the years. Too often, we in Congress pass legislation relating to employment, health, social welfare, and education without knowing its impact on our Nation's Asian and Pacific Island American people.

Policymakers should know, for example, to what extent Government bilingual education funds are in demand by this population. It seems ridiculous to me to authorize expenditure of tax dollars on vital programs like bilingual education without all the basic facts. And without the same basic facts, local and State administrators are unable to fully assess the success or failure of a program like bilingual education, which is directed in part to the Asian and Pacific student.

In my home State of Hawaii, ordinary 10-year census counts give local planners figures reflecting populations of "white," "black," "Spanish-speaking" or "other." Of what use is the decennial census if more than 60 percent of Hawaii's population must be counted as "other"?

Better statistics about the Asian and Pacific Island Americans would help many States in meeting the multilingual ballot requirements set by the 1975 Voting Rights Act amendments, particularly those States that have become home for many recent Asian immigrants desiring citizenship. And figures on Asian unemployment rates and other social indicators may help public officials approach more knowledgeably the problems of urban Asian ghettos and low-income neighborhoods.

I believe an improved data-gathering operation will facilitate a more complete grasp of the needs and problems of the American pople, and also will help to bring to the Asian and Pacific Island Americans Federal programs and benefits accorded other Americans.

If our distinguished colleagues agree that the Federal Government should not ignore this population group, perhaps they also will agree that efforts to survey them and to draw social and economic profiles of them must be conducted with a full awareness of and sensitivity to Asian and Pacific Island American concerns.

There should be sufficient sensitivity so that, for example, basic racial and ethnic counts do not lump together all Asian and Pacific Island groups under headings like "yellow" or "oriental," two labels currently in consideration for use in the 1980 census. What is needed is an accurate breakdown of Asian nationalities as well as Pacific Island people such as Samoan Americans and native Hawaiians to meet the needs of local, State, and Federal officials and planners. The joint resolution I propose has provisions to help assure that legitimate Asian and Pacific Island concerns are reflected in the collection of current population data.

I am hopeful this legislation may be passed quickly, because we must meet the need to bring our Nation's Asian and Pacific Island American population on an equal footing with the rest of the American people.

Mr. President, I request unanimous consent to have the text of the joint resolution printed in the RECORD.

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

S.J. RES. 47

Relating to the publication of economic and social statistics for Americans of East Asian or Pacific Island origin or descent.

Whereas more than two and one-quarter million Americans identify themselves as being of East Asian or Pacific Island back-

ground and trace their origin or descent from the East Asian Continent or the Pacific Islands; and

Whereas these Americans of East Asian or Pacific Island origin or descent have made significant contributions to enrich American society and have served their Nation well in time of war and peace; and

Whereas a large number of Americans of East Asian or Pacific Island origin or descent suffer from racial, social, economic, and political discrimination and are denied the basic opportunities they deserve as American citizens and which would enable them to begin to lift themselves out of the poverty many of them now endure; and

Whereas improved evaluation of the economic and social status of Americans of East Asian or Pacific Island origin or descent will assist localities, States, the Federal Government, and private organizations in the accurate determination of the urgent and special needs of Americans of East Asian or Pacific Island origin or descent; and

Whereas the provision and commitment of local, State, Federal, and private resources can only occur when there is an accurate and precise assessment of need: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of Labor, in cooperation with the Department of Commerce, shall develop methods for improving and expanding the collection, analysis, and publication of labor force characteristics relating to Americans of East Asian or Pacific Island origin or descent for those States with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 2. The Department of Commerce, the Department of Labor, the Department of Agriculture, and the Department of Health, Education, and Welfare shall each collect, and publish regularly, statistics which indicate the social, health, and economic condition of Americans of East Asian or Pacific Island origin or descent for those States with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 3. The Director of the Office of Management and Budget, in cooperation with the Secretary of Commerce and with the heads of other data-gathering Federal agencies, shall develop a Government-wide program for the collection, analysis, and publication of data with respect to Americans of East Asian or Pacific Island origin or descent for those States with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 4. The Department of Commerce, in cooperation with appropriate Federal, State, and local agencies and various population study groups and experts, shall immediately undertake a study to determine what steps would be necessary for developing creditable estimates of undercounts of Americans of East Asian or Pacific Island origin or descent for States with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 5. The Secretary of Commerce shall insure that, in the Bureau of the Census data-collection activities, the needs and concerns of the East Asian or Pacific Island origin population are given full recognition through the use of East Asian or Pacific Island language questionnaires, bilingual enumerators, and other such methods as deemed appropriate by the Secretary for States with localities containing significant populations of East Asian or Pacific Island Americans.

SEC. 6. The Department of Commerce shall implement an affirmative action program within the Bureau of the Census for the employment of personnel of East Asian or Pacific Island origin or descent and shall submit a report to Congress within one year of the enactment of this Act on the progress of such program.

U.S. CANAL ZONE SOVEREIGNTY: CHRISTIAN SCIENCE MONITOR EDITORIAL CONFUSION CLARIFIED

Mr. HELMS. Mr. President, one of the features in the current massive propaganda campaign to win the support of the American people and Congress to accept the surrender of U.S. sovereign control over the Panama Canal and its protective strip of the Canal Zone has been editorials in some of our leading newspapers based on erroneous information. A recent example was published in the February 15, 1977, issue of the Christian Science Monitor, which supported the State Department's program for giving up the canal but perpetrated a serious error of fact on the legal status of the Canal Zone as an unincorporated territory of the United States. As such, the canal cannot be surrendered without the authorization of Congress (U.S. Constitution, Article IV, section 3, clause 2). Efforts for surrender without such authorization are attempted usurpations of executive authority, which must not be permitted.

Fortunately, such editorials as that cited are subject to the scrutiny of many authorities well informed on canal matters. One of the most outstanding is Dr. Donald M. Dozer, professor of history emeritus of the University of California, Santa Barbara, and an eminent authority on Latin America whose numerous writings are authoritative.

In a letter to the editor of the Christian Science Monitor on February 16, 1977, he stresses one major error in the editorial as regards the status of the United States as sovereign over the Canal Zone.

As to such status, it should be noted that there was no doubt in the minds of eminent contemporary observers of the early 20th century Isthmian events. The British Ambassador, Lord James Bryce, in 1906 stated that the 1903 Treaty "ceded perpetuity" the Canal Zone to the United States—James Bryce, "The American Commonwealth," revised edition, page 408.

Mr. President, because the letter of Dr. Dozer should be of interest to all Members of the Senate at this time when the time for submission of a new canal treaty seems approaching, I ask unanimous consent for it and the Monitor's editorial to which it refers to be printed in the RECORD.

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

SANTA BARBARA, CALIF.,
February 16, 1977.

The CHRISTIAN SCIENCE MONITOR,
Boston, Mass.:

I call attention to a serious error of fact about the legal status of the United States Territory of the Canal Zone in your editorial, "Canal talks: back to bargaining," in the *Monitor* of February 15.

A little research in easily accessible source materials would have shown your editorial writer that in Articles II and III of the Hay-Bunau-Varilla treaty of 1903 Panama granted all sovereign rights over the Canal Zone "in perpetuity" to the United States for the price of $10 million to the entire exclusion of the exercise of any such sovereign rights by the Republic of Panama. Since the purchase was a clean bill of sale, the treaty contained no provision for a later renegotiation. So eager was Panama to provide the site for the benefit of her national economy that the Panama National Assembly ratified the treaty before the United States Senate gave its consent. In addition the Panama National Assembly adopted other acts recognizing that they had ceded the Canal Zone to the United States.

Both the United States Congress and the Supreme Court have recognized the transfer of the Canal Zone as a cession of sovereign rights to the United States in perpetuity. The leading case is *Wilson* v. *Shaw* 104 U.S. 24 (1907) in which the United States Supreme Court held that with the exchange of ratifications of the purchase treaty of 1903 "ceding" the Canal Zone title to it passed to the United States. This decision was reaffirmed as recently as 1972 when the Supreme Court denied certiorari in the case of *United States* v. *Husband* (R) 406 U.S. 935, 1972. This confirmed the ruling of the United States Circuit Court of Appeals for the Fifth Circuit which ruled that the Canal Zone is unincorporated territory of the United States and as such is subject to the plenary authority of the Congress. Article IV, Section III (2) of the Constitution specifically gives Congress "power to dispose of and to make all needful rules and regulations respecting the territory and other property belonging to the United States."

The status of the United States as sovereign over the Canal Zone has not been altered in any of the provisions of subsequent treaties between the two countries.

Sincerely,

DONALD M. DOZER.

[From the Christian Science Monitor, Feb. 15, 1977]

CANAL TALKS: BACK TO BARGAINING

A determined and commendable effort to work out a new treaty with Panama, covering the Canal Zone and the interocean waterway, now is getting under way. This represents the Carter administration's first venture into the sphere of international negotiations, and the new President naturally is anxious to see it succeed. The U.S. team, headed by veteran diplomat Ellsworth Bunker, has been augmented by Washington lawyer Sol M. Linowitz, a man likewise dedicated to achieving a new agreement with Panama.

Intermittently since 1964, the quest for an agreement has dragged on, but now Mr. Carter is hoping a new treaty can be completed by this coming June. This may prove optimistic on his part, considering the difficulties still ahead, but at least the mentioning of such a target date lends stimulus and encouragement to the delegations to get on with the task.

Panama meanwhile has injected a note of uncertainty into the talks by suddenly removing its chief negatiator, Foreign Minister Aquilino Boyd, and replacing him with Nicolás Gonzales Revilla, the young Panamanian Ambassador to the United States, who has not had much direct contact with the discussions hitherto.

Two major questions now remain to be ironed out. One is the final termination date for the new treaty, which means the date on which control of the canal and its zone passes to Panama. The two parties are not very far apart on this. The second is more difficult: U.S. access to, and defense of, the waterway once it is under Panama's control.

This matter of future American rights in the area inevitably involves an element of national pride on both sides, with resultant domestic political implications. One pro-

posal, by Panama, is that guarantees of access and Canal Zone neutrality ought to be vested in the United Nations, but this may not go down well with the U.S. Senate which must ratify the treaty.

Indeed, unless the negotiators are skillful in working out provisions acceptable to both sides, and unless the Carter administration is adept at justifying the settlement to the American people, treaty ratification could become a major issue. Lots of hard bargaining plainly looms ahead.

Working in favor of a settlement that both capitals can approve, however, is the sheer need to solve the problem. Ambassador Bunker is not alone in believing that a new Panama treaty is imperative if future American relations with Latin America as a whole are to be warm and credible. Moreover, Panama never ceded sovereignty over the Canal Zone, so a mutual arrangement now must be found that enables Panama eventually to resume control, without impairing U.S. strategic interests or Panama's integrity as an independent nation. The temper of the times clearly requires revision of the 1903 pact, and the United States should not shrink from taking the essential steps to bring it about.

SHARE DRAFT POWERS FOR FEDERAL CREDIT UNIONS

Mr. EASTLAND. Mr. President, on Tuesday, April 19, one of my constituents, W. Liddon McPeters from Corinth, Miss., testified before the National Credit Union Administration on a proposed regulation to authorize share draft powers for Federal Credit Unions. Mr. McPeters is president of the American Bankers Association and was accompanied on that occasion by the general counsel of the association, Mr. William H. Smith.

The statements of Mr. McPeters and Mr. Smith are very informative and deserve the attention of the Senate. I am sure that their testimony will be of particular interest to members of the Committee on Banking, Housing, and Urban Affairs.

Mr. President, I ask unanimous consent that the statements made by Mr. McPeters and Mr. Smith be printed in the RECORD.

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

STATEMENT OF LIDDON MCPETERS

Mr. Montgomery and members of the NCUA staff, I am Liddon McPeters, President of the Security Bank, Corinth, Mississippi, and President of the American Bankers Association, on whose behalf I am appearing today. Accompanying me is William Smith, General Counsel to the Association. We appreciate this opportunity to present the views of our Association, whose membership consists of approximately 92% of the nation's more than 14,000 commercial banks, of the Administration's proposed rule for share draft programs for Federal Credit Unions.

As you have perhaps surmised from our previous actions, the ABA is strongly opposed to the proposed NCUA regulation on share draft powers for Federal Credit Unions. The basis for our Association's opposition to the proposed program is twofold in nature: 1) the addition of share draft powers changes the functional concept of the credit union and raises certain public policy issues, including competitive inequity between commercial banks and credit unions; and 2) the illegality of the NCUA proposed authorization of and participation in a share draft program by Federal credit unions.

I will focus my remarks on our first area of concern and Mr. Smith, in his statement, will address the illegality of the NCUA proposed program.

Traditionally, our Association has not opposed the extension of third-party payment powers to credit unions and other types of thrift institutions if the public is served by equal treatment being established for all the depository institutions having such powers. Equal treatment pertains to taxation, reserve requirements, deposit interest rate regulation, and other supervisory and regulatory requirements imposed on institutions chartered to engage in the business of accepting deposits payable on demand. Indeed, we believe that such balanced and equitable changes in regulations covering deposits are, in the long run, in the public interest, offering an expanded and more convenient payment service to the public.

In the judgment of our Association, however, the share draft program proposed by the Administration will further aggravate the existing competitive imbalance and unfair advantage enjoyed by credit unions at the expense of other financial institutions and most particularly commercial banks, since payment services are an integral feature of the business of these institutions.

Checking accounts have long been a distinctive service of banks. Use of checks by households, as well as by business and government, is more widespread and commonplace in the United States than in any other country. Banks have thus provided a broad-based and convenient means of payment in our economy. Entry of credit unions, which have previously been granted special competitive privileges, into the third party payment business would add to the already intense competition in the checking account business. Because banks will likely suffer losses of deposits and earnings due to these competitive inequities, it is understandable that bankers argue that credit unions not be authorized to enter the checking account business unless the ground rules governing competition are equal. Share draft accounts are checking accounts—they should be called checking accounts, not obfuscated by marketing gimmickry which must be explained by saying that they are "like a check."

Much of the competitive advantage enjoyed by credit unions stems from the special privileges under which they operate and the extraordinary subsidies they receive. Credit unions receive public subsidies in the form of tax exemption and the absence of deposit reserve requirements. They often receive additional subsidies in the form of contributions, such as rent-free space, from the sponsoring organization. These subsidies, coupled with the lack of corporate shareholders expecting earnings, enable most credit unions to pay a higher interest rate on deposits and make loans at lower rates than banks and thrift institutions. The result is that commercial banks and other thrift institutions would be at a significant competitive disadvantage if credit unions receive share draft powers without redressing the competitive imbalances which could then more obviously exist.

Indeed, one can question whether some of the subsidies which provide credit unions with such an advantage continue to serve any useful social purpose, since those subsidies no longer benefit primarily lower-income groups or those without access to financial services from other sources. The continuation of all of these subsidies, combined with expanded credit union powers, could eventually transform credit unions into a primary supplier of personal financial services in many market areas. There is no valid justification in the competitive American marketplace for such special privileges to continue.

Until recently, the credit unions' advantage has been offset by thir inability to offer third party payments. The introduction of share drafts, therefore, makes it virtually impossible for many banks and other thrifts to compete effectively with credit unions for a sizable portion of available household deposits.

Competitive equality relative to credit unions and the thrift institutions is especially important to the future viability of thousands of small- and medium-size banks roughly 13,000 are small- to medium-size and serve local communities and suburban areas. About 2,400 small banks averaged less than $40,000 in net income in 1974. Another 3,160 relatively small banks averaged less than $85,000 net income. Such banks are particularly susceptible to adverse effects from changes in competition with thrift institutions, such as that which would result if the NCUA adopts the proposed share draft program.

Let me cite just a few specific examples.

Alaska National Bank in Anchorage has lost $600,000 in checking accounts of 375 customers while Alaska USA Federal Credit Union has acquired 1,900 share draft accounts worth over $4 million. These 1,900 accounts represent a mere 3.8% of the membership of this particular credit union, and the $4 million just over 3.3% of the total assets of the credit union. What will be the effect on Alaska National Bank if all or most of the credit union's members shift their checking accounts from Alaska National to Alaska USA?

First National Bank of Big Spring, Texas, has lost $100,000 and over 100 accounts. State National Bank in Big Spring has lost approximately the same amount, and perhaps a few more accounts. Security State Bank in Big Spring has lost in excess of $400,000 and up to 175 accounts. Meanwhile, Webb Air Force Base Federal Credit Union has acquired almost $645,000 in 900 or so share draft accounts and, as a result of action taken by your office recently, was authorized to expand its "common bond" of membership to the entire community in which it operates.

First National Bank of South Carolina, with branches in Charleston, has lost $414,000 in checking and savings accounts, while CAB Federal Credit Union in Charleston has accumulated nearly $1.3 million in nearly 1,700 share draft accounts. Only 10% of the membership of the credit union now have share draft accounts. What will happen to the banks in that area when 100% of the members open such accounts?

In Peru, Indiana, the Peru Trust Company has a $1.8 million branch office serving the Grissom Air Force Base. The Grissom Federal Credit Union is participating in the share draft "experiment" in the same location and anticipating some 2,000 or 3,000 share draft accounts within a year. If this occurs, Peru Trust is resigned to losing its branch. The deposit base remaining after the anticipated losses to the credit union will not support its continued existence. The single and obvious fact is that funds in share draft accounts at credit unions are coming directly from checking accounts at banks and banks are legally banned from meeting such competition.

Your program, to date, has been billed as an experimental one, involving a few hundred credit unions out of the nearly 13,000 institutions under Federal Charter. Most of the share draft "experiments" have been operating for only a little longer than a year, or for an even shorter period if the typically limited "start-up" period is excluded. If the proposal is adopted in permanent form, there are several hundred other Federal credit unions interested in offering share drafts. It is not unreasonable to expect that eventually thousands of credit unions will be participating in share drafts. There are 10,000 state-chartered credit unions in the United States as well. The regulatory authorities for these institutions will, by and large, follow the lead the Federal agency takes in approving

or disapproving this program. So-called "wild-card" statutes in several states would automatically grant share draft powers to state credit unions, and in other cases it will be done simply to prevent a flood of charter conversions from state to Federal.

Credit unions have become full fledged participants in our nation's financial system. Under professional management, the more aggressive credit unions have made a farce of the common bond concept and have emerged with their historic traditions intact, as aggressive competitors with many smaller banks. Prior to any further expansion of credit union powers—such as the share draft proposal—we believe it is incumbent that both the NCUA and the industry it regulates should first accept the supervisory and regulatory burdens imposed on other participants in our nation's financial system.

Another aspect of competitive equity involves reserve requirements. Reserve requirements on checking accounts assist the Federal Reserve in its administration of monetary policy and help insure the safety and soundness of institutions offering such accounts. In the commercial banking industry, the Federal Reserve sets reserve requirements for member banks and states set reserve requirements for nonmember banks. Since member banks currently have the bulk of demand deposits, this system has adequately served the twin goals of not interfering with the central bank's administration of monetary policy, and fostering a sound and innovative banking system through a system of dual chartering at the state and Federal level. If credit unions receive the power to offer share draft accounts, the system can only be preserved by imposing on all federally-chartered credit unions the same reserve requirements as those imposed on Federal Reserve member banks. Although it can only be done through legislation, we also believe states which empower state-chartered credit unions to offer share drafts should be encouraged to impose the same reserve requirements on these credit unions as they impose on state-chartered nonmember banks.

Moreover, the payment of interest on deposit balances available for transfer to third parties would be attractive to private individuals and corporations where this type of deposit is made available. This ability to attract additional deposits through interest bearing share drafts would encourage many Federal credit unions to offer this type of payment device. These advantages could reduce the need for demand deposits of commercial banks. Under these circumstances, there would be decreases in commercial bank deposits which are subject to monetary control, while at the same time the share draft accounts of credit unions would, in effect, operate as part of the money supply, but would do so outside the control of the Federal Reserve. Thus, the effectiveness of the Federal Reserve in exercising its monetary policy could be hampered.

In summary, the competitive inequities between banks and credit unions which I have described would be expanded in and of themselves and significantly extended by the Administration's proposed share draft program. Moreover, the effects of the rule would adversely affect the conduct of national monetary policy.

We would now like to direct our remarks to the illegality of the share draft program.

STATEMENT OF WILLIAM H. SMITH

I am William H. Smith, General Counsel of the American Bankers Association. I would like to thank the NCUA for the opportunity extended to our Association to appear here today and to express our views on the proposed share draft rules.

These views can be very simply stated. Share drafts for Federal credit unions are bad policy and worse law.

Policy considerations, and particularly the present and expected harm to commercial banks, are addressed in the statement of ABA President Liddon McPeters. I will focus instead on the legal aspects of share drafts under the Federal Credit Union Act.

We can find no authority in the Act for share draft accounts. The proposed rule doesn't help us much either. The Administrative Procedures Act requires that an agency state in a proposed rule the source of authority for the rule. NCUA has cited, as authority, the Administrator's rulemaking powers under the statute. We know that he has authority to make rules in general, but what is his authority to make this rule? That is nowhere stated.

The ABA takes the position that none of the express powers of Federal credit unions convey this authority; that the implied power of Federal credit unions are inadequate to accomplish this purpose; and that, accordingly, the NCUA cannot create such a power in Federal credit unions out of the whole cloth. Furthermore, share drafts are inconsistent with the whole history of Federal credit unions and the history of financial instutions in general.

First, the express powers of Federal credit unions include the right to sue and be sued; to make contracts, to adopt a common seal, to cash and sell checks and charge a fee for doing so, to own property, to make loans, receive deposits, borrow money and assess late charges. Where, among these powers, does one find any reference to share drafts in any way, shape or form? It simply is not there.

This then leaves the "implied powers" of Federal credit unions. Credit unions may do anything which is necessary or requisite to carry out the purpose for which they are incorporated.

In what sense do share drafts meet the "necessary or requisite" test? In the proposal, we are told only that member convenience is the object of this program. This is insufficient, as a matter of law, to justify the rule.

Under the law, the implied powers of a financial institution are only those which bear some connection to the performance of an enumerated power. The First Circuit Court of Appeals has held that "if this connection between an incidental activity and an express power does not exist, the activity is not authorized as an incidental power."

Where is the legally required connection in the case of share drafts? Are these drafts somehow necessary or requisite in order for a credit union to adopt a common seal? Are we supposed to assume that because a credit union has the power to make contracts that any contract is a necessary incident—including the contracts which underlie the creation of a share draft program? Are we going to be told that credit unions will not be able to make loans without share drafts? We reject any such contention as ludicrous at worst and bootstrapping at best.

I suppose it might be said that survival and growth of an institution are "necessary or requisite" but, quite clearly, this necessity has been met without share drafts. Over the past ten years, credit unions have increased their assets 281%, far outstripping any other form of financial institution in rate of growth.

Instruments for third party withdrawals from interest-earning accounts are, likewise, not incidental to the operations of a financial institution dedicated, by law, to promoting thrift. The Supreme Court of Maine, in 1971, and the New York Court of Appeals, in 1975, have so held. The institutions involved in these suits were designed to promote thrift; there was no specific statutory authority for them to permit third-party withdrawals from interest-bearing accounts; a "necessary and proper" type clause appeared in the savings bank statutes; and, in both cases, there was no long prior history of the questioned activity before legal challenges were instituted. Nothing distinguishes the facts in the present share draft situation from the facts in these savings banks cases. The result, therefore, should be the same. If these accounts were not permitted in New York and Maine before specific statutory authority was granted, neither should similar accounts be permitted to Federal credit unions in the absence of a statute saying so in clear terms.

Additionally, a particular activity can hardly be considered to be an "implied power" where there are indications elsewhere in the statute that such activity is not intended to be exercised.

I think that it would be fair to say that the Administrator recognizes that Federal credit unions do not have "demand deposit" powers; the ABA certainly takes this position. When the share draft rule was proposed, the Federal Credit Union Act specifically prohibited the Administrator from insuring demand deposit accounts in state credit unions. It also prohibited the Administrator from discriminating against state-chartered credit unions. These two provisions could exist virtually side by side only because Federal credit unions lack authority to have demand deposit accounts, and therefore, it is not discriminatory to exclude the state demand deposit accounts from the insurance program.

The prohibition against demand deposit accounts for Federal credit unions is recognized by NCUA itself. The General Counsel, Mr. John Ostby, has written that a particular proposed arrangement whereby a credit union would guarantee payment of a share draft cashed at a bank would be improper, since the drafts would then "take on the appearance of demand deposit accounts and might be subject to court challenge as such." Share drafts, however, are payable on demand and thus obviously payable from demand deposit accounts because nothing on the face of the instrument says otherwise. Under the Uniform Commercial Code that fact is decisive. Any agreement between the credit union member and the credit union to the contrary would not be binding on a third party and would be unenforceable.

At the same time, we are told that there is, in the credit union bylaws, a provision that reserves to credit unions the right to require notice prior to withdrawal. A credit union member may or may not be aware that such a bylaw exists or that it is applicable to a share draft account. No such terms or conditions are stated in the agreement the member signs when he opens a share draft account. But even if the member were fully aware of such a rule, the merchant who takes a draft in payment for goods is not aware of its existence, and he is conclusively presumed not to be aware of it. Once the draft is in his hands, it is legally impossible for the credit union to invoke its alleged right to prior notice, even if it wanted to do so.

There is a further point to support this position that share drafts are, in fact, demand instruments. Various banks in different parts of the country have treated share drafts as "collection items." In Wyoming, Texas and Florida, credit unions have filed suit against the banks to compel them to treat share drafts as "cash items," and process them through the Federal Reserve clearing system. The Fed's Regulation J defines "cash items" as checks and "other items payable on demand." So the credit unions themselves, when it suits their purposes, claim that these instruments are demand items. Calling the drafts something else doesn't make it so; and fabricating a wholly fictitious "prior notice" requirement buried in an obscure and inapplicable bylaw doesn't make it so either. You admit that credit unions don't have demand deposit authority, and yet you propose to authorize demand accounts anyway. That is illegal.

What about the power of the agency as distinct from the powers of the credit unions? Here again, there is no express power contained in the Federal Credit Union Act that authorizes the Administrator, at will, to create separate, different or additional classes of shares. The agency admits this as well. A letter from the Administrator to Credit Union National Association in September 1971, states that the law does not authorize anything "other than traditional share accounts." The recent enactment of H.R. 3365, subsequent to the promulgation of this proposed rule, is the only thing that changes this. This Act will allow, by specific statute, a variable rate share certificate, which is an untraditional account. Where is the specific statute authorizing share drafts?

Of course, there are the general "rule-making" powers of the Administrator. They are found in two places in the statute, and the agency relies solely upon these two sections as authority for the proposed rule. Section 209 of the Act provides that the Administrator may exercise various enumerated and implied powers in administering the share insurance subchapter. Somebody is going to have to explain to me, and to our bankers, what the existence or non-existence of share draft accounts has to do with the creation, administration or protection of the Share Insurance Fund.

The other section, Section 120 of the Act, likewise contains a list of the Administrator's enumerated powers, the power to prescribe rules and regulations for the administration of the Act, and the power to do other things necessary or appropriate to carry out the provisions of the Act. None of the enumerated powers has anything to do with share drafts. The Administrator is not given the power to do anything outside the scope of the Act. Courts have invariably held that an agency may not exceed the scope of its statutory authority. This is particularly true with respect to financial institutions. The U.S. District Court for the District of Columbia held, in November 1976, that the Administrator's powers were analogous to the powers of the Comptroller of the Currency and the Federal Home Loan Bank Board. Look what has happened in the case of these two agencies.

In the 1960's the Comptroller authorized a whole range of activities by national banks—data processing services, collective investment funds, travel agencies, etc. One by one, these activities were challenged; and time after time, the courts have struck them down. Nothing in the law authorized the banks to engage in these activities, and therefore, they could not do so, the Comptroller of the Currency notwithstanding. The Home Loan Bank Board has had a similar lack of success in attempting to expand its powers beyond the statute. The Board authorized data processing services for the Federal Home Loan Banks, and a federal court in Ohio overturned this authorization. It isn't in the statute, and the agency can't put it there.

Why is the National Credit Union Administration different? What is there that gives this agency plenary powers that the other regulators do not have? Only if the new activity to be authorized can be supported by the statute itself, or at least by its legislative history, will the activity be proper.

Consider then the legislative history of the statutes regulating financial institutions.

When the Federal Credit Union Act was passed in 1934, the debates on it emphasized, over and over and over, that these institutions were designed for two purposes and two only—to promote thrift and to provide loans at reasonable rates to people who could not get them from banks.

In fact, one of the major proponents of the Act, Congressman Henry B. Steagall, stated that the services to be rendered by credit unions were not comparable to those rendered by banks. Now, the National Credit Union Administration tells us that share drafts—advertised as "just like a checking account at a commercial bank"—were certainly in the comprehension of the Congress when it gave credit unions powers necessary or requisite to carry out the purpose for which they were incorporated. This is just plain wrong.

So pervasive in the minds of the sponsors were these dual purposes of thrift and credit that they wrote the words into the law in 1934 and there the words have remained for 43 years without change. If share drafts can be said to promote thrift and credit, it is surprising that the implied powers of credit unions were not relied upon at any time in all these years to justify creation of such accounts.

As additional support for the proposition that Federal credit unions do not, by virtue of their implied powers, have the authority to engage in the business of accepting demand deposit accounts, we point to the fact that Congress has in the past discovered and dealt with problems related to the level of reserves on demand deposits, the method of keeping these reserves, and the payment of interest on demand deposits. In each case, the Congress moved to regulate or prohibit the activities in question, and yet there is no mention of Federal credit unions in the statutes. Having taken steps to correct the problems associated with demand deposit accounts, Congress enacted the Federal Credit Union Act and never mentioned such accounts in your enabling legislation. Indeed, in the intervening 43 years, the Federal Credit Union Act has been amended many times, and yet Congress has never seen fit to set down any legislative rules or regulations for demand account activities in credit unions. It is reasonable to assume, therefore, that Congress never intended that Federal credit unions should possess this power. If demand deposit accounts, per se, were what Congress intended to regulate, it is inconceivable to us that they would have excused Federal credit unions from such regulation, particularly without saying so specifically, if credit unions in fact had such powers.

Perhaps the best, and most recent, illustration of this point is the NOW account experiment in New England. If somehow one can successfully argue that a share draft is not a check, at the very least it bears a striking resemblance to a Negotiable Order of Withdrawal. In order for NOW accounts to exist at all, Congress obviously believed that specific statutory authority was necessary. What makes Federal credit unions so much different that they may postulate such a power without a specific statute? Also, Congress has considered NOW accounts to be experimental, and, as such, felt it necessary to limit them to a specified geographic region. What makes credit unions so much different that the same type of account may be permitted nationwide?

Further, Congress has enumerated those types of financial institutions which may participate in the experiment within the selected area, and in doing so, very deliberately omitted credit unions. Only in financial institutions other than credit unions, and only in New England, can NOW accounts be offered by specific Congressional mandate. Yet your proposed rule would permit the same kind of account to be offered by the excluded institution in the excluded areas of the country. How could it be clearer that what you propose is plainly illegal?

If this is not enough of an indication that Congress does not intend for Federal credit unions to have these powers, consider as well what Congress has not done. In 1965 and 1969, Rep. Wright Patman introduced bills in the House which would have given credit unions checking account powers. They did not pass. Are we to assume that Rep. Patman did not know what he was doing? If credit unions already had this power, Mr. Patman's bills were superfluous. Wright Patman was a major proponent of the Federal Credit Union Act in Congress in 1934 and of virtually every amendment since then. Above all men, he must have known what the Act did and did not authorize.

Just last year, Rep. Fernand St Germaine introduced a bill which would have given Federal credit unions parity with state credit unions in third-party payment accounts. It did not pass. Was he also guilty of performing a superfluous act? If credit unions already had these powers, and more, as the agency now claims, it would seem that he was. The ABA rejects that contention and submits that Congressman St Germaine understood full well the need for that legislation.

I want to return now, for a moment, to the concept of "thrift and credit."

A credit union's powers are limited to those that are necessary or requisite to carrying out those two purposes. The law says so in no uncertain terms.

Share drafts clearly do not promote thrift. To the contrary, they encourage spending of funds by making it easy to do—as easy as spending money in a checking account. Throughout your experimental program, the credit unions' advertising has consistently emphasized this—"Use them anywhere money is spent"; "Spends like cash"; "Replace your commercial bank checking account" and so forth. Are we to assume that the credit unions were deceiving their members, and that share drafts were really designed for saving money instead? Not very likely.

What about providing a source of credit to members? Are share drafts "necessary or requisite" for that? Somebody is going to have to prove that to us. Primarily, share drafts are programs for large credit unions, not small ones. Under your proposal, you would very likely find small credit unions unable to handle the additional business. At the same time, the large credit unions don't need the additional funds. In fact, according to one expert, employed by the credit union industry, the large credit unions in Colorado at least cannot get rid of the excess funds they have already, much less any increase in funds that might result from a share draft program. Consider also an organization like McGuire Community Federal Credit Union in New Jersey. At the close of 1975, this credit union had 40% of its assets in investments other than loans to members. You have an obligation to demonstrate to us and others that McGuire's share draft program is necessary so that its members will have a source of credit.

Even if excess funds are not on hand, they can be borrowed, under the law, to meet loan demand. The credit unions have created 38 Central Credit Unions specifically for this purpose, plus the U.S. Central Credit Union. The U.S. Central now has the capability of controlling $1 billion of the $8 billion total excess liquidity of credit unions. With this amount of excess funds, are we being told that the credit unions need still additional funds?

I can only summarize this statement by repeating what I said at the beginning. There is not one scintilla of support for share drafts in the statute; not an iota of intent by Congress in the legislative history that these instruments should be allowed to exist; not a pittance of proof that they are necessary or requisite. The National Credit Union Administration must enforce the law, and not make the law. The ABA submits that you have no choice except to withdraw this proposed rule.

ENERGY

Mr. MATHIAS. Mr. President, anyone tempted to challenge the premise of

President Carter's energy message should first look at the record of increasing volume of oil imports and the increasing cost in dollars spent abroad. If that dismal record is not enough to shock a majority of Americans then we are apt to have hard times indeed. When a once-energy-independent nation must import half of its petroleum demand, there are bound to be profound effects on national security and foreign policy as well as on the availability of energy itself. When we contemplate sending 50 billion American dollars annually, not only out of our country, but out of our economy, in order to buy a consumable commodity, we need to ask whether we are not putting goals such as full employment beyond the reach of the private sector of the United States.

So I applaud and welcome President Carter's forthright acknowledgment that our diminishing energy resources and our inordinate energy consumption pose the greatest challenge we face in the next decade.

But I warn the President that the road that lies ahead of him is rough. Many of us who have been on that road know its difficulties and its frustrations. A year ago at the New School for Social Research in New York City I warned:

> No more serious challenge faces us today than how to get this country going on the road to conservation and self-sufficiency.

But frankly, that is a warning that only a President can give with any prospect of effective response and I am heartened that the President has undertaken the job.

I hope the President will be prepared to repeat and repeate the warning that he has issued. It is not enough to predict that someday even the costly foreign sources of oil may run dry. The subtle linkage between energy and modern civilization must be revealed clearly to every voter and every taxpayer. In 1976 at the Colorado School of Mines I tried to suggest this by saying:

> We don't face just an "energy crisis," we face a challenge to our entire civilization. This distinction is crucial, both to understanding our present danger and to finding the necessary responses to it. The phrase "energy crisis" is misleading. It suggests energy is just one of many problems inherent in modern society . . . that the "crisis" can be handled by one or two bold strokes . . . (but) energy is not just an aspect of modern society. It is society's lifeblood. Energy is to modern man what wildlife was to the Indian. It sustains life. Our economy . . . food, jobs, industry, income, homes, transportation . . . all of these and more depend on energy.

I support the purpose and direction of the President's approach to resolution of our energy problems, but I want to study carefully his legislative proposals, including those relating to increased taxes, to determine whether they offer the best hope for addressing the many complexities of this dilemma.

To be successful any approach to the energy problem must emphasize equally and urgently two aspects of the question: conservation and priority development of alternate sources of energy.

We must pay the true cost for the fuel we use, but we must also assure that our industries and workers do not become victims and that we do not produce economic dislocation in the process of resolving our energy crisis. In addition, we must analyze the impact our plans and actions will have on our trade position and our relations generally with other countries.

I pledge myself to support the President in the continuing educational effort that will be necessary and to work with him in evolving and evaluating alternative solutions to the problem.

Meanwhile, it is important to remember that this is not some lofty issue to be determined at Olympian heights by demigods. It is a practical problem for every American and each of us can volunteer some simple everyday ideas that will contribute in some measure to both the conservation of energy and to our constant awareness of the problem. In this spirit, I suggest that every elevator button in the Capitol and the congressional office buildings be provided with a sign saying "Walk Down—Save Energy." Such a simple sacrifice might even inspire the more hardy of us to start walking up, which would be good for our hearts and good for America.

PIKETON URANIUM ENRICHMENT PLANT

Mr. METZENBAUM. Mr. President, in his April 20 energy message, President Carter recommended that plans to construct a major gaseous diffusion uranium enrichment plant in Piketon, Ohio, be abandoned in favor of a newly developed centrifuge technology. The administration has not decided where the centrifuge facility will be located, but there are reports that Oak Ridge, Tenn., is under consideration.

I am not in a position to make a judgment on the comparative merits of the two enrichment technologies, but I do know that a decision to shift the plantsite from Piketon would have severe negative effects on an economically depressed region. Unemployment is over 15 percent in the Piketon area at this time and the community has based its plans for the future on the Federal commitment—firm until now—to construct the plant there. Businessmen have made investments, schools in Ohio and Kentucky have established programs to train potential workers, and plans have been launched to insure that minority-run firms—hardest hit by unemployment—will have an opportunity to participate in the project. If the plantsite is moved, all of these efforts will have been for naught, and a depressed area will sink further into economic chaos.

On April 21, I wrote to President Carter to express my profound concern about the implications of his decision for the Ohio economy. Tomorrow, Senators GLENN, FORD, HUDDLESTON, and I will meet with the President to express our views to him directly.

Mr. President, labor leaders, businessmen, public officials, and concerned citizens in Ohio and the neighboring States have expressed strong support for locating whatever uranium enrichment facility is built at the Piketon site. I ask unanimous consent that my letter of April 21 to the President and a selection from the hundreds of messages I have received on this matter from people in all walks of life in Ohio be printed in the RECORD for the information of the Senate.

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

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., April 21, 1977.

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

DEAR MR. PRESIDENT: I would like to express my concern that your decision to redirect uranium enrichment technology from gaseous diffusion to centrifuge may jeopardize the expansion of the Federal facility at Portsmouth, Ohio.

As you know, the Congress has repeatedly authorized funds for increasing our Nation's enriched uranium supply through expansion of the Portsmouth site. It is my understanding that there are no technological or engineering features of this new technique which would necessitate shifting the proposed facility away from Portsmouth.

The City of Portsmouth and surrounding communities have eagerly anticipated the infusion of over $4 billion into this economically depressed region. The promise of an estimated 10,000 jobs through the construction of the gaseous diffusion plant and the three powerplants would insure prosperity where there is now unemployment over 12 percent. State and local officials, labor leaders and concerned citizens have all expressed to me today their deep concern over the prospect that Portsmouth may lose this promised facility.

Mr. President, I strongly urge you to name Portsmouth, Ohio as the site for the centrifuge uranium enrichment facility. Your statement last fall that "I have long supported full authorization and funding for enlargement of the government-owned uranium enrichment facility at Portsmouth, Ohio," recognized that this project is of the utmost importance to this region and the entire State. I respectfully request your assistance in this matter.

Warm regards,
HOWARD M. METZENBAUM,
U.S. Senator.

[Telegram]

STATE CAPITOL BUILDING,
Columbus, Ohio.

DEAR SENATOR: We are vitally concerned about published reports that the planned add on facility committed by ERDA at the Piketon, Ohio uranium enrichment facility may be threatened. This plant is located in the Appalachian region of Ohio which is now experiencing the highest rates of unemployment in the State. The economy of the region sorely needs the stimulus that is being generated by the present expansion of the Piketon plant. We urge that the commitment to expand this existing plant be fulfilled by incorporating the centrifuge process into the facility at Piketon. This would preserve the promise of employment for the residents of this part of Ohio and also produce the much needed enriched uranium for our present and future nuclear power plants at an earlier date than any alternate plan.

JAMES A. RHODES,
Governor of Ohio.

E. STATE STREET,
Columbus, Ohio.

Sen. HOWARD METZENBAUM,
Senate Office Building,
Washington, D.C.:

In behalf of the entire labor movement in Ohio I respectfully urge your involvement and effort to restore the building of the addition to the Portsmouth Power Project. I

understand President Carter has cancelled this project and intends to have the addition built in Tennessee, the impact of this change on Ohio will mean the loss of potential employment in construction and satellite industries. Thousands of jobs badly needed by Ohio's economy will be lost. Your immediate attention is drastically needed. Workers on this job (an expected 10,000 at height of construction) will come from all over Ohio.

The President, as a candidate, promised support for this project. To date Ohio has been almost totally ignored by the Carter administration. However, this amounts to an affront which cannot be ignored.

I would appreciate your response as to your effort to help restore this project.

Sincerely,

MILAN MARSH,
President, Ohio AFL-CIO.

GREENUP COUNTY AREA,
VOCATIONAL EDUCATION CENTER,
South Shore, Ky., April 22, 1977.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, D.C.

DEAR HONORABLE SENATOR METZENBAUM: Please support the add-on plant to be built at the Goodyear Atomic Plant at Piketon, Ohio. The Portsmouth area is depending on our political leaders to do as much as possible to influence the decision of the plant to be built here.

There are many families and homes that will greatly suffer over the loss of the add-on plant if it is not built in Piketon. There is such a great demand for more jobs in this area caused from the closing of many factories and industries.

I am employed by the Kentucky Bureau of Vocational Education and I know that vocational schools all around the Porsmouth area are doing as much as possible to train students to meet the needs of business and industry. But what need is there to train them when there are no job opportunities and they have to move away from home in order to be mployed?

Please support the add-on plant to be built in Piketon.

Very truly yours,

Mrs. DEBBIE TAYLOR.

[Mailgram]
INTERNATIONAL UNION
OF OPERATING ENGINEERS,
LOCAL UNION 18,
Toledo, Ohio, April 25, 1977.

Senator HOWARD METZENBAUM,
Senate Office Building,
Washington, D.C.:

We in the construction industry in Ohio have waited several years for relief for our unemployed needless to say we felt that with the election of a democratic president Ohio would start moving again when heard of the proposed expansion of the atomic energy plant at Piketon our spirits were raised this project meant getting off the dole and back on the job now we hear this project is being considered for the Oakridge, Tennessee area based on the amount of Federal dollars already spent in the past at Oakridge in comparison to southern Ohio makes this consideration patently unfair having designated Piketon as the site for this project and then removing it to Tennessee because wages are lower there and therefore Federal money will be saved makes it unbearable please help keep this project in Ohio we have waited long

RAY FRANKHOUSE,
JAMES MCMAHON,
BOYD RADER,
FRED HOHMAN,
GEORGE TACK,
Business Representatives.

PORTSMOUTH AREA,
CHAMBER OF COMMERCE,
April 21, 1977.

Senator HOWARD METZENBAUM,
Russell Office Building,
Washington, D.C.:

We urge you to use the influence of your office to urge President Carter to construct the proposed nuclear centrifuge plant at the Portsmouth Area A Plant the Energy Research and Development Administration determined that this site has met all of the specifications for an uranium enrichment facility the unemployment rate for this 5 county area is 15 percent. Millions of dollars have been spent on preliminary work for the gaseous defusion plant. In his presidential campaign, his press release of October 29, 1976 from Atlanta stated "I will ask the Congress to authorize the 4 billion in funding needed to complete construction of the Portsmouth add-on" the centrifuge plant should be constructed at Portsmouth the people of this area and of Ohio need this plant.

WILLIAM J. RICHARDS,
President.

OHIO STATE BUILDING AND CONSTRUCTION TRADES COUNCIL,
Columbus, Ohio, April 24, 1977.

Senator HOWARD METZENBAUM,
Senate Office Building,
Washington, D.C.:

On behalf of the 100,000 building tradesmen in Ohio we call upon you to focus your attention and efforts in restoring Portsmouth power plant project to Ohio. You are aware of the severe unemployment problem we have in our State. This project would benefit the entire State and boost the economy of the Portsmouth area where unemployment now stands at 15%. This project would provide employment for approximately 10,000 persons with half that total directly involved in the actual construction. Cancellation of this project is a devastating blow to construction and related industries.

In addition to the loss of jobs for Ohioans, the question of integrity is raised. President Carter, as a candidate, promised his support for the project. Carter, as President,, has now sanctioned the cancelling of this project and has supported the recommendation that this addition be built in Tennessee.

It is one thing to be ignored on political appointments and "patronage" as Ohio surely has been by this administration, but grave potential of the cancellation of this project in terms of the loss of jobs, industrial growth, and economic development for our State goes far beyond petty politics and is an inexcusable horror.

We will be in contact with you regarding this matter in the near future. We would sincerely appreciate counting on your support to help see that this project is restored for Ohio.

Very truly yours,

JOSEPH F. SEDIVY,
Secretary-Treasurer.

UNITED SHOE WORKERS,
Portsmouth, Ohio, April 24, 1977.

Senator HOWARD METZENBAUM,
U.S. Senate,
Washington, D.C.:

It is critical that the Portsmouth area receive confirmation that the Carter administration will locate the atomic energy plant at the present Piketon, Ohio location. President Carter promised during the campaign he supported this location southern Ohio gave him superior support in November. If the new facility is not located at Piketon, Ohio a democrat will never be elected in southern Ohio or possibly Ohio. Repeat it is highly urgent that the administration confirm its original plans for the location of the atomic facility in our area.

J. T. MCCULLOUCH, *President.*

PIKETON PARLEY SET AT WHITE HOUSE

(By George Embrey)

WASHINGTON.—President Carter has invited U.S. Sens. John H. Glenn Jr and Howard M. Metzenbaum, both D-Ohio, to meet with him at the White House Wednesday on the controversial decision to change and possibly relocate a $4.4 billion southern Ohio project.

U.S. energy officials confirmed in Columbus Saturday the Carter administration move to revoke the earlier decision to expand the U.S. Energy Research and Development Administration (ERDA) factory at Piketon.

Instead of enlarging the gaseous diffusion plant to expand U.S. atomic fuel production, the President has decided to shift to a different process, a centrifuge method, for making atomic fuel.

ERDA's acting administrator, Robert Pri, said in Ohio Saturday the project may be shifted to ERDA facilities at Oak Ridge, Tenn., where work has begun on the centrifuge system.

At stake are thousands of construction jobs and future atomic plant jobs for southern Ohio.

The Piketon plant, located halfway between Chillicothe and Portsmouth employs several thousand workers who live and shop money throughout that area.

Also at stake are the political reputations of Ohio's two Democratic senators, both firmly pledged toward getting the $4.4 billion project for Ohio. A former Republican president approved the Piketon site but now a Democratic president threatens to take it away.

An aide to Glenn said while it would take an act of Congress to undo the government decision to move ahead with the $4.4 billion Piketon "add-on," Congress probably would not stand in Carter's way if he decided to move it to Tennessee.

William R. White, Glenn's administrative assistant, said Congress which authorized the southern Ohio project and appropriated initial funds, probably would respect the President's desires to pick the site.

Meanwhile The Dispatch has learned that ERDA officials are studying the possibility of splitting the $4.4 billion project between the Piketon and Oak Ridge sites.

A study reportedly was requested to determine the cost and other factors in dividing the number of centrifuge processes ERDA needs for atomic fuel production between the two places.

FARM CRUNCH RESULTS FROM DOUBLE PINCH

Mr. YOUNG. Mr. President, I was real pleased to read Eliot Janeway's column entitled "Farm Crunch Results From Double Pinch" in the Washington Star of Sunday, April 24.

It is highly encouraging to read a column such as this by an economist of national reputation, one who has not forgotten the Great Depression of the thirties and the major reasons for it. Mr. Janeway's column very excellently discusses and compares the economic situation of the 1920's and early thirties with the conditions of today as they relate to agriculture and the Nation's economy as a whole.

Mr. President, there is a saying to the effect that those who refuse to learn from history are forever condemned to relive it. If the political leaders of this Nation fail to heed warnings such as those contained in Mr. Janeway's col-

umn, the American people may again be in deep economic trouble.

Mr. President, I ask unanimous consent to have printed in the RECORD the column by Eliot Janeway from the Sunday, April 24, Washington Star.

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

FARM CRUNCH RESULTS FROM DOUBLE PINCH

(By Eliot Janeway)

Santayana's famous warning, that those who refuse to study history will be condemned to relive its failures, applies with particular force to the credit crunch now pinching the Farm Belt.

At first blush, it seems a historical first; after all, it is the direct result of the cost inflation which has been galloping across the economic terrain ever since OPEC's declaration of economic war on its commercial customers, its financial custodians, its technological benefactors, and, last but not least, its impoverished neighbors in the Third World.

The Farm Belt credit crunch, however, is the result of a double pinch. Inflation of costs is accounting for only half the damage; deflation of incomes for the other half. This one-two punch from cost inflation and income deflation takes a crueler toll of its victims than the familiar rhetoric of "stagflation" would suggest.

Such are the workings of progress that stagflation has evolved from a bold and sardonic concept to a cliche, which understates the problem of the Farm Belt, because it assumes the failure of productivity and incomes to rise.

The dealers in cliches who take stagflation for granted have not yet caught up with the fact that stagflation would be a lesser evil to settle for, because it would describe a state of affairs in which incomes were still rising, although costs were rising faster.

In the Farm Belt today, however, incomes are falling while costs are not merely rising, but rising faster than ever.

The only exception is the cost of money. Increasingly, farm borrowers able to pay interest are becoming scarce. The two special conditions which always come into play during a bankruptcy crisis are developing.

Commercial banks are giving their good borrowers whose loans are in bad shape lower rates and longer payouts. They're giving their bad borrowers moratoria—a term forgotten since the Depression—even on interest, let alone principal.

The concept of a moratorium on debt was last aired during the early 1930s—more precisely, during the preliminaries to the Great Depression, which was touched off by the argument over how to get out from under the unmanageable burden of war debt.

Foreign government borrowers first agitated for a moratorium, then domestic farm borrowers imposed it. Finally, foreign government borrowers, led by Hitler, followed the American Farm Belt borrowers' initiative.

The study in historical contrast is arresting; and it is not reassuring. Post-mortems of the disaster of the '30s all agree on three striking divergences of the Coolidge boom.

In the first place, industrial investment and urban construction not only participated in the boom, but were directly responsible for the records it set. However, the farm depression of the late 1920s was every bit as striking a phenomenon of the Coolidge years. In fact, the measure of the strength of the Coolidge boom was that it asserted its force despite the severity of the farm depression, coating it over without alleviating it.

In the second place, a striking characteristic of the Coolidge boom was the absence of any domestic price inflation to erode its vigor. This meant that the drop in farm incomes took its toll relative to a more or less fixed level of costs levied on farm purchasing power. The devastating crisis which developed in the Farm Belt was, therefore, mitigated because farm costs were fixed relative to the cost of what farmers had to buy.

Nevertheless, the entire system was turned upside-down by the irresistible demand of the farm bloc for parity between farm and industrial purchasing power. The Farm Bloc in Congress gave the Republican party a mule's kick which split it wide open.

The Farm Bloc in Congress is poised to strike again. It's all the more powerful and, for once, all the more righteous, because of the double pinch of falling incomes and rising costs. Never mind that industrial profiteering is not an offset to farm cost inflation.

The relative position of the farm economy is deteriorating much more drastically (as the direct and inescapable result of industrial inflation) than it did on the eve of the crisis of the 1930s.

The third divergence pinched the sensitive debt nerve. On the eve of the crisis in the 1930s, farm debt, along with international debt and stock market margin debt, was inflating dangerously.

Now, providentially, a wealth of liquidity is available, not only to manage the international debt structure, but also to support an altogether new stock market boom unclouded by debt overextension. This divergence, while troublesome, is still encouraging, because it is limited to farm debt.

But the main lesson bequeathed by the dire experience of the late 1920s and early 1930s is that boom conditions in the industrial economy, and in the stock market, will not be sustained if depression conditions are tolerated in the farm economy. This lesson, if pondered and acted on, will prevent the clear and present danger of a repeat performance of the last Depression.

At that time, the one statesmanlike voice that was heard, but heeded too late, was that of the late, great Eugene Meyer, the most practical financier of his day, and, therefore, the most frustrated.

He was the prophetic dissenter of the Hoover years, when he served as chairman of the Federal Reserve Board. He saw clearly, and warned incessantly, that if a farm depression were allowed to develop, it would pull the props out from under a top-heavy debt structure in the industrial economy and in the stock market.

It was Meyer's far-sighted counsel to lay the unobstrusive but very effective vice chair-farm economy that Hoover ignored and Roosevelt followed. Carter's ability to survive is likely to hinge on his instinct to commit himself to the same priority.

Meanwhile, it is reassuring to report that the Burns Board has been quick to check the severity of the present farm credit crunch. Great credit is due Steve Gardner, the unobstrusive but very effective vice chairman of the board (a graduate banker himself) for his diligence and practicality in confirming the facts and figures of the crisis conditions with which the Farm Belt bankers are now coping.

Another forgotten lesson rooted in the history of the Federal Reserve System is emerging from the expedient which the system is adopting. It is rising to its responsibilities by pumping drafts of emergency credit into Farm Belt districts, without prejudice to its over-all stance of moderation.

There's no danger of nationwide inflation in the Fed's prompt response to the emergency need to counteract regional deflation in the Farm Belt.

It is important to recall, however, that the original responsibility given the Federal Reserve by Congress, in the days when the supply of credit was still considered limited, was to provide relief to regions suffering from credit stringency by redirecting surplus liquidity from regions enjoying it.

It is instructive to recall that the initial form taken by the bank failures of the early 1930s was regional. The system as a whole never recovered from the shock administered by the debacle in the Farm Belt, which New York—that is, Wall Street—minimized because it happened to be enjoying a borrowing boom at the time.

The Federal Reserve System has fallen back on its original charter in devising a rationale for coming to the aid of the Farm Belt. It is empowered to provide seasonal credit regionally, but not to try to run the government. In the case of the farm crisis, all it can do is buy time for the executive and legislative branches to go to the underlying problem of falling incomes and rising costs. The expedient of playing the immediate crunch as a regional and seasonal is only that, and nothing more.

If the business cycle were still operative, serious students of its workings would be alarmed at the fact that the Farm Belt banks have been squeezed out of lending power at the outset of a new crop year.

If all were well in the moneyed world, and the banking system were providing the neat and orderly adjustments expected of it, the Farm Belt banks would be chock-a-block with excess liquidity to begin sending to cities. The fact that they are as tight in April as they normally expect to be in September is a warning even if the farm economy were self-financing on a seasonally self-adjusting basis, as it clearly is not.

The stubborn error of omission which flaws conventional economic thinking, and the conventional government policy-making behind it, envisions the domestic economy in a purely domestic frame of reference, subject to purely domestic cross-tugs of supply and demand.

The American farm economy is the one conspicuous exception. Where the American industrial economy is no more than 10 percent export-dependent, if that, the American farm economy is at least as export-dependent as all the industrial economies in the rest of the world.

It is a useful fiction for conventional thinkers to maintain that pumping credit contra-seasonally into the Farm Belt will buy time and leave it better off by October. presuming the new farm export strategy is not adopted between now and then. If it is not, the seasonal period of reckoning that will arrive at harvest time will find the farm crunch more intolerable than it already is.

Historians of the Hoover debacle remind us that the farm dissidents of that deflationary period in farm income pressed for more than the then puzzling concept of parity with industrial income; they also advocated a strident new approach to crop export marketing.

It would be a mark of progress if our policymakers today were to pick up from where our farm bloc dissenters left off nearly half a century ago, and push for an assertive new farm export program.

The farm credit crunch of 1977 came to a head before Carter devised his crazy-quilt energy program.

If he knows what's good for him, and not intolerable for the rest of the country, his next move will be to offer the Farm Bloc an overriding exemption from his invitation to share the joys of sacrifice.

NURSING OUR CITIES BACK TO HEALTH

Mr. HUMPHREY. Mr. President, with all the bad news and gloomy forecasts emanating from and about so many of our Nation's cities, it is with great enthusiasm that I read the attached article by Paul R. Porter in the Washington Post on April 19.

Mr. Porter believes that municipal

planning should be encouraged through grants by the Federal Government. Subsequently, pilot cities should be selected and provided with technical and financial assistance to accomplish their selected goals. The Federal Government and other cities could, thus, draw on the experience of these pilot cities. Mr. Porter feels, based on this format, that within 20 years a deteriorated city could be turned around and, in fact, could prosper.

Mr. Porter, having been one of the architects of the Marshall plan for Europe, is certainly qualified to make this judgment. It is truly heartwarming to read such an upbeat article written by a man with Mr. Porter's experience and ability to judge the future of our cities.

Mr. President, I ask unanimous consent that the article by Mr. Porter be printed in the RECORD.

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

NURSING OUR CITIES BACK TO HEALTH

(By Paul R. Porter)

Our cities can regain capability to prosper, to end their dependence upon subsidies, to manage their own affairs, and to match their suburbs in residential appeal.

Even the most crippled cities can reach this recovery goal in 20 years or so, or about the time it takes to plan, finance, and build a subway. In that time or less, the cities' poor can cease to be poor.

This prospect contradicts the now-fashionable doctrine of falling expectations. Whether the hopeful or the dour prospect will prevail is the opportunity of the Carter administration to decide.

The central problem in achieving the recovery of cities is to correct two major maladjustments that have developed in the evolution of large urban settlements. These two cause or amplify so many other maladjustments that we may rightly call them *primary*. They are:

First, cities have lost competitiveness as a place to live. A dwindling population usually causes a fiscal crisis that in turn causes still more residents to leave. Another result is excessive transportation, wasting scarce energy and capital.

Second, cities have become burdened with an endemic structural unemployment in the wake of a profound change in the job-base of cities. Managerial, professional and other white-collar jobs have expanded, but manufacturing jobs have flowed outward, taking a toll in family incomes and morale that has aggravated the fiscal crisis and a host of social ills.

Also, the post-war baby boom has produced a surplus of beginners in the labor force. Now at its peak, it will disappear in about a decade. While it lasts, youth without hope of work turn to apprenticeship in crime.

Making the city once again an appealing place to live is the way to regain a lost competitiveness. Then, many who work in the city will choose to live in it; its tax-base will be decisively broadened; better services can be provided at a tolerable level of taxation; all residents, old and new, poor and affluent, will benefit. Moreover, sensibly, less transportation will be part of the solution to the transportation problem.

We should not expect a large-scale return by families with children in suburban schools. The city should make its principal bid to newly-formed families, who will increase in number.

To win them, cities need two housing goals. Alongside the old one of decent housing for every family, they must offer enough housing of a kind that will make cities truly competitive with suburbs—especially those that need not be built if the city can serve the new-family market.

To hold them, city schools must become as good as suburban schools, but they should in any case. That will require more teachers per pupil, but teachers are already in surplus because of the falling birth rate. The huge public investment in their training is now a wasting asset. More teachers for city schools would be a worthy use of money saved by shortening distances between homes and workplaces.

If a city gains appeal, its future population will correspond more to the higher-income job-base it has acquired. This presents a dilemma. All residents would benefit from a stronger tax-base, but some low-income residents could be crowded out of their neighborhoods if the change came too fast or if sole reliance were placed on housing rehabilitation, excluding new construction.

The dilemma is manageable. A shortage of higher-income housing can be avoided by a flexible mix of the new and the preservable old. Also, a too-rapid transition is unlikely. The recovery of cities will come in gradual increments from the ever-continuing stream of young people reaching maturity.

The exodus of blue-collar jobs poses a separate problem. The departure of factories can be slowed—and should be. But to believe that very many can be brought back is an illusion.

This, then, is the long-term job outlook for inner-city youth: Through education, some will move into the managerial-professional class. Through attrition, some will fill blue-collar jobs that remain in cities. But some cannot become self-supporting while they remain in cities. They need help in following relocated jobs.

It can be given by linking it to what should be done in any case to help unemployed youth. They should be gotten off the streets into useful public service jobs. They should be trained for future jobs. Then they should be offered jobs somewhere—in the city, elsewhere in the metropolitan area, or beyond. A vigorous national economy, of course, is a prerequisite.

What can the Carter administration do to get recovery started? Since any city's recovery must be tailor-made, it can begin by offering planning grants to cities for preparation and casting of recovery programs as a redirection of present programs. From these, several pilot cities could be chosen.

We need not await their full recovery before judging results. A few years' experience should provide a basis for beginning recovery in other cities.

If the new administration is willing to be bold, it can offer the recovery of cities as a practical alternative to their permanent dependence upon grudging and uncertain subsidies.

HOW TO USE CREDIT WISELY

Mr. DANFORTH. Mr. President, young people are one of America's greatest assets for the future. Therefore, it is vitally important that they have a proper understanding of the role of business, and that they have confidence in business. The work of Missouri's Consumer Credit Association has done much to advance this goal.

Three years ago, Virginia Rutledge of St. Louis, now regional education director of the association, initiated a statewide program for high school seniors to bring about their better understanding of the wise use of consumer credit. As attorney general of Missouri for the past 8 years, I know very well how important an understanding of credit is to persons who are joining the work force.

The results of this statewide essay and speaking contest have been very successful. Students throughout our State have become interested in the consumer credit industry through their independent research on the subject.

The essay contest also is sponsored by the International Consumer Credit Association, under the direction of William Henry Blake, the executive vice president.

It is fitting that the award be made during National Consumer Credit Week, and I am proud to take this opportunity to request unanimous consent that this year's first place essay be printed in the RECORD. It is a tribute not only to the consumer credit industry, but also to Mr. Mark Bradshaw, a student at Southwest High School of St. Louis, who was inspired by what these men and women of business had to say.

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

HOW TO USE CREDIT WISELY

(By Mark Bradshaw)

Every family needs credit. Everyone enjoys the advantages of credit because they won't have to save year after year in order to pay for something with cash.

Some people don't think they need or use credit just because they don't have credit cards. That's not true, because you use credit every time you turn on a light or use your stove. You don't pay for it until you get your utility bill, so that's using credit. It's called Service Credit.

Just about everyone knows about charge accounts. You are able to buy clothes, furniture, or just about anything you want without paying cash for it, if you have the right charge cards.

Another type of charge card is a bank card, such as the Bank-Americard. With this card you are able to get loans and do some shopping with places which accept this card.

Installment Credit is when you pay for something over a period of time. As when you would buy a car or house, you spread out the amount of the price and pay it in monthly installments.

The other type of credit is Personal Loans. One out of every five families use credit in this way, such as when they need to obtain cash for necessities.

Young adults can now have credit, too. Many retailers are making credit privileges available to them, even though they are not necessarily working full time.

They are given a type of revolving charge with a very modest top limit on the amount which can be owed. The monthly payments in each case are scaled to what the young adult is actually earning at an after-school job or receiving in allowance. Some stores will open a young adult account only if parents already have a charge account at the store. Most require the permission of parents, because few high school students hold regular jobs. Experience shows that these young consumers take credit responsibilities seriously.

In order to get credit you have to go through a credit investigation. You usually go through this each time you apply to have an account at different credit companies.

You will probably have to fill out a form or credit application, which will ask for such information as; the amount of money you make in a year, your present and previous address, and if you have any other types of credit.

Once you have been accepted as a credit

customer you must be sure to keep it good. Be sure to pay all of your bills on time and never promise to pay more than you can afford. If you can't make a payment when it's due, report the circumstances to your source of credit.

Any time you apply for more credit, they will check into your past credit record. That record will stay with you for the rest of your life. It is a good idea to keep your rating good, for you will probably use cedit for the rest of your life.

STAFF RESPONSIBILITIES UNDER THE SENATE CODE OF OFFICIAL CONDUCT

Mr. STEVENSON. Mr. President, I and Senator SCHMITT, for the Select Committee on Ethics, have signed and ordered mailed in the next few days to some 6,600 Senate employees a letter stating in general terms the responsibilities of staff under the new Senate Code of Official Conduct.

Some staff not paid by the Senate, but who work in Senate offices, also are covered by the Code of Official Conduct. Inasmuch as such persons are not on the list of Senate-paid employees, the committee next week will write Senators and others who are supervisors, asking them to advise appropriate staff under their supervision of the provisions of the code and requesting of Senators and other supervisors the report of Senate personnel paid by others required by rule 49, paragraph 6.

I ask unanimous consent that the text of the letter to employees be printed in the RECORD.

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

SELECT COMMITTEE ON ETHICS,
Washington, D.C., April 26, 1977.

DEAR SENATE EMPLOYEE: On April 1, the Senate agreed to Senate Resolution 110 which provides nine new "ethics" Rules for the official conduct of Senate members and employees. It also strengthens the enforcement responsibilities of the Select Committee on Ethics.

In January of this year, the Senate also passed S. Res. 4 which created an entirely new Ethics Committee to enforce both the new Code of Official Conduct subsequently approved in S. Res. 110 and the portions of the previous ethics Rules which continue in effect.

Some of the provisions of the new Code of Official Conduct take effect immediately. Others take effect later this year, next year, and in January, 1979. Some present ethics Rules remains in effect until they are replaced by the new Rules. Some aspects of ethical conduct subject to the review of the Ethics Committee, which are in law or part of Senate Rules and Standing Orders and not stated as part of the Code of Official Conduct, were unaffected by S. Res. 110. These include the unauthorized disclosure of intelligence information in the possession of the Select Committee on Intelligence as provided for in S. Res. 400, 94th Congress, and franked mail as provided for in Public Law 93-191. Most of the new Ethics Rules apply to all Members and officers of the Senate. Some apply to their spouses and dependents, and to candidates for election to the Senate as well.

EMPLOYEES COVERED

If you are a senior Senate employee, paid for more than 90 days at an annual rate exceeding $35,000, you must comply with all the ethics Rules applicable to staff. If your compensation is at a rate exceeding $25,000, you are covered by all the rules applicable to staff except Rule 44 which regulates outside earned income. If your compensation is at a rate of $25,000 or less, you must comply with all the new Rules applicable to staff except Rule 44, Rule 42 which requires public financial disclosure, and paragraphs 6, 7 and 8 of Rule 45 which forbid certain business and professional activities and may require (of committee staff only) divestiture of financial holdings. Some of the rules may also apply to your spouse and other relatives. For example, if you meet the income test for public financial disclosure ($25,000 under Rule 42), you must report interests of your spouse (unless you are living separate and apart) and dependents if such interests are within your constructive control. Spouses also are covered under the gifts section (Rule 43).

You are subject to the Code of Official Conduct and other ethics Rules even if your salary is not paid by the Senate and you are, for example, an employee of an agency detailed to work in a Senate office, or serving in a Senate office under an educational program. Moreover, retired federal annuitants working on Senate staffs now must add the amount of their annuity to their salary to determine if they are covered by Rules affecting employees with salaries above $25,000 and $35,000.

Staffs of joint committees and other Congressional offices are covered by Senate or House ethics Rules, although staff of independent offices may not be subject to either set of ethics Rules. Those joint staffs paid by the Senate and hence subject to the Senate Code include: the staffs of the Joint Committees on: Atomic Energy, Economics and Printing; the American Indian Policy Review Commission; and the Capitol Guide Service. Staffs subject to House Rules include those of the Joint Committees on Taxation, Defense Production and Congressional Operations, and of the Congressional Budget Office.

Staffs apparently not covered under Senate or House ethics Rules include those of the Architect of the Capitol, the Office of the Attending Physician, and the Office of Technology Assessment.

These groups may adopt Senate or House ethics rules, or be brought under similar coverage by legislation now before the Governmental Affairs Committee.

EMPLOYEES STILL COVERED BY SOME "OLD" CONDUCT RULES

The new Code of Official Conduct also continues the present requirement under "old" Rules, if your rate of salary exceeded $15,000 and you were employed by the Senate for 90 days or more in 1976, that you make public disclosure before May 15 of the contributions you received and expended and the honoraria you received during 1976 and file, also before May 15, in a sealed envelope (to be opened only in the case of an investigation), your income tax returns and other information about gifts and financial interests. Forms and instructions for these reports may be ordered from the Select Committee on Ethics.

NEW RULES FOR ALL EMPLOYEES IN EFFECT ON APRIL 2, 1977

The new Rules now in effect prohibit you from:

Accepting a gift from anyone with an interest in legislation before the Congress or from a foreign national, with certain exceptions subject to the approval of the Ethics Committee (as described in Rule 43).

Taking a bribe or using your official position to advance legislation which furthers your own pecuniary interest;

Engaging in outside paid employment which is in conflict with official duties;

Engaging in outside employment unless you report your outside employment to the Senator you work for immediately upon taking such employment and on May 15 of each year (you may secure forms for this report from the Select Committee on Ethics);

Receiving contributions in so-called unofficial office accounts (after the end of this year, the Rules forbid the use of such accounts altogether, although an account may be maintained by a political committee if it is disclosed under F.E.C. regulations and its funds are spent for approved purposes);

Securing reimbursement from two sources for the same foreign travel expense;

Assisting a Senator or former Senator in converting campaign funds to their personal use;

Assisting a lame duck Senator to travel at government expense after certain "cut-off" dates;

Performing services for any Member, committee, or office of the Senate for a period in excess of four weeks (and for more than eight hours a week)—if you receive compensation therefor from any source other than the U.S. Government—unless your supervisor reports to the Ethics Committee how your services are used: (a) when you begin; (b) at the end of each quarter; and (c) when you stop;

Using travel funds for other than actual travel expenses (and require unused balances to be returned to the government).

NEW RULES FOR ALL EMPLOYEES WHICH TAKE EFFECT AFTER APRIL 2

Other major provisions of the Code of Official Conduct will have these effects on and after the dates shown:

On May 1, 1977, you may not:

Solicit campaign funds;

Receive, be custodian of, or distribute any campaign funds unless you are one of no more than two employees (in the personal office) of a Senator, who receives an annual salary of $10,000 or more and who files a comprehensive financial disclosure statement each year, whom the Senator formally has designated with the Secretary of the Senate to do so.

On October 1, 1977 (with the first filing on May 15, 1978, or on any date immediately after October 1 if you leave Senate employment) you must, if your compensation is $25,000 or more:

Publicly disclose the details of your earned income, honoraria, gifts, real and personal property, personal liabilities, transactions in securities or commodities futures and purchase or sale of real property;

File your income tax returns with the General Accounting Office in a sealed envelope to be opened only in the case of an investigation.

On January 1, 1978, you may not assist a Senator to:

Use the frank for mass mailing 60 days before the date of a primary or general election in which the Senator is a candidate (and Senators must register mass mailings, newsletters, for example, periodically with the Secretary of the Senate so that the public may inspect them);

Use campaign or personal funds to buy paper for mass mailings;

Use the Senate computer facilities to store, maintain, or otherwise process lists of names and addresses identifying individuals as campaign workers or contributors, as members of a political party or by any other partisan political designation; nor to produce mailing labels or computer tapes except for use in Senate facilities;

Use the radio and TV facilities in the Capitol for 60 days preceding a primary or general election in which he is a candidate.

On April 1, 1978, you:

May not, if your Senate salary exceeds $25,000, provide professional services for compensation, such as engaging in the practice of law, in affiliation with a firm, partnership, association or corporation; permit the use of your name by a law firm or other business; practice a profession for compensation during regular working hours; or serve as an officer or director of a publicly-held business,

with minor exceptions (as stated in Rule 45, paragraph 7);

May be required, if a committee employee with a salary exceeding $25,000, to divest yourself of financial holdings which may be affected by the actions of the committee for which you work, unless the Ethics Committee and your supervisor approve otherwise (as stated in Rule 45, paragraph 8);

May not, for a period of one year after leaving your position, lobby certain members and employees of the Senate (as stated in Rule 45, paragraph 10).

On May 15, 1978:

Your public financial disclosure statements are subject to audit.

On January 1, 1979, if your Senate salary exceeds $35,000:

Your outside earned income may not exceed 15 percent of your Senate salary, with exceptions for income from advances and royalties on books and from the sale of creative or artistic works, and for income from buy-out arrangements, family enterprises, and distributive shares of partnership income if certain tests are met (as stated in Rule 45, paragraph 3).

After January 3, 1979:

You may not, as a supervisor, engage in (and as an employee you may seek Ethics Committee investigation and other action regarding) discrimination in Senate employment on the grounds of race, religion, sex, national origin, age or state of physical handicap.

S. Res. 110 also assigns to several committees, including the Ethics Committee, the task of studying supplementary rules and regulations designed to foster ethical conduct. Such new provisions may be added to the Code throughout the coming year.

This summary does not include precise details, exceptions and explanations, but it does describe the principal features of this strong Code of Official Conduct.

We encourage you to consult the full text of each new Rule, available from the Senate document room or this Committee. The Ethics Committee plans to distribute additional information to assist you in complying with the Code, as soon as it can be prepared. If you have questions about the application of the Code to you, please address them in writing to the Committee.

Sincerely,

ADLAI E. STEVENSON,
HARRISON SCHMITT.

THE REPUBLICAN PARTY

Mr. MATHIAS. Mr. President, a vigorous and healthy two-party system has been one of the bulwarks of our democracy. Anything that threatens the effective functioning of this system threatens our democratic processes as well.

In recent years an imbalance has been growing between our two parties until, finally, it has come to assume very troubling proportions. The Republican Party—my party—now claims the allegiance of only 18 percent of the electorate.

I believe that thoughtful Republicans and Democrats alike are concerned about this development. And it is for this reason that I commend to the attention of colleagues on both sides of the aisle a very cogent article entitled "Blacks and the GOP," written by Vernon E. Jordan, Jr., executive director of the National Urban League. Mr. Jordan's advice to the GOP on how to broaden its base is important and timely. I ask unanimous consent that his article from the New York Times of March 28, 1977, be printed in the RECORD.

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

BLACKS AND THE GOP

(By Vernon E. Jordan, Jr.)

The Republican Party, stripped of the White House, a minority in the Congress and among state governors, and facing a continued hemorrhaging of supporters, is preoccupied with an internal debate over its future. Unless the party courts black voters and associates itself with their needs and aspirations, that future may be bleak.

Some Republicans suggest that the party write off the black vote and pursue white ethnics, stressing so-called "social issues." Such a strategy implies careful cultivation of racial hostility, elimination of "social" programs, and marshaling of anti-Government feelings.

That sounds like a prescription for reducing the party to a permanent fringe group. It was tried by Richard M. Nixon and Gerald R. Ford and was a factor in last fall's election defeat. It falsely assumes that racism is more endemic among ethnics than among whites in general, and it fails to locate the identity of economic interests between blacks and white ethnics. Both sectors are working-class, disproportionately poor, and urban.

Other Republicans see prospective votes in a supposedly conservative black middle class partial to "law-and-order" anticrime appeals. But this view betrays an ignorance of the black community and represents a false hope for the party.

Middle-class blacks are middle class economically because of multi-earner families, and they retain family, friendship and neighborhood ties to their less-fortunate brothers and sisters. This "middle class" has none of the economic security and status of the white middle class, and it is conscious of the role that activist Federal policies have played in giving black people better economic opportunities.

Concern with crime is real and understandable, but so too is the reluctance to support white-initiated "law-and-order" campaigns they know will translate into "sweeps" of black communities and restrictions on their freedoms. It is not uncommon for blacks living in white suburbs to be stopped by policemen suspicious of their presence there.

The Republican Party does have a chance to slice enough black votes away from the Democrats, but it won't get them through continuation of malign neglect or courting a nonexistent conservative black middle class.

If the party is serious about wanting black votes, it will have to endorse programs and policies needed by the black community; it will have to nominate black candidates and admit blacks into prominent internal party positions of real authority, and it will have to take a more positive approach toward urban and poverty problems that affect blacks.

This does not mean that the Republican Party necessarily has to abandon its traditional position to the right of the Democrats. There is plenty of room for the party to move toward the center and to enunciate creative programs within its traditional philosophy.

The Republican stress on private enterprise calls for formulation of Federal laws and programs that will better enable the private sector to help solve serious urban, social and economic problems. And long-standing suspicion of central government does not have to mean support of bloc grants and community-development laws such as those passed during the last Administration that take money from poor cities and give it to better-off suburbs.

If the party philosophy is truly viable in today's interdependent, mixed-economy, pluralistic society, then it must escape a negative approach and come up with programs consistent with that philosophy yet relevant to the needs of poor people and minorities.

If it can do that, it stands a chance to chip away enough black voters from the Democrats to elect a Republican President again. Black voters hold the balance of power in nearly all the populous Eastern and Northern states, and hold the key to the South. President Carter's razor-thin margin last November was provided by solid black support—a swing of just a few percentage points in black votes to the Republicans would have elected Mr. Ford.

Black voters fully understand the dangers of putting all their electoral eggs in one basket, but to date it's been the only basket available, as the Republican Party has pursued policies perceived by blacks and whites alike as antiblack.

Changing those policies holds the key to a Republican resurgence in American politics; continuing them means reducing the party to permanent minority status.

ALL-OUT EFFORT CUTS HEART ILLNESS

Mr. KENNEDY. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the April 3 edition of the New York Times entitled "All-Out Effort Cuts Heart Illness."

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

ALL-OUT EFFORT CUTS FINNS' HEART ILLNESS—HIGHEST ATTACK RATE IN THE WORLD IS REDUCED 40 PERCENT FOR MEN AFTER COUNTRYWIDE CAMPAIGN

HELSINKI, April 3.—A rural county in eastern Finland has for years recorded one of the world's most morbid statistics: More people died there from heart disease than proportionally anywhere else in the world. But no longer.

A five-year program of preventive medicine involving the whole population of 180,000 in North Karelia has decreased heart disease significantly. The heart attack rate for males has dropped 40 per cent, and the 30-year annual increase of heart disease incidence has been stopped.

"Nowhere else in the world has there been a program like this," said Dr. Pekka Puska, 31 years old, the project's principal investigator since it began in 1972.

Finland has the worst rate for heart disease of all developed nations, but it was in North Karelia, where 70 per cent of the population do farm work or forestry, that the mortality rate was at its worst. Now, North Karelia has dropped to fifth place among Finnish counties.

GOVERNMENT AND W.H.O. HELP

Concerned community leaders petitioned the national government for help, and in 1972 the state-financed program began with assistance from the World Health Organization.

Dr. Puska said: "We knew from many studies that three factors working independently—smoking, high blood cholesterol and high blood pressure—were major causes of heart disease. Those causes seemed to hold true for North Karelia. They smoked too much, they had high blood cholesterol and they had high blood pressure. We had to change that entire situation."

He did that by involving the entire community in various projects. A team of 15—half medical and the rest economists, sociologists, psychologists and similar professions—evaluated the results at the University of Kuopio.

Laws were passed forbidding smoking in public buildings and on public transport, and many private offices voluntarily joined the campaign. Newspapers and radio stations,

leaflets and posters all publicized the danger to the heart from smoking.

Preliminary results now show that 44 per cent of the male population still smoke, compared with 54 per cent when the project began.

Reducing the fat in the blood stream was difficult because the North Karelian diet is traditionally based on fatty foods using local products.

NONFAT MILK PROMOTED

"We worked with the dairy which was a key source of the fat. We wanted people to switch from regular milk to low fat milk. The dairy people were very helpful and they promoted low fat milk and eventually nonfat milk," Dr. Puska said.

People also liked to spread thick butter on their bread. "We asked the community to use margarine. We wanted to mix vegetable oil in butter, but there were legal complications now being resolved in Parliament," he said.

Grilled sausages were a popular food, especially after an exhausting steaming sauna. But the local product contained too much fat and it took several experiments until a substitute was found using mushrooms growing freely in the surrounding forests.

Sausages are now made with a 25 percent mushroom content. "They're delicious and sell very well," Dr. Puska said.

Fresh vegetables were rarely seen on the dinner table. Housewives were urged to buy vegetables and a major campaign was began to have everyone start a vegetable patch.

DECLINE IN USE OF BUTTER

Preliminary evaluations showed users of low-fat milk increased from 17 to 56 percent and users of butter decreased from 86 percent to 69 percent.

But preventing high blood pressure was not possible. "There is no real knowledge of how to prevent high blood pressure from starting. We don't really know what causes it, but we could help by detecting problems earlier than before," Dr. Puska said.

Everyone had his blood pressure taken at frequent intervals, a register was kept and drug treatment was given in a number of cases.

After four years, the percentage of men receiving hypertension treatment increased from 3 to 10 and in women from 9 to 14—an indication the disease was being discovered at an early stage, allowing for better treatment.

Mr. KENNEDY. Mr. President, this brief clipping recounts the results of a truly remarkable 5-year program which reduced the incidence of heart attacks by 40 percent in one county in Finland. The Finns accomplished this feat through elementary techniques of preventive medicine. Through persuasion and advertising, the investigators involved were able to cut cigarette smoking, change diets to reduce blood cholesterol, and convince the target population to seek medical attention for high blood pressure.

These relatively simple interventions produced a truly remarkable improvement in health status. In this country we have only begun to understand the power of preventive medicine to ease the burden of illness under which we labor, and I commend Finland and the investigators involved for documenting the potential benefits of changing personal behavior for the purpose of saving lives.

ORBITER IS FIRST SPACECRAFT DESIGNED FOR SHUTTLE RUNS

Mr. GOLDWATER. Mr. President, appearing in the May issue of the Smithsonian magazine is an extremely interesting, well-written article about the spacecraft that will be flying shuttle runs within a few years to different satellites or workshops in space. This article was written by Michael Collins, who not only is one of our most famous astronauts, but who also runs the finest air and space museum in the world which is located at the Smithsonian Institution. Because the orbiter will become the part of the greatest step forward that man has ever undertaken, I believe the article is deserving of perusal by the Members of this body. I ask unanimous consent that this article be printed in the RECORD.

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

ORBITER IS FIRST SPACECRAFT DESIGNED FOR SHUTTLE RUNS

(By Michael Collins)

When I was a kid reading Buck Rodgers, the spacecraft all looked like bullets or saucers, with sweeping fins and fancy tail skids. The real thing turned out to be more prosaic, but as Phase I of the space era winds down and Phase II begins, perhaps we are beginning to see Buck's dream emerge in the squat but elegant space shuttle, NASA's "flying brickyard."

The shuttle, also known as the orbiter, rockets into orbit but glides back to Earth. Proponents claim it will usher in a whole new era of routine space operations. Critics say it's unnecessary. Designed to be the country's space workhorse for years to come, the shuttle is a fascinating combination of old and new concepts, at once daring and conservative in design.

The basic idea behind the shuttle is simple enough: a craft that can be used over and over again, instead of falling into the ocean and being discarded, as rockets are. An early shuttle design featured a two-stage vehicle, each with a human crew. When the first stage ran out of fuel, it released the second, which continued its climb into orbit while the first returned to land on a runway. This concept was abandoned, primarily because of high initial cost, and the manned first stage was replaced by a pair of gigantic solid-propellant rockets. These rockets will fall into the sea when empty, as their predecessors have done, but they will descend via parachute and be recovered for use again.

The shuttle will continue under its own power, three rocket engines churning away—using fuel stored in a huge external belly tank that will be discarded before the ship reaches orbit. The principle of recycling has not been followed completely, since the external tank is lost. But the shuttle itself can make as many as a hundred flights between overhauls.

The first orbiter, Serial Number 101, was rolled out of its hangar at Palmdale, California, on September 17, 1976, amidst great fanfare. Senator Barry Goldwater blessed it, as did Olin (Tiger) Teague of Texas and a bevy of other politicians, bureaucrats and community leaders. NASA had intended to name 101 the *Constitution*, but the White House got so many letters from *Star Trek* fans that the name was changed to *Enterprise* in honor of Captain Kirk's starship.

The orbiter is generally described as about the size of a small jetliner, which is true in terms of length and width, but it is much bulkier and far more complex than any aircraft ever built. It must carry equipment needed not only to navigate and maneuver in space, but also to survive the searing heat of reentry into the atmosphere. In addition, the shuttle must be able to glide back to a safe landing, decelerating from an orbital speed of 17,000 miles per hour to about 180 knots as it touches the end of the runway. The rules of flight change radically as the craft passes from one aerodynamic regime to another. The complex sweep of the orbiter's delta wings and the exaggerated height of its vertical tail indicate the designers' concern about its ability to maneuver successfully from the hypersonic through the supersonic into the subsonic range.

Beneath its skin one finds equipment common to both airplanes and spacecraft. The flight controls, for example, are a combination of aerodynamic and reaction control systems. Above the atmosphere, maneuvering must be done by firing small rocket motors; in the atmosphere, conventional rudders and elevons are employed. In the middle speed and altitude range, during reentry, rocket and aerodynamic controls must be skillfully blended. The pilot is aided in this task by sophisticated computers, which decide just how much to move the control surfaces or how long to fire the rockets in order to change direction. Without them, the orbiter might lurch out of control into a hypersonic spiral from which the pilots could not recover before the craft exceeded its structural or thermal limits. The computers also perform a host of other chores, from keeping track of the fuel supply to remembering the orbital parameters of satellites that the crew may need to inspect or repair.

The orbiter needs electrical and hydraulic power, just as conventional jetliners do, for operating landing gear and flaps, but here electricity is provided by three lightweight fuel cells that use liquid hydrogen and oxygen, as in the Gemini and Apollo spacecraft. Hydraulic power is provided by ordinary pumps, but space temperatures are so low that the fluid must be heated or it will freeze in the lines. The cabins of airliners are pressurized so that passengers may breathe, but in the vacuum of space the orbiter must carry its own air supply.

The crew will be comfortable in their shirt sleeves, breathing 20 percent oxygen and 80 percent nitrogen at a pressure of 14.7 pounds per square inch—conditions like those we enjoy at sea level. The cabin of the orbiter will be quite similar to that of a jetliner, with pilot and copilot sitting side by side; seats behind them are provided for a mission specialist and a payload expert. Underneath this flight deck is a compartment with room for six additional seats, so that a total of ten people can be accommodated if required for a rescue mission. The crew can be as few as two, for the early test flights, or as many as seven, including scientific and technical people to care for a variety of payloads. A typical mission will stay in orbit a week, but if extra supplies are provided it can be stretched perhaps to 30 days.

The orbiter's bay is huge by present space standards, stretching for 60 feet along the fuselage. Clamshell doors swing outward to provide easy access to the 15-foot-wide cavity. The bay can handle cargo loads up to 65,000 pounds, some of which can be jockeyed around by the crew with manipulator arms. Two people at a time, protected by space suits, can inspect or repair payloads.

Satellites are very much a part of our daily lives, giving us ringside seats at the Olympics, tracking hurricanes, monitoring missile firings, identifying potential oil-bearing formations, seeking out subsurface water, mineral deposits and earthquake fault zones, and helping us predict the volume of spring run-

off by calculating the accumulation of snow in the mountains. Satellites can pinpoint sources of pollution, chart ocean currents, show where deserts are spreading and identify some crop diseases. But they must also be extraordinarily reliable, because they cannot be repaired or retrieved once in orbit. In the future, shuttle crews will be able to bring them back to Earth for repair. Thus, the shuttle will allow us to perform tasks which heretofore have been too expensive with one-shot expendable boosters and payloads.

ZERO GRAVITY EXPERIMENTS

The European Space Agency is producing a cylindrical spacelab, tailor-made to fit into the orbiter's cargo hold. It will accommodate as many as four scientists for a month of varied astronomical observations, physical and chemical experiments under zero-gravity conditions, and complex studies of the medical effects of prolonged weightlessness on the human body.

The Earth's atmosphere blocks out most of the electromagnetic radiation coming to us from the rest of the universe. After centuries, earthbound astronomers are increasingly anxious to break through this semi-opaque screen. Optical, infrared and ultraviolet observations aboard the shuttle and spacelab could begin in the near future.

How much does NASA expect to save with a reuseable vehicle? The real cost of a launch depends mainly on how one amortizes the initial research and development, but NASA recently has told potential foreign and commercial users to expect a price tag of approximately $20 million per shuttle mission, while U.S. government users will pay $17 million per flight. By comparison the shuttle's chief competitor, the Air Force's Titan III rocket, costs $46 million per launch, yet carries a substantially smaller payload.

Potential users, primarily the Department of Defense, were asked to list their needs for the Eighties and Nineties. The results of this survey indicate that approximately one launch per week should suffice, assuming the shuttle replaces all expendable boosters with the exception of the lightweight Scout. NASA would like to see more launches, which would reduce the unit price, and the Department of Defense foresees a need for some additional capacity in the 1983–91 period. But, Defense asks, what happens if they want to get a satellite up in a big hurry? Will NASA drop everything else to meet their needs? What happens if some defect turns up that grounds the five-shuttle fleet? What about sabotage? Shouldn't Defense keep an independent launch capability for emergency use? NASA wonders if the nation can afford to keep a redundant launch capability that might never be used. The total cost of designing and building the shuttle fleet and putting it into service is now estimated at $9.5 billion.

As a former astronaut and test pilot, however, it's not financing the shuttle that really interests me, but flying it. Although it won't go into orbit until 1979, its glide tests will begin this summer at Edwards Air Force Base, California. The *Enterprise* will be carried aloft by a Boeing 747 jumbo jet and released at 22,000 feet. For the first five of these flights, the orbiter has been modified slightly from its space configuration: a special streamlined tailcone has been added to reduce aerodynamic drag and improve glide characteristics. With the tailcone, flight time from release to touchdown is about five minutes. Without this device, the orbiter glides like a skipping stone and stays aloft only two minutes. The last three test flights will be without the tailcone. Another modification for the early tests is the addition of two ejection seats; accordingly, the crew will be limited to two. During the brief moments after they are freed from the 747, the pair will earn their pay, going through a fast-paced but elaborate series of maneuvers to measure the subsonic handling qualities of this 150,000-pound glider.

DEAD-STICK LANDING AT 180 KNOTS

With very little margin for error, and with no chance to compensate for a serious goof, the last 60 seconds of the shuttle test flights will be exciting indeed. Coming down at an angle of ten degrees with the tailcone on or 22 degrees with tailcone off, and a speed of about 240 knots, the pilot aims for a point just short of the runway When he reaches approximately 1,500 feet above ground he starts to flatten the glide path to 1.5 degrees, creating a stress 1.7 times the force of gravity. At no less than 300 feet, he lowers the landing gear. His craft is now decelerating rapidly as it crosses the runway threshold and approaches the selected touchdown point. As indicated, landing speed will be 180 knots when the orbiter is empty, slightly higher when it is carrying a load. All this with no engine power to correct for mistakes!

A power-off glide to a precision landing is not quite as death-defying as one might imagine, however. With computers to help, both on the ground and aboard the orbiter, the pilot will know whether he is on the proper glide path. Corrections back to the ideal path can be made by varying airspeed, making S turns or using the speed brake. Completely automated landings, with no help from the pilot, will be possible ultimately, even under the worst weather conditions.

After the *Enterprise* leaves Edwards in 1978, two years of ground tests will measure system stresses under simulated flight conditions. In March 1979 the second orbiter, as yet unnamed, will be first to venture into space with human beings aboard from Pad 39 at Kennedy Space Center, the old Apollo moon-launch site. Again a crew of two, sitting in ejection seats, will be employed.

In former times, putting men aboard a test vehicle that had never been in space would have seemed daring. But NASA is more confident now than in the days of Saturn V. Without crews, both flight sequences would have had to be automated, including the tricky reentry and landing at Edwards. The idea of an unmanned test orbiter zooming in from the Pacific and zipping over southern California at 1,700 miles per hour made planners a little edgy.

The airplanelike shape of the orbiter, its external belly tank and the two solid rocket motors combine to create the most complex configuration ever rocketed from Kennedy Space Center. This lack of symmetry puts an extra burden on the shuttle's control systems during launch, for as it gains speed and its wings produce more lift, it will tend to veer off, so it must be pulled back into line by swiveling the rocket engines to the opposite side. As it passes the speed of sound, the orbiter's shock waves will interact with those produced by the external tank and the solid rockets.

Predicting what will happen then is more of an art than a science, but it is believed no dangerous vibrations or oscillations will result. If they do, the crew can probably eject to safety. If the shuttle is going to act up, we hope it will do so early in the flight test program, because after the first four flights from Kennedy Space Center, out come the ejection seats, and in goes the normal crew of four or more. Then they will be at the mercy of the solid rockets, for once they ignite the crew has no choice but to hang on for the ride. After the solids burn out at an altitude of 25 miles, the crew can turn around and head back to Kennedy if things don't look right. This arrangement makes an old pilot like me nervous, but solids have a very good safety record, and a low altitude abort capability may be simply an outmoded vestige of the early days of space flight.

Previous manned vehicles have controlled thermal buildup by shedding tiny chunks of incandescent heat shield. The orbiter has no shield of this type, but its belly is protected by semipermanent silicacoated ceramic blocks designed to radiate heat back into the atmosphere. Their checkerboard finish gives the orbiter the bizarre look of a flying brickyard.

Who will fly this strange craft? Initially, the same group of astronauts and test pilots we have become familiar with over the years. Commander of the first drop test at Edwards will be Fred Haise, who limped back from the moon aboard Apollo 13 after its oxygen tanks exploded. The captain of the second Edwards test will be Joe Engle, veteran of a dozen X-15 hypersonic research flights. The first orbital crew has not yet been picked, but they probably will be familiar names. Beyond that point a newer generation doubtless will begin to emerge.

NASA has realized that it needs more crew members and has issued invitations for both pilots and mission specialists to apply, but no later than July 1, 1977. The agency is looking for young, well-educated, highly motivated specialists, male or female, to usher in Phase II of America's adventure in space. The machine they fly certainly will be different, combining such daring features as a manned first launch and a power-off landing with the more conventional aircraft systems. It sounds so promising and so much fun that maybe even a broken-down former astronaut or two will slip application papers into the pile.

DEFENSE MANPOWER PAY AND COMPENSATION

Mr. MUSKIE. Mr. President, during the past several years, I have become increasingly aware of the concern of our Nation's servicemen that defense manpower pay and compensation is being diminished piecemeal by Congress, with no attempt to relate partial changes in the system to their overall effect on the living standards of servicemen and their families.

The issue is vital, not only because manpower costs consume a sizable proportion of our defense budget, but also because of the interest we all have in maintaining a high degree of professionalism and dedication in our armed services.

There is a clear need for a reform of manpower pay and compensation policies which can lead to substantial savings in the military manpower budget. Without such reforms, I am concerned about the potential rate of outyear cost increases for manpower accelerating, and this rate of momentum cannot continue without seriously undermining our ability to build and maintain the needed improvements in our defense forces.

At the same time, it is impossible for our service members to maintain their morale and dedication when they fear that their concerns are being ignored by Congress, and their compensation whittled away without regard to their needs.

That is why I welcome the President's decision to appoint a commission to study the total compensation package of the uniformed services and to recommend necessary adjustments within the framework of the total system.

One of my constituents, Captain Wallace of the U.S. Navy, has expressed far better than I could the feelings of the career serviceman as he faces the

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

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

ANNANDALE, VA.,
March 17, 1977.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Russell Office Building,
Washington, D.C.

DEAR SENATOR MUSKIE: I very much appreciated receiving your recent mailing detailing your remarks on the economic stimulus package. It is not often that those of us serving in the Armed Forces outside of Maine are included on the mailing lists of our Senators or our Representative. I would personally appreciate being retained on your mailing list if possible.

As a career naval officer with over twenty years of service, I wish to address to you a matter of great personal concern to me and many of my fellow servicemembers. Hopefully, my thoughts will be of some value to you as the issue I am about to discuss is debated in the Senate during the 95th Congress. The issue to which I am referring is the ever-mounting criticism of the proportion of total Defense spending allocated to manpower costs, and from my perspective, the mistaken resultant conclusion that military personnel are overpaid.

I wish to preface my remarks by assuring you that I, personally, do not consider myself underpaid. If that were so, I would quite likely have left the Navy long before now. On the other hand, I do not consider myself to be lavishly compensated when I view the demands of a service career relative to alternative professions. On the opposite end of the spectrum from myself as a relatively senior officer are the junior enlisted members who, relative to many of our fellow citizens of Maine, are also reasonably well compensated for their service. However, these servicemembers are not lavishly paid either, as attested to by the difficulties facing the Services in attracting adequate numbers of recruits even during the prevailing period of high national unemployment.

I know you are well aware of the inequitable tax that the draft formerly imposed upon the young men of this nation. When we abolished the draft in favor of an All Volunteer Force concept, we accepted the fact that as a nation we would all have to share in the payment of this tax by providing our first-term personnel equitable wages. This was a relatively expensive decision, but in the aftermath of Vietnam, one which was readily made by a war-weary and conscience-stricken nation. To date the All Volunteer Force concept has enjoyed a measure of success many of us doubted possible; however, in my opinion, this success has been due in large part to a sustained high unemployment rate and a concurrent major force reduction. Recent trends and future prospects cause me to be less than sanguine about the viability of the concept in the years ahead unless we squarely face difficult compensation equity questions.

In January of 1972, the Department of Defense reported to Congress that military pay had attained "reasonable competitiveness" with the private sector. Over 60% of those of us on active duty today were recruited into the All Volunteer Force and entered military service since that time. These volunteers were recruited on the promise of continued equitability of pay and an advertised "fringe benefits" package that marked the military as a model employer at that time. In the intervening five years employers in the industrial sector of the private economy with whom the Services compete for manpower have developed fringe benefits packages that now rival or exceed that of the military. Largely as a result of union-negotiated labor contracts, employees of these firms have also received basic wage increases which have not only kept up with skyrocketing inflation but also provided a modest measure of real growth in purchasing power.

Over this same period Federal employees, including the military, have had their wage growth restrained in an effort to hold down Federal spending, and as noted by the President in 1975, to set an example of fiscal responsibility for the nation. Unfortunately, the example was not widely emulated, and Regular Military Compensation has suffered a decline in purchasing power since 1972 while gains were being realized in the private sector. It is against this backdrop of hard economic reality that the servicemember has viewed the raging debate over excessive manpower costs and the need to reduce overly-generous fringe benefits. It has been a disheartening and demoralizing experience to many, and the direct cause of failure to reenlist, resignation and early retirement for others.

Virtually every major military pay and benefit area has either been altered or totally withdrawn over the last five years: retirement, medical care, education, leave, specialty pays, reenlistment bonuses, and even the method of applying the annual "comparability" raise. Some of these same elements and others as yet untouched have been under continual review and threat of cut: retirement, commissaries, medical care, housing and tax-free allowances. The result of these uncoordinated piecemeal, changes, real or only threatened, has been a growing anxiety among servicemembers over the future security offered by a military career. A recent DOD survey reveals that 85% of the 20,500 enlisted members surveyed believe their pay and benefits to have been eroded over the last four years. This view was held by 23 out of every 24 members surveyed in paygrades E–4 through E–9.

I believe the Services and DOD have acted responsibly in attempting to address the problem of rising manpower costs. We developed and proposed a retirement reform in 1972 which at the time was viewed as a drastic benefit cut by our people, but which has recently been characterized as not drastic enough by many critics. Nonetheless, failure to act on the proposal has already cost taxpayers over $3 billion in potential savings through the year 2000. In 1974 the Services also supported a change in the law to terminate the so-called "Rivers Amendment" which placed all of the annual comparability raises in basic pay, thereby further escalating retirement costs. In 1976 we supported elimination of the 1% add-on increase in each retired pay adjustment which had unduly escalated retirement annuities during our recent inflationary years.

Throughout this time frame the Services have been appealing for definition of a comprehensive military compensation policy, including an agreed-to, defined standard against which to judge the adequacy of total military pay and benefits. Somehow this determination has always been too difficult to make; and lacking it, the random, uncoordinated changes to pay and benefits have continued in the hope that, while making apparently reasonable economies, we weren't inflicting a fatal blow on the All Volunteer Force.

President Carter has now announced his intention to establish a Blue Ribbon Panel to review the findings of the recent Defense Manpower Commission, Third Quadrennial Review of Military Compensation and other relevant studies. The Panel is to report its recommendations for a comprehensive military compensation policy to the President on or about 1 September 1977 with the intent of implementing recommended changes, if any, beginning in FY 79. Speaking as a career serviceman with a great love of the Navy and a strong desire to continue serving until forced into retirement, I fervently hope this time we will allow the Panel to conclude its deliberations and then act to implement its recommendations.

We careerists aren't adverse to change. We are merely frustrated and disheartened as a result of remaining under continued fire from the public we have chosen to serve. Whatever recommendations the Panel should make, I am certain the career servicemembers will support them provided they include an agreed-to standard against which to evaluate pay and benefits in the future; a standard which guarantees the reasonable expectations of career servicemembers for their own and their dependent's or survivor's future security.

Senator Muskie, I urge you to speak out from your influential position in the Senate in favor of a moratorium on further pay and benefits changes until such time as the President's Blue Ribbon Panel can conclude its deliberations and the Congress can act upon its recommendations to establish a comprehensive military compensation policy that is both fiscally responsible and in the best interest of national security. I am convinced that only in this way can we traditional Service leaders in the Congress, the Administration, and the Services themselves restore the confidence of our people that we are prepared to represent them in their aspiration to preserve military service as an honored and attractive profession. Failing this, I fear that none of us will succeed in stemming the rising sentiment favoring military unionization; an eventuality I believe would irrevocably alter the two hundred year tradition of Service to Nation which has been the hallmark of the U.S. Armed Forces.

Thank you for taking time to consider this lengthy letter. It need not to be answered or acknowledged unless you choose to, as I have provided it merely to acquaint you with my views on an issue of personal concern to me.

Sincerely yours,

RICHARD J. WALLACE,
Captain, U.S. Navy.
Permanent Residence: Topsham, Maine.

CIVIL DEFENSE: WE NEED IT

Mr. GOLDWATER. Mr. President, for many years the nuclear strategy of the United States has been based on the theory of "assured destruction." The belief has long been that a first strike by either of the world's leading nuclear powers would bring such destructive retaliation that neither side would ever resort to such a course. Now the question arises as to what would happen if either the United States or Russia could be assured of withstanding to an acceptable degree a retaliatory assault by the other. Mr. President, what I am getting at here is the problem arising from the Soviet Union's great emphasis on civil defense at the present time. The new phase of Russian activity has led to an interesting scenario recently released by the Pentagon. Suppose in some future confrontation between this country and Russia, the Soviets simply evacuate their cities and then threaten to bomb American cities.

Mr. President, this question is becoming more important every day in the matter of nuclear balance of strength. A recent editorial in the Phoenix Gazette, underlines this problem, and explains why we need greater emphasis on a civil defense program in this country. I ask unanimous consent that this article be printed in the RECORD.

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

CIVIL DEFENSE: WE NEED IT

American nuclear strategy is based on the theory of "assured destruction."

Former Secretary of Defense Donald H. Rumsfeld has said the U.S. hopes to deter Russia from a nuclear war by having "some minimum force which can survive even a well-executed surprise attack in adequate numbers to strike back with devastating force at an enemy's economic and political assets."

Quite simply, if the Russians know the United States can absorb a first strike and retaliate with total destruction of the Russian economy, they will never launch their nuclear-armed missiles.

American statesmen were so convinced of the validity of "assured destruction" that they agreed, in the first SALT agreement, to give up this country's lead in anti-ballistic missiles. If neither side had an effective defense, went the argument, there would be even more validity to the theory of "assured destruction." That would bolster the "strategy of terror" on which the U.S. depended.

At the end of World War II the Air Force made a survey on Hiroshima, where a nuclear device had been used on an undefended city. The survey showed that the A-bomb had not been all that awesome.

On the day after the bomb was exploded, "bridges into downtown Hiroshima were opened to traffic, and electric service was restored in some areas. On the second day, trains were again operating. By the third day, some streetcar lines resumed service. Within nine days, telephone service was restored to the center of the city. In the outlying areas of the city, water, sewer, and gas service was never interrupted."

Presumably a city prepared for an atomic war could recover much more rapidly than was done by unsuspecting Hiroshima. The Russians are preparing themselves for such a recovery.

They have given civil defense a high priority at the same time they are building up their offensive nuclear arsenal. This defense consists in evacuating industrial centers, protecting the workers in crude but effective bomb shelters, and then sending them back to rebuild the devastated cities.

This new phase of Russian civil defense has led to an interesting scenario recently released by the Pentagon. Suppose, at some future confrontation between the United States and the Soviet Union, the Russians simply evacuate their cities and then threaten to bomb American cities.

The enemy would, in effect, be holding American cities as hostages. Either the U.S. would back away from the confrontation or Russia would launch an attack with the assurance it could survive a retaliatory attack.

This may be far-out military theory, but the possibility has some serious planners worried. Many congressmen are wondering whether the virtually discarded American civil defense shouldn't be reactivated.

It may be later than anyone thinks in the matter of plans to survive an atomic attack and win a nuclear war.

ETHICS COMMITTEE NOTICE: ALL SENATE STAFF MUST FILE OUTSIDE EMPLOYMENT REPORTS

Mr. STEVENSON. Mr. President, I and Senator SCHMITT, for the Select Committee on Ethics, give additional notice that rule 45, paragraph 3, requires all Senate officers and staff who are engaged in outside business or professional activity or employment for compensation to file with their supervisor on May 15, next, a report of each activity or employment.

Senators and staff are further advised that, under the "definitions" provisions of rule 49 of the Senate Code of Official Conduct, agreed to April 1, 1977, and which took effect April 2, 1977, the outside employment report requirement now applies, not only to persons whose salary is disbursed by the Senate, but also to any officer or employee of the Government detailed for service in a Senate office and any other individual whose full-time services are utilized for more than 90 days in a calendar year by a Member, officer, or employee of the Senate in the conduct of official duties. In other words, the new rule on this matter requires any detailed Government employee, educational fellow, or full time volunteer to file a report of his or her personal service activity or employment for compensation.

It is the responsibility of each individual to file the report with the supervisor at the time his or her Senate office employment detail or assignment starts—if there is outside employment to report—at the time outside employment starts and anew on May 15 of each year.

We further advise the Vice President, Senators, and officers of the Senate that rule 45 requires them as supervisors to review these reports and to take such action as is necessary for the avoidance of conflict of interest or interference with duties to the Senate.

Staff are reminded that they must file a new report in mid-May, if they have outside service or employment activity, even if they have filed one previously. Staff who have no such activity or employment need not file a report.

Inasmuch as May 15 falls on a Sunday this year, staff should file their reports with their supervisors this year by close of business Monday, May 16.

Forms for making this report may be secured by calling the committee, extension 4-2981, or by visiting the office, 1417 Dirksen.

YOUTH EMPLOYMENT

Mr. JAVITS. Mr. President, last Friday, April 22, the Employment Subcommittee of the Senate Human Resources Committee, of which I am the ranking minority member, held the third of 3 days of hearings on S. 1242, the Youth Employment and Training Act.

The committee and the Nation had the benefit of the fine testimony of three of our distinguished colleagues: the Senator from Oklahoma (Mr. BELLMON), the Senator from New Mexico (Mr. DOMENICI) and the Senator from Idaho (Mr. MCCLURE).

Mr. President, the perspective and the wisdom of these three members of the Senate Budget Committee, who have spent so many hours examining the serious and endemic problem of youth unemployment in our country, should be read by all who have an interest in the legislation now moving through Congress. Their work is, itself, testimony to their commitment and dedication to alleviating the critical problem of such severe structural unemployment among our young people as to account for 50 percent of all the unemployed in the United States.

Mr. President. I ask unanimous consent to have printed in the RECORD the statements of Senator BELLMON, DOMENICI, and MCCLURE.

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

STATEMENT OF SENATOR HENRY BELLMON BEFORE THE HUMAN RESOURCES COMMITTEE, APRIL 22, 1977

Mr. Chairman, I concur with my colleague from Idaho in that I appreciate the opportunity to testify, and I also want to associate myself with his remarks. Additional focus on private sector incentives to hire youth will enhance the youth unemployment legislation. I also favor the allocation changes in the Javits-Humphrey amendment as discussed by Senator McClure.

I, too, support legislation to address youth unemployment, but there are specific provisions before the Committee which I find troublesome and which I want to call to the attention of the Committee. S 1242 provides programs only for out-of-school youth. The Javits-Humphrey amendments provide for a 15% set aside for programs for in-school youth to be jointly coordinated by the prime sponsor and the local education agency. While the amendment improves the legislation, I don't believe it completely solves the very serious problem in regard to public school involvement in the youth unemployment program.

A youth bill which ignores the public education agencies is not desirable. Prime sponsors must work in concert with local education agencies to avoid duplication of effort in regard to services now available in the schools. With local resources and state and federal vocational education resources, many local education agencies are providing training, counseling, and placement services. Any new services should be coordinated with such existing activities and the excessive costs of dual delivery systems should be avoided.

In the past, vocational and other education programs and job creation programs have operated independently of one another for the most part. When support for work-study programs has been available to education systems (as in Part H of the vocational education act), the schools have been hampered by matching requirements, youth salary restrictions ($45 per month under Part H), and lack of administrative and counseling support.

Job programs outside the schools have often competed with the schools and have stimulated school drop outs as disadvantaged youth actually leave school in order to qualify for the more lucrative work programs. All too often these youth are returned to the ranks of the unemployed once the public subsistence program has ended. We must put an end to the incentive to drop out of school in order to take part in a jobs program.

We are simply worsening the long term problem when we fail to provide the education and training necessary to continue employment and to transit youth served from the public to the private sector.

I feel it is appropriate for in-school youth to be served and language should be provided which requires that in-school youth must remain in school in order to be eligible for the program.

The provision in S. 1242 which encourages that academic credit be given for training programs is desirable; however, I must strongly oppose the mandate that federal regulations should be promulgated for providing such credit. Granting of academic credit is a state and local prerogative, and the federal government has no business usurping this role. I urge the Committee to delete the provision requiring federal regulations. All decisions on provision of academic credit should be left to the appropriate state and local agencies.

I want to express my thanks again to the Committee, and I request your consideration of the concerns I have outlined.

STATEMENT OF SENATOR PETE V. DOMENICI BEFORE THE HUMAN RESOURCES COMMITTEE, APRIL 22, 1977

Mr. Chairman, as an advocate of legislation to provide programs for unemployed and underemployed young people, I want to commend the Employment and Poverty subcommittee for their actions to date in negotiation with the several Senators who sponsored youth bills and the administration. I agree with the modifications suggested by Senator McClure and Senator Bellmon, and I want to add my support to their recommendations. As a co-sponsor of two of the youth bills which are incorporated into S. 1242, I certainly plan to support the Human Resources Committee bill.

As the subject of this hearing covers CETA public service employment as well as youth unemployment, I would like to discuss a CETA problem of great concern to me.

Local education agencies employ approximately one-half of all local public employees.

The 1972 Census of Governments, published by the U.S. Department of Commerce, demonstrates the following comparison of local school districts employment with general units of local government:

Number of employees	Counties	Municipalities	School districts	Percent of total
Full time	1,369,000	2,376,000	3,587,000	48.9
Part time	1,777,000	1,920,000	2,710,000	46.7
Full time equivalent	1,242,000	2,029,000	2,981,000	47.7

In addition to teachers, local school districts employ a large number of central office personnel, teacher aides, bus drivers, cafeteria workers, paraprofessionals, and building and grounds maintenance personnel (such as, engineers, janitors, gardeners, electricians, and carpenters). In fact, about 30% of all school personnel are non-professional. The point is that local systems can productively employ a wide range of persons who are currently out of work, as well as provide jobs which have future value in the private sector.

Since approximately ½ of public employees are school districts, it would be reasonable to assume that ½ of PSE slots go to school districts. This has simply not been the case.

While national data is not available on the percent of CETA jobs money which is passed on to local school districts, it has been estimated at less than 10%. Data has been collected for a number of metropolitan districts as shown in the attached tables. School district percentages here range from 0% to a high of 37%.

Municipal, county, and state governments have received anti-recession aid from the federal government through a variety of sources—revenue sharing and public works as well as CETA. Our nation's school districts, also hit hard by the recession, have received very little federal anti-recession assistance.

For example, General Revenue Sharing provides state and local units approximately $6.8 billion of "no-strings attached" assistance every year. In the first years of the program, elementary and secondary education received about 7% of these funds in the nature of new program money (as distinguished from tax relief). The main reason for this underfunding is that local school districts are not eligible as direct recipients and neither the states nor general units of local government are required to provide them with a minimum set-aside. While data is not yet available, a similar result under the $1.25 billion counter-cyclical revenue sharing program would not be surprising. Finally, under the Public Works Employment Act, under the first round of funding, school districts received only 19% of these funds—and then only because they were direct recipients.

We have seriously neglected the economic plight of our schools during the recession. Local school districts are the major local government employer, the demand for productive new positions exists, and funds to pay for those positions cannot be raised without local property tax increases. Therefore, it is difficult to understand how public employment can best serve the economic recovery without the direct involvement of local school districts.

In the past two years, Congress has passed several federal laws which mandate increased education services without fully funding these services. The S. 504 requirements to remove architectural barriers for the handicapped, the individualized programs required under the Education of Handicapped Act (PL 94–142), and the extension of Unemployment Compensation to Public Employees (PL 94–566) have placed additional burdens on our schools.

I believe it is time to recognize the financial plight of our local education agencies. I intend to offer an amendment to CETA titles II and VI which requires prime sponsors to redirect not less than ⅓ of their total CETA grants to local school districts located within their respective areas. While a ⅓ share is not fully representative, given the proposed expansion of the program from 310,000 to 725,000 jobs, it should open up school employment without disrupting existing job commitments for prime sponsors—including those prime sponsors who are currently providing only minimal assistance for local school districts.

Education agencies can provide meaningful employment through the public service jobs program. Education agencies are accustomed to supplementary federal programs, and therefore are not likely to substitute local funds with federal funds, thus greatly diminishing the effects of substitution in the total program. And finally, local education agencies have a great need which I believe the Congress has responsibility to address.

I urge the Human Resources Committee to support this proposal.

LOCAL DISTRIBUTION OF CETA FUNDS—FISCAL YEAR 1975

	Total school employees	Total non-school public employees	Total school CETA dollars	Total local CETA dollars	School percent of public employees	School percent of CETA dollars
Boston	14,000	15,168	$128,415	$17,300,000	48	0.7
Buffalo	6,196	6,616	177,950	13,200,000	48	1.0
Chicago	49,853	45,000	1,700,000	16,000,000	53	11.0
Cleveland	12,466	11,400	4,600,000	12,500,000	52	37.0
Dade County	21,016	19,980	615,000	3,500,000	51	18.0
Houston	13,877	13,471	0	16,000,000	51	0
Long Beach	5,019	4,550	286,000	21,000,000	52	1.0
Los Angeles	77,759	48,720	6,900,000	42,000,000	61	16.0
Memphis	10,466	7,400	115,554	6,900,000	59	2.0
Milwaukee	14,400	9,700	$673,000	$4,600,000	60	15.0
Minneapolis	7,400	7,463	580,000	4,400,000	50	13.0
Oakland	7,000	4,422	2,800,000	9,400,000	61	30.0
Pittsburgh	6,493	6,076	551,841	7,400,000	52	7.0
Portland	5,599	4,730	38,000	1,500,000	54	3.0
San Diego	9,533	6,368	1,500,000	6,900,000	60	22.0
San Francisco	9,101	20,034	100,000	13,000,000	31	.8
Toledo	4,759	3,522	424,590	5,100,000	57	8.0
Washington, D.C.	12,107	31,701	932,284	15,500,000	28	6.0

School system and budget situation	Number of school employees	Number of city employees	CETA allocations to school system[1] (millions)	CETA allocations to prime sponsor[2] (millions)	School system: Percent of CETA allocations	School system: Percent of public employees[3]	Budget (millions)	City budget (millions)
Atlanta	8,469	9,000	$1.9	$21.1	9	48	$108	$100
Dade County: Anticipate terminating 458 teacher aides and 277 clerical workers next year to help alleviate estimated $31,000,000 deficit	26,190	22,243	2.6	22.0	12	54	521	639
Memphis: Program cutbacks required	11,838	7,518	1.4	11.6	12	61	132	129
Minneapolis: Anticipate cutting $6,000,000 in services and salaries; 300 to 400 jobs will be terminated	7,491	5,500	2.7	13.3	20	58	85	70
Nashville: Anticipate program cutbacks but no employee terminations	4,446	3,554	2.1	9.2	23	56	95	123
Buffalo: May have to terminate 400 to 600 teaching positions	5,749	5,818	.5	19.8	3	50	100	157

[1] Includes prime sponsor grants to local education agency under titles I through VI for fiscal year 1976.

[2] Includes total allocations under titles I through VI for fiscal year 1976.

[3] Compares employees supported by local funds only.

STATEMENT OF SENATOR JAMES A. MCCLURE BEFORE THE HUMAN RESOURCES COMMITTEE, APRIL 22, 1977

Gentlemen, I appreciate the opportunity to appear here today to discuss youth unemployment. As the need for legislation in this area is well documented and has been discussed in detail on the Senate floor as the various bills have been introduced, I will confine my remarks to consideration of the specific provisions of the legislation.

As a strong proponent of legislation to address the problems of unemployed youth, I am gratified by the timely response of the Human Resources Committee and the plan to move ahead in this area as quickly as possible. The amalgam of youth proposals in Senate Bill 1242, the Youth Employment and Training Act of 1977 is a comprehensive approach with many commendable components. I was particularly pleased that Part C of the bill incorporates much of S. 503, the Youth Employment Act which I introduced with Senators Domenici, Bellmon, and Javits.

I was also a co-sponsor of the Stafford-Randolph Bill which was the precursor of Part B of S. 1242.

While I basically support the approach of S. 1242, there are several areas which I feel can be improved. The basic approach to Part C of the bill is similar to S. 503 in that funds are provided to CETA prime sponsor to support a broad range of manpower services. The actual mix of services in any given area can thus be based on the needs of the local labor market. While I whole-heartedly endorse this approach, I believe that the eligible activities should be expanded to provide incentives to private employers to train or employ unemployed or low-income youths. I refer the committee to subsections 8 and 9 of Section 701(b) of S. 503.

The emphasis on training and job creation in the private sector contained in these sections should be incorporated in the final committee bill.

Permanent and meaningful employment for our young people must ultimately be found primarily in the private sector. Increased interaction between the manpower service programs and the private sector should result in greater freedom of selection for young people, more relevant training to match job opportunities, and greater likelihood of moving our youth into gainful employment in the private sector. I ask the committee to add language which provides a greater focus on the private sector.

Several other problems I find with the bill have been addressed by Senators Javits and Humphrey in amendment number 184. The allocation of funds for youth unemployment programs should be based on the number of unemployed and low-income youth rather than on unemployed and low-income persons. The amendment which provides 50% of the funds on the basis of low-income youths should be adopted. In addition, a minimum of 75% of the Part C funds should flow by formula to prime sponsor with a maximum of 25% of the funds available for DOL discretionary grants. S. 1242 authorizes such sums as are necessary to carry out the purposes of the Act. A specific number of dollars is preferable, and I support Senator Javits' recommendation of $1 billion in FY 77 and $2.5 billion in FY 78. This authorization should be broken down further by Part, and I support the amendment level of 23% for Part A, 17% for Part B, and 60% for Part C.

Again, I thank the Committee for the opportunity to testify, and I look forward to Committee action on this issue.

SENATE ACTION BENEFITING OLDER AMERICANS

Mr. KENNEDY. Mr. President, I recently had the opportunity to read a speech delivered on April 19, 1977, by my good friend and colleague, Senator BILL HATHAWAY, to a group of retired senior volunteers participating in the RSVP program in the State of Maine.

This program was implemented under the Older Americans Act which was first considered and reported by the Senate Committee on Labor and Public Welfare on which both Senator HATHAWAY and I have served for a number of years. We have worked together in oversight of all of the Older Americans Act programs and most recently on strengthening amendments enacted in 1975. Consequently, I was pleased to learn that the RSVP program is working well in his State, as it is in my own State of Massachusetts.

Mr. President, in order that my colleagues might be aware of the importance of these Older Americans Act programs and the continuing need for all our Federal programs to reflect the needs and concerns of our older Americans, I ask unanimous consent that Senator HATHAWAY's speech be printed in the RECORD.

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

REMARKS OF SENATOR WILLIAM D. HATHAWAY

It is a pleasure to be here for the fifth anniversary and celebration of the existence of the RSVP program in Androscoggin, Franklin, and Oxford County.

I extend my sincere congratulations and gratitude to each of you who have given so much of your time and yourselves. Through your work in nursing homes, in hospitals, in schools, in nutrition programs in health programs and in working with retarded children, you have done a great deal to bring needed services to many throughout the tri-county area.

In addition, as Older Americans you have collectively demonstrated that retirement is not a retreat from society but rather is an expanded opportunity to devote your efforts to serving others. You have also shattered the stereotype image which too many have of the elderly—you are not helpless, and, given the opportunity and the resources, you are able not only to help yourselves but everyone in your community.

I would like to outline the current problems faced by older Americans, the response to these problems by the Congress, and then open the floor to questions.

There is a growing recognition that the problems of older Americans are the problems of all Americans, and these problems must be faced in a comprehensive fashion to ensure the well-being of our society as a whole.

In 1900, the average life expectancy of Americans was 49 years. Today it has increased to 71 years. Similarly in 1900 those over 65 years comprised 4% of the total population, or one American in 25.

Today, 22 million people or one in ten Americans is over 65, and by the year 2000, this figure will grow to 28 million. It is clear that there is a strong and growing need for programs and policies to help every individual who falls into this group.

Current problems faced by older Americans include health care. While 82% of older Americans get along quite well on their own, these individuals are subject to more disabilities, see physicians 50% more, and have twice as many hospital stays, and, the stays last twice as long as those of younger Americans. The average health care costs of those over 65 is almost 4 times that of those under 65.

Older persons enjoy less than half of the income of their younger counterparts. Over one-sixth of the elderly live in conditions below the government established poverty level. They must spend more of their income on food, shelter and medical care, and less on other items than do younger Americans. They are hit harder by inflation since they have little flexibility in budgets which are already stretched to the breaking point.

The ratio of older women to older men is currently 139 to 100. While over three-fourths of older men are married, over half of women are widows. Over 40% of older women live alone or with non-relatives. One in twenty older Americans live in institutions.

Due to a lack of transportation, many older Americans are unable to get to needed services—health care, food stores, other shopping areas. A larger percentage of older Americans live in rural areas than do those under 65. In a recent survey, over 40% of the households comprised of older Americans did not own automobiles.

FEDERAL LEGISLATIVE RESPONSES TO THESE PROBLEMS

A. The Older Americans Act was first passed in 1965, amended in 1972, and most recently in 1975.

I was pleased to co-sponsor these amendments and to serve on the Senate Committee which considered this legislation. It authorizes Federal funds for the following purposes:

1. As you know, Retired Senior Volunteer Program (RSVP), Foster Grandparents, and Senior Companion Programs are all Older American Act Programs administered through ACTION, the federal agency which also handles VISTA and the Peace Corps.

2. Nutrition programs include Meals on Wheels and other hot lunch programs. The most recent legislation mandates that the Secretary of Agriculture purchase meats and other high protein foods, and increases the subsidy for such meals to be provided by the Secretary of Agriculture.

3. Transportation Services—for the elderly, to assist them in getting to Doctors, to do needed shopping.

4. Part-time community service jobs for those 55 and older. Many older Americans are not yet ready for full retirement and still want to contribute to their communities and feel that they have an active role to play. This program will coordinate local community service job programs and require that priority be given to part-time older workers.

5. Home services, including health care and homemaking services. Many older Americans do not require full-time care in a nursing home or other institution and do not want such care. But they do need assistance in performing many household chores and need some medical care short of going to a hospital. This legislation will provide to State Agencies on Aging the funds to develop such programs.

6. Legal and tax counseling—There is a need recognized by Congress to provide our elderly citizens with legal and particularly tax assistance to cope with increasingly complex forms and regulations.

7. Multipurpose Senior Centers—to provide nutrition programs, recreation, and other services.

8. Research and training concerning the causes of aging and the problems associated with it. This act provides funds for Universities to set up programs for the study of the aging process.

9. Discrimination against elderly—The Older Americans Act bans unreasonable discrimination on the basis of age in federally funded programs, and provides for a study of the extent of discrimination on the basis of age in other areas.

The Older American Act programs are administered by a total of 412 local agencies, which now reach over 70 percent of our senior citizens. During the current fiscal year, Congress appropriated $400 million to these programs, the largest in history.

OTHER LEGISLATION

1. Tax Reform Act—As a member of the Senate Finance Committee which has responsibility over our tax structure, I have been particularly concerned about making our Federal Tax Structure fairer to the vast majority of Americans and eliminating all of the loopholes which serve no useful purpose or which exist more as a subsidy for the rich than as responsible legislation.

There is much yet to be done to achieve this goal but there were a number of changes in the Tax Reform Act of 1976 which should be of benefit to all older Americans. These included:

A. Revision of the retirement income tax credit—For many years, senior citizens have expressed concern over the treatment of income they earn after they retire. Under the tax simplification provisions contained in the law, the amount of income on which the retirement credit can be computed will

be raised from $1,500 to $2,500 for single persons and from $2,300 to $3,750 for married couples. The changes also allow earned income to be included as well as retirement income.

B. Tax incentives to businesses to remove architectural and transportation barrier for handicapped and elderly persons—the law allows businesses to deduct expenses incurred in modifying and eliminating existing architectural barriers—such as stairs, and others.

C. Sale of Personal Residence—The new tax law allows individuals to exclude from their income any gain on the sale of their personal residence, provided the adjusted sales price is less than $35,000. Prior to the change, sales price had to be less than $20,000 for this treatment.

D. Standard Deduction—The law increased the minimum standard deduction, or so-called low income allowance, from $1,300 to $1,700 per year and increased the maximum standard deduction from $2,000 to $2,400.

E. Estate and gift tax—These provisions of law were simplified and integrated into one set of tax rates.

2. Social Security—In July, the over 32 million recipients of Social Security should receive approximately a 5% cost-of-living increase. The average monthly benefits would increase from $218 to $229 for a retired worker, and from $372 to $390 for a retired couple.

This same cost-of-living increase would also go to SSI recipients.

3. Social Services Legislation—A former problem, now solved, in the administering of Social Services provided under Title XX of the Social Security Act and the Older Americans Act was how to determine the eligibility of recipients on the basis of income.

In 1974, Congress enacted a law which required that the States tax steps to ensure that federal monies for social services go to those in lower income groups. In the early 1970's, studies indicated that over three-fourths of this federal money did not reach the poor. In carrying out this law, the Administration's Department of Health, Education and Welfare, unfortunately, imposed very strict regulations which required individual proof of income and strict identification to determine eligibility.

This proved a nightmare for the states to administer and the regulations were consequently suspended, after Congressional protest. This administrative problem also resulted in a frustration of the original intent behind many of the Title XX and Older Americans Act programs. HEW has withheld some $4 billion dollars in funding due to its claim that certain states were not fulfilling the so-called individual means test.

Further, this individual means test was contrary to the original legislative intent behind the Older Americans Act which stated that there ought not to be specific individual income determinations for eligibility for its programs, such as meals on wheels and senior centers. The means test was demeaning to Older Americans and they are understandably reluctant to subject themselves to rigorous income checks.

A year ago, the Administration temporarily suspended these regulations in response to public outcry and Congressional pressure.

As a more long-term solution, I co-sponsored a bill in the last Congress which allowed states to waive the means test for qualified groups. In this way, the characteristics of the group as a whole would be examined, rather than each individual member.

This approach was enacted into law in September of last year.

4. Revenue Sharing—As Chairman of the Revenue Sharing Subcommittee, I am particularly pleased with the changes made in that law during the last Congress to better help Older Americans.

It was amended to prohibit discrimination on the basis of age in the allocation of funds.

Also, a change was made to require states to provide elderly groups with an opportunity to be heard prior to distributing its funds.

5. Crime control—It has been well documented that older Americans are too often victimized by crime—in urban and rural areas.

The legislation extending the Law Enforcement Assistance Administration provided for special grants to states to plan programs designed to reduce the incidence of crime against the elderly.

6. Equal Credit Opportunity Amendments—signed into law by the President last year, states that there shall be no discrimination in the granting of credit on the basis of age.

7. Housing—In another change in law, the Section 202 housing program for the elderly was expanded, to add $2.5 billion to the borrowing authority for long-term direct loans to finance non-profit housing for the elderly and handicapped. This program had been hindered in the past few years because the Administration was reluctant to implement it and had insisted that the loans available could be used only for construction but not for long-term financing. These bills state explicitly that long-term financing, be allowed and that priority be given to these projects.

Also in Housing, I recently introduced a comprehensive rural housing bill which would allow the Farmers Home Administration to finance congregate housing for the elderly and would specifically allow for use of funds for housing for the handicapped, with accommodative devices.

8. Alcoholism and Drug Abuse—As Chairman of the Senate Subcommittee on Alcoholism and Drug Abuse, I am particularly concerned with problems which older persons may experience in the utilization of these chemicals. Consequently, I have chaired hearings on this subject.

Congress is attempting to address the entire spectrum of needs of our older generations. It is quite clear to us that your problems are our problems, or soon will be. We need your participation and advice on the shaping of remedies and the formulation of policies.

You have demonstrated as a group many times that you are interested in the political process—you vote more frequently and in higher proportion than your younger counterparts, and I hope you will continue to do so. It is too important a task to leave to someone else. You should require that your elected representatives be responsive to your needs and work to make them aware of your concerns.

THE B–1 BOMBER

Mr. GOLDWATER. Mr. President, the time is coming when President Carter must hand down a decision on what he intends to do relative to a very important part of our whole strategic posture, namely, the B–1. In Popular Science, a magazine with which all of us are acquainted, there appears a new approach to this fine aircraft pointing out that the advances it has already made available to the subject of aeronautics, both subsonic and sonic, have more than paid the way for this aircraft. I ask unanimous consent that the article be printed in the RECORD.

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

[From Popular Science, May 1977]

THE OTHER STORY ABOUT THE CONTROVERSIAL B–1

(By Jim Schefter)

(NOTE.—The fate of the B–1 is in question—but the technological breakthroughs it has already sparked will indelibly alter the future of flying.)

No later than June 30, or perhaps even before you read this, Prsident Jimmy Carter will decide whether the B–1 program lives, dies, or hibernates. Opponents of the program—they call it the "B–1 Bummer"—cite noise problems, possible ozone-layer damage, and general high costs, and question whether a new bomber is needed at all. The arguments on both sides are emotional and heated.

But the B–1 arguments, pro or con, are not the issue here. Whether the B–1 lives or dies, say aviation experts connected with the plane's development, its contributions to military and civilian aircraft of the next two decades—in the comfort, safety, and economy of the jet you and I ride—will be remembered in aviation history.

To find out just what aviation advances the B–1 has generated, I went to southern California. I talked to designers and engineers at the Rockwell International plant in El Segundo; I went to Palmdale, where the B–1 is pieced together and to Edwards Air Force Base, where it's being flown. I talked to pilots, to avionics experts, and to aerodynamicists. I poked around a B–1, had free access to its cockpit—and I saw the future.

Since 1970, when Rockwell won the B–1 contract [PS, Nov. 1970], more than $2.8 billion has been spent on the program.

Even if the project is shelved, our tax dollars have already bought important technological advances:

An aerial shock-absorber system that takes the "twanging and bobbing" out of flight turbulence.

A new external design that blends part of the wings with the fuslage to form a single structure.

Avionics improvements that eliminate the need for standard flight instruments.

Turbofan jet engines that may be the best subsonic power plants made—but still have the power to ram the B–1 to Mach 2.2.

Maintenance innovations ranging from almost-instant engine replacement to a system that tells mechanics what components to fix.

An electrical system so advanced (it eliminated 29,000 individual wires) that it almost didn't get into the airplane.

Pioneering construction techniques, including diffusion bonding already adapted for the Space Shuttle, that reduce assembly-line time to near-record lows.

Although the B-1 is a military machine, each of these advances has civilian applications. Some can be modified and retrofitted to the jets we're riding today. Others will be designed into the next generation of aircraft.

Unlike the B-52 it may replace, the B-1 can make supersonic dashes at 50,000 feet. It's really two airplanes in one: a subsonic heavy transport that can fly 5000-plus miles from here to there without refueling, and an SSST that streaks along at more than 1400 mph. The aviation advances I've mentioned brought the two craft together and made them one.

"This airplane's main mission is to penetrate defenses at low altitude," explained John Wykes, lead engineer for dynamics.

To B–1 crews, low altitude means 200 feet above the ground. Every heat ripple, every deflected wind gust, batters the airplane. For the people inside, it could be downright miserable.

But it isn't.

The solution was a pair of small vanes or winglets, mounted on the B-1 nose under the cockpit. When switched on, the hydrauli-

cally actuated vanes automatically twist and swivel in response to accelerometer signals. These are routed through an electronic controller. Rockwell calls the setup the Structural Mode Control System (SMCS).

"Like the shock absorbers on your car," Wykes said, "the vanes damp out vibrations. When flying low, you've got turbulence in two directions, up and down, and side to side. The whole aircraft structure can start twanging and bobbing. The vanes swivel toward each other to absorb the bobbing, and work opposed to damp out the twanging."

Since they flip through an arc of plus or minus 20 degrees, at speeds up to 200 degrees per second, the vanes can be in and out of synchronization faster than the eye can follow. And they're not just for low attitudes—they work equally well up high, taking the sting out of clear-air turbulence or rough weather.

"The pilots had never seen anything like them before, and there was some antagonism," Wykes added. But, that soon disappeared.

Reported Rockwell chief test pilot Charlie Bock, at the controls on an early flight: "The ride was very uncomfortable until the SMCS was turned on."

With the aerial shock absorbers drawing rave reviews, the Air Force told Rockwell to patent the system. It's available now to any other big plane builder.

"It's better to design it into the aircraft from the start, but a system like this could be retrofit onto commercial jets today," Wykes said. "All you'd need is to add vanes in the back to spread the effects through the passenger compartment."

NO MORE FLYING CIGARS?

Another B–1 innovation: the "blended wing body." Most big jets look like cigars. But the B–1's body flares out in a smooth curve, then sweeps back. The curves flow from top to bottom and from front to back. Much of the wing is actually fuselage. Only the part that moves—the B–1 is a swing-wing craft—is separate.

"Integrating the wings with the fuselage gave us some real advantages," Len Rose, assistant director for B–1 research and engineering, told me. "The old way was to save weight by making a wing thicker. But with the blended wing, we got a thin wing, lighter weight, and a longer chord [distance between leading and trailing edges of the wing]." They also got extra volume in a smaller body, volume used for fuel avionics and other equipment; structural weight reduction of more than five percent; no increase in subsonic or supersonic drag; and a decrease in transonic drag. Rose thinks the added volume, increased flight efficiency, and easier manufacturing of a blended-wing body should make the design attractive for commercial transports. "But," he noted, "there's one potential trouble spot for passenger designs: It's hard to see out over the blended wing."

Visibility is no problem for the B–1 flight crew. Sitting in the commander's position is like being inside an aquarium. The windshields are mammoth; there are overhead windows to give a view straight up (useful during refueling); and the nose drops away so steeply that all you see out front is air. But the avionics in the instrument panel, not the airy feeling, are the most visible innovations. First, you notice what's missing from the central control panel: air-speed indicator, gyro horizon and compass; radio navigation instruments; and the instrument landing system (ILS), glide slope, and marker beacons that are key to landing in poor visibility.

What's left? Just an eight-inch TV screen that takes over for all those instruments, does their job better, and has capacity left over for other inflight assignments. It's called VSD, for Vertical Situation Display.

Nobody knows that little screen better than Charlie Bock. A slim, graying, soft-talking aviator, Bock's position as chief test pilot has given him more flying hours (200-plus) in the B–1 than anyone. He's logged most of them while watching that tube.

"The VSD literally has an infinite data capability," he said. "We have to guard against putting too much on there and cluttering it up."

In a typical in-flight configuration, the screen is bisected by a line representing the horizon. There's a steering cross that is the aiming point, and a pair of horizontal "wings" that are the airplane. Just touch the stick (that's right, the B–1 has a stick instead of a steering yoke) to keep the little wings centered on the steering cross, and you're on course.

The electronics behind that simple explanation is considerably more complicated. The steering cross gets its orders from the flight-director computer, which may be receiving constant input from ground-based navigation radios, or from the on-board inertial system, or from radar transponders, or altimeters—or any combination of these. For instance, in one mode, the steering cross gets radar inputs on the location of a refueling tanker. By flying the wings toward the cross, the B–1 pulls right up to the tanker, even in low visibility.

In other modes, everything the pilot needs to fly an instrument approach is on the screen. The glide slope is a rectangular box; keep the wings in the box, and you're home free.

That's not all.

All the standard information—altitude, airspeed heading, angle of attack, and more—can appear on the screen in digital format. Then come other options—such as a flight-path-angle bar that sits on the horizon when the aircraft is level, and a TV-like view of the world outside.

ELECTRONS DON'T GET TIRED

All of it can be hooked up to the computerized autopilot, programmed in advance, and flown virtually hands-off. The pilot is needed only for takeoff and the last 100 feet before landing.

We can set in a route from here to Reno to Salt Lake to Fort Worth and back and do it all automatically at 200 feet off the ground," Bock told me. "Over the long run, the auto-system performs better than the pilot. I get tired, and the electrons don't."

(As good as it is, the VSD still has an aura of black magic about it, and nobody—not even Charlie Bock—trusts it completely. So six inches to the right is a little cluster of familiar dials: altimeter, gyro horizon, and rate of climb. Bock doesn't use them, he says, but "it's nice to know they're there—just in case.")

Two more instrument innovations may become commercial aviation standards.

"We use standard computer-driven vertical tapes for all engine instruments," said flight test engineer Dick Abrams. He pointed to one of them—a rectangular case displaying a calibrated tape.

"That's something the FAA has been pushing for," he revealed. "It shows the percent of power being developed in each engine. For all intents and purposes, you're reading thrust. When you know that, you have the most important fact about your engines."

The second instrument is a center-of-gravity control and readout "Just select the center of gravity you want, and the system automatically pumps fuel around the airplane to keep you there," Abrams said. He explained that fuel lines connect fuel tanks in the wings, fuselage, and tail, so fuel can serve double duty as a stabilizing agent.

That system has commercial implications. By keeping the aircraft in the most efficient flight attitude, it makes flying a little easier for crews, a little more comfortable for passengers, and a little more economical for airlines.

Now we come to that TV image of the outside world that can be called up on the VSD screen. It's the output from a Forward-Looking Infrared (FLIR) system built by Hughes Aircraft Co. The FLIR reads heat emissions and displays them as a reverse TV picture. When the pilot calls up the FLIR image on his VSD screen, with flight data superimposed, he has a uniquely complete picture of what is happening.

"Nighttime sensitivity on FLIR is as good as daylight sensitivity for the human eye," said Charlotte Zelon, lead engineer in the defense avionics group.

Bock and other pilots have used FLIR to help them taxi the B–1 in low visibility, to watch their refueling tanker, and even to assist in making an instrument approach.

"For a general aviation system, you could build this a quarter the size and at a fraction the cost," Zelon said. "It's an aid to low-level night flying and landing. That's good for anybody who flies."

Just how good is FLIR? That's classified, Zelon said. But she did show me one dramatic application: "It's excellent for detecting fires, even at very long ranges," she noted, pulling out a set of Polaroid prints made from a FLIR unit on the roof of Hughes Aircraft's Culver City plant. The first, a conventional photo, showed gray haze, a nice view of nothing. The rest were startling.

"That's the 1974 Topanga Canyon fire," Zelon said. "You're looking right through heavy smoke 15 miles away."

The fire, invisible without FLIR, was clearly outlined. Ridge lines and other terrain features showed up. Hot spots glowed brightly. What's a little ground fog during landing when FLIR can cut through smoke like that?

AN ECOLOGIST'S DREAM ENGINE

Environmentalists won't have to worry about smoke from the B–1 engines. Developed by General Electric, the F101 turbofan is clean, quiet, and efficient. It's smokeless. It already meets every known pollution standard for aircraft and automobiles.

Most of the engine data is classified. Those who know speak only in generalities. Thrust? In the 30,000-pound range. Fuel consumption? No specific numbers, but at subsonic speeds, it's 99.5 percent fuel efficient and when flying subsonically it uses 25 percent less fuel than B–52's. How did they get such an engine? The details are secret.

"But the B–1 engine core (which is not classified) could be the new power plant for the next generation of medium-haul transports," Tom Stafford, commander of the Flight Test Center at Edwards AFB, told me.

The engines are designed for easy starting and easy maintenance. In one test, an Air Force maintenance crew pulled a dummy engine and replaced it with a new one in just 22 minutes. And the engines aren't the B–1's only maintenance advance.

A built-in Central Integrated Test System (CITS) is yet another system that big-plane designers are certain to want for future transports.

CITS has a threefold function: It gives the crew immediate warnings on degraded performance; printouts on actual performance; and repair instructions to ground crews.

"Airlines today record information in flight and rely on ground processing to isolate trouble," said engineer Pete Kubischta. "They're going to have to go to in-flight processing."

That's what CITS does. It electronically scans every important E–1 subsystem several times each second, bringing in more than 3000 separate signals (but using just 800 wire pairs) to detect and isolate performance problems. By selecting additional readings, up to 9000 individual parameters can be monitored. A small display unit lights up to identify which system—engine-fuel, electrical, or other—is out of tolerance. Then an alphanumeric display gets more specific: "low air pressure," "unit hot," or whatever is

wrong. And, it can be instructed to give a continuous readout of the actual figures (air pressure, temperature, etc.), thus showing exactly how serious the problem is.

For instance, in one test flight, payload-bay temperatures jumped. That usually requires an immediate landing. Instead, the crew members used CITS to watch the temperatures while they shifted to a manual cooling mode. The temperatures dropped, and the flight continued another four hours.

COMPUTER-ASSIGNED REPAIRS

"CITS gives the flight crew about 200 times more information than a DC–10 crew gets," said Herb McCoy, lead engineer on the system. "It's good for flight safety and also for maintenance. The ground crew uses it as much as the flight crew."

The difference between CITS and an old-fashioned monitoring or maintenance system is the difference between raw data and actual information, McCoy pointed out

"The gas gauge on your car doesn't tell how far you can drive," he said. "So that's just data. With CITS, we get information: 'Change box number so-and-so.' The mechanic doesn't care what went wrong. All he needs is the information on what to do—and that's what CITS provides."

To keep permanent records, the system notes failures and summarizes all data from other systems on magnetic tape. It also prints out failure data—for use by mechanics—on paper tape.

CITS is fully controlled by a small on-board computer. Rockwell designers are looking ahead to next-generation improvements with even smaller units using microprocessors. Yet, the present version already is ahead of anything now flying. Through CITS, data recorded during flights or ground tests can be sent—directly or by telephone lines—to even bigger ground computers for extensive checkouts.

"You could fly that airplane into a wheat field and still run the full set of tests," McCoy said. "If you can reach a phone, you can feed all the data back to home base."

For commercial airlines, such a capability could significantly increase flying time by eliminating unscheduled runs to a maintenance base, or long hours of trial-and-error debugging at poorly equipped airports

But even CITS needs help. It gets it from that new electrical system that's known as EMUX, for electrical multiplexing—using solid-state electronics and time-sharing techniques to run multiple instruments and systems over a single pair of wires.

How does it work? To oversimplify, an instrument or system gets a fresh input from EMUX every 30 to 40 milliseconds. The rest of the time it's technically on, but idling. And during that miniscule idling time. EMUX is feeding power to other devices on the same circuit.

It happens so fast—30 times a second—that the human eye sees only systems that apparently are getting power full-time. On the first four B-1's, 29 subsystems, including lighting, landing gear, all avionics, engine thrust, and all engine instruments and wing-sweep, are on EMUX. And the system, built for Rockwell by the Harris Corp., is still being improved.

In addition, many circuit breakers and switches (which are not a part of the EMUX system) are being replaced by solid-state controllers—small electronic cards—instead of electromechanical devices. That will reduce the B-1's weight by another 100 pounds.

"You won't see this system on a commercial jet for a while," EMUX manager Ray Froman told me. "Commercial designers are conservative. But it's such a weight-saver that it has to come. It means more seat-miles, more cargo capacity."

That's what EMUX did for the B-1. After the electronics experts won heated debates and got the go-ahead to design it into the aircraft, it not only saved weight—about 1200 pounds, the equivalent of 57 miles of wire—but also cut several thousand hours off the manufacturing process by reducing electrical installation time.

Inquiries about the system are starting to come in now. Rockwell's own business-jet designers are looking at electrical multiplexing, and some EMUX techniques have been adapted to the Space Shuttle.

The Shuttle also benefited from diffusion bonding developed for the B–1. In that process, titanium or its alloys are heated in a vacuum. Under high pressure from a press, two pieces of metal diffuse into each other to become a single shaped component. Structural elements that once required welding or extensive milling, such as the B-1's fuselage frames and support beams, now are formed by diffusion bonding. The components are stronger and less expensive. With the procedure proved in practice, Shuttle designers readily adapted it for the Orbiter thrust structure.

More of the B-1 technology story will be told in years to come. But the message today is plain: Whatever the B-1's fate as an operational bomber, the research and development that went into it produced a giant leap ahead in technology—one that will profoundly affect all future aircraft, and have a lot of down-to-earth applications as well.

ETHICS COMMITTEE NOTICE: ALL SENATORS, OFFICERS, 1976 SENATE CANDIDATES, AND SOME STAFF MUST FILE FINANCIAL DISCLOSURE STATEMENTS ON OR BEFORE MAY 14, 1977

Mr. STEVENSON. Mr. President, I and Senator SCHMITT on behalf of the Select Committee on Ethics, give this additional notice to Senators, officers, candidates for the Senate in 1976, and Senate staff that two financial disclosure statements must be filed on or before May 15, next.

Old rule 44 of the Standing Rules of the Senate remains in effect until next year under the provisions of Senate Resolution 110, the official conduct amendments agreed to by the Senate on April 1. New rule 42—Public final disclosure will overlap the requirements of old rule 44 for the last quarter of 1977, and reports will be filed under both rules in May 1978.

Old Senate rule 44 requires each Senator who served for 90 days or more in 1976, candidate for Senator in 1976, officer of the Senate for 90 days or more in 1976, and employee whose salary was paid by the Senate at a rate in excess of $15,000 a year at any time during 1976 and who was employed for 90 days or more by the Senate, to file two financial statements on or before May 14, 1977. The first statement, a "Confidential Statement of Financial Interests," must be sent or delivered to the Comptroller General. The second statement, a "Statement of Contributions and Honorariums," must be submitted to the Secretary of the Senate. The Secretary has advised the committee that the Office of Public Records, 119 D Street NE., room A–623, Washington, D.C. 20510, will be open Saturday, May 14, 9 a.m. to 12 noon to receive the reports.

Forms which should be used in making these reports may be ordered from the Ethics Committee by telephone, extension 4–2981, or may be picked up in the committee office, 1417 Dirksen. Committee staff will provide assistance.

LAND USE PLANNING IN SOUTHEAST ALASKA

Mr. STEVENS. Mr. President, I have recently been contacted by the South Tongass Land Review Committee in regard to their activities relating to the land use planning in Southeast Alaska. The South Tongass Land Review Committee is a group of Alaskans who have organized themselves in order to have a more unified voice about future developments in their part of our State. As we all know, the decisions that will be made during the 95th Congress about Alaskan lands are of great importance to the citizens of Alaska and to the Nation.

At the request of the South Tongass Land Review Committee, I am today submitting two letters to the RECORD. The Land Review Committee requested that the information in the letters be distributed to all my colleagues for their review. One letter is the committee's letter to me which outlines their recent activities. The other letter is from the U.S. Forest Service in Alaska to the South Tongass Land Review Committee which outlines the Forest Service's past and current activities relating to land use planning in southeast Alaska.

I ask unanimous consent that these letters be printed in the RECORD.

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

SOUTH TONGASS LAND
REVIEW COMMITTEE,
Ketchikan, Alaska, March 3, 1977.

Senator TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR TED:

We have initiated efforts to determine a Ketchikan-South Tongass consensus concerning Wilderness withdrawals. Our first step was to hold a public meeting hosted by ourselves and the Central Labor Council. There was a capacity crowd in attendance. The U.S. Forest Service and South Tongass Conservation Society were requested to make presentations. TCS's input was the Alaska coalition position.

The Forest Service backgrounded and described current efforts of their department. Attached is an excellent letter from the Forest Service which outlines these efforts. We ask that it be submitted to all members of Congress for their perusal.

Following this meeting STLRC's executive committee unanimously agreed that the establishment of "instant Wilderness areas" as proposed by the Alaska Coalition, without proper study and resource inventory, would seriously jeopardize Southeast Alaska's economic well-being and deprive the nation of important present and future natural resources.

At the meeting we again publicly invited the Tongess Conservation Society to join with our group (which represents nineteen organizations and thousands of individuals in the community) in order to reach a community consensus. They refused, saying the differences between the community and their special interest desires were "irreconciable". We are disappointed that they are so arbitrary and will not join with their fellow Alaskans in attempting to come to a constructive solution. Incidentally, we understand that TCS has a membership of less than two dozen.

Our position at this time is to urge you and your colleagues to 1. Eliminate Southeast Alaska Wilderness proposals from the D–Z land issue, 2. Appropriate monies to the U.S. Forest Service so this department can begin a study and inventory of Southeast Alaska

lands set aside for Wilderness study in 1973 (totalling 12.3 million acres—see page 6 of Mr. Watson's letter) and 3. Define "Wilderness". Is it an area "untrampled by man?" (as defined in the 1964 Wilderness Act) or simply a recreational area allowing most any use (motorized access, mining cabins, fishing, hunting) except the harvesting of timber as proposed by the Alaska coalition?

Sincerely,

DICK BORCH,
Co-Chairman.
BOB PICKRELL,
Co-Chairman.

FOREST SERVICE,
Tongass National Forest,
Ketchikan, Alaska.

ROBERT W. PICKRELL,
Co-chairman, South Tongass Land Review Committee, Ketchikan, Alaska

DEAR BOB: I respond to your request for a written statement to the South Tongass Land Review Committee on what the Forest Service has done to date and how they have gone about selecting wilderness on the Tongass National Forest; why are we repeating a public involvement process that we seemingly have already done; what further plans we have; what the effect the various wilderness proposals would have on the economic well-being of Southeast Alaska, particularly the Ketchikan Area; and finally, a statement to show the rationale of the Forest Service approach to Wilderness Selection through a Forestwide Land Management Plan.

The initial systematic approach to Wilderness Selection was done by the Forest Service as displayed in the October 1973 Final Environmental State for selection of new wilderness study areas within roadless and undeveloped areas of the National Forests (see enclosed environmental statement excerpt). Through this process, 274 new study areas totaling about 12.3 million acres were selected. As stated on page 4 of this environmental statement, this was not the end of it. The remainder of the National Forest roadless and undeveloped areas are to be studied through the land use planning process to determine their suitability for wilderness. In this initial review, commonly called the "RARE" study on roadless area review evaluations, five new study areas totaling about 1,868,000 acres were selected from the Tongass National Forest. Since then, one additional 40,000 acre area has been selected through our land use planning process. We currently have a Forestwide land management plan in progress which when completed will bring the total wilderness study areas on the Tongass to between 2,300,000 and 3,500,000 acres as targeted in our Resource Allocation Direction for the Tongass National Forest Draft Environmental Impact Statement scheduled to be released next month. In addition, this document also calls for between 3.1 and 3.4 million acres of back country recreations areas that would be reserved from timber harvest and roading. I'll be saying more about our current land management planning effort later on in this letter.

As you may recall, in 1970, the Forest Service announced through the news media, a commitment to a land use planning effort for the then South Tongass National Forest that would be strongly oriented to public involvement. Even though we were poorly staffed and were new at this approach, we made a strong effort to involve the public. Twenty-six meetings were held in the Ketchikan Area alone, and we (the South Tongass National Forest) would have had our plan completed by 1972, but it was decided that the plan should be for the entire Tongass National Forest. The Forest Service was also in the process of reorganization of the Tongass into three administrative units instead of two. As a result, it was not until January, 1975 that we released a draft EIS on the Tongass Land Use Plan. This plan was nearly five years in the making and represented a good overview of the Tongass land and resource capabilities and wants and needs of its people. Some 56 public meetings were held and innumerable individual contacts were made (see attached summary of the public involvement). As you can surmise from this summary, public response was overwhelmingly in opposition to "Legal Wilderness" under the Forest Service management concept often referred to as the "purest philosophy". Having been the pioneer in wilderness establishment and management in the United States, the Forest Service is proud of its long record of achievement in this area and believes that Congress clearly intended under the Wilderness Act of 1964 that wilderness be managed to retain its wilderness character (see attached copy of the Wilderness Act of 1964). This is why we have persistently opposed motorized access into wilderness. However, we are also making every effort to be responsive to the public and the public, particularly the Alaska public, has clearly shown that it does not want wilderness in Southeast Alaska if motorized access is prohibited. Consequently, the Forest Service in Region 10 has modified its stand on this issue to consider motorized access in wilderness areas on a case by case basis. Such decisions will be made through the land management planning process which will be strongly linked to public involvement.

You ask the question, "Why are we seemingly doing this planning and public involvement over again?" We do not see this as a repeat performance, but rather a continuing effort that will be repeated every 10–15 years as required by the Resources Planning Act of 1974 and the National Forest Management Act of 1976. In one sense there's really no end to it as the nation's needs, technological capabilities, people wants, and desires change. We do not envision any of our plan being "chipped in granite" to be completed once and for all. Land management planning is a dynamic process and to be effective, must be as flexible as possible, yet with firm enough commitments to maintain credibility with the public. The reason the initial Tongass Land Use Plan was not well received was because it was so flexible that many Southeast Alaska public did did not accept it. It lacked firm enough commitments to assure people that various actions would be taken to resolve key issues.

We learned a lot from this planning effort, however, and it became the framework from which we built the *Southeast Alaska Area Guide*, which will be released to the public about the middle of March.

I am glad you asked us to show the rationale for selection of additional wilderness study areas through our land management plan for the Tongass National Forest rather than through Congressional legislation prior to completing the plan. You also ask about the economic consequences of the SEACC proposals and the recent bill submitted to the Congress by Congressman Udall which would establish five new wilderness areas on the Tongass. You were especially interested in their effect on the Ketchikan Area. Since these two questions are so closely tied, we believe they should be answered together.

To begin with, wilderness is just one of the issues to be resolved in the Tongass Land Management Plan. Equally important issues include community and human well-being, fish and wildlife protection, and transportation for Southeast Alaska. Our planning is well underway and making good progress in resolution of these issues. Within these major issues are many other related issues. I could name an almost endless list of things such as clearcutting of timber along or near lakes, streams, saltwater shorelines; various soil protection requirements, water use and protection, land occupancy, minerals, timber harvesting systems, economics, etc.

Southeast Alaska, as you well know, heavily depends on the timber industry for employment (see "Human and Community Development" and "Timber" of the Southeast Alaska Guide). During preparation of the Guide, our planning team compiled an estimate of the timber supply on the Tongass National Forest which shows the following (estimates in scale volume) annual yield:

Million board feet per year

Total volume of commercial timber	1,232
Estimated State and national land selections	133
Unregulated	126
Marginal	132
Standard and special	853
Present harvest level	546

The unregulated timber is on slopes that are physically and/or environmentally not wise to harvest and are thus taken out of the annual programmed harvest. The State and Native Selection would also come out. This leaves us a net annual yield of 985 MMBF of standard, special, and marginal timber.

However, the Tongass Planning Team estimates that the maximum potential yield would only be about 820 MMBF due to various multiple use reductions such as existing wilderness study areas, other existing classifications, and reductions due to other resource protection. Please recognize that these are estimates and could be off somewhat.

At the current harvest level (546 MMBF/year) there are about 5,624 jobs in Southeast Alaska that directly or indirectly depend upon the timber harvest from the Tongass National Forest, 10.3 jobs/1 MMBF.

Now going back to the estimated maximum potential yield of 820 MMBF per year, I think it would be safe to say that the potential yield before new wilderness areas are taken out could be considerably less than 820 MMBF/year due to more stringent resource protection measures, particularly fish stream protection. The Forest Service proposed alternative in the Resource Allocation Direction For the Tongass Draft EIS calls for a potential yield of about 600 MMBF after wilderness and backcountry reductions which we estimate to be about 3 million acres of wilderness and 3 million acres of backcountry.

The crucial question which can't be answered at this time and paramount to evaluating the Udall or SEACC proposal is how much reduction in the timber supply will there be due to other reductions besides wilderness and what are the total benefits or outputs of other resources? If these reductions necessary to meet other resource needs result in a potential yield of much below 820 MMBF, then the wilderness withdrawals as proposed by SEACC and Congressman Udall could cause a significant reduction in timber related jobs in Southeast Alaska. While the Forest Service proposes almost as much wild lands as SEACC, we believe that with a total land management planning job, both the economy, social and environmental goals for the Tongass as outlined in the Guide can be met. We can do this by coordinating our planning to best reflect land and resource capabilities and wants and needs of the people. Until our land management plan for the Tongass National Forest is completed, we cannot fully evaluate the various wilderness proposals. This is why we would prefer new wilderness not be selected through Congressional action at this time. The consequences of the various proposals simply cannot be evaluated until the Tongass Plan is complete, or at least to the alternative evaluation stage.

We can estimate the impact of the SEACC and Udall proposals by making the following projections based upon the assumption that these areas would not be classified but would be roaded and timber harvested. Based upon our best judgment, we are also assuming that 90 percent of the standard timber could be harvested, 67 percent of the special, and 50 percent of the marginal. With these assumptions, the Tongass National Forest program timber harvest and loss of timber related

jobs from these areas are estimated as follows:

Proposal	Standard & spec.[1] (MMBF/yr.)	Marginal [1] (MMBF/yr.)	Program harvest yield [1] (MMBF/yr.)	Jobs [1]
SEACC	25,287	8,423	299	3,080
Udall	15,902	3,916	180	1,854

[1] Figures have been adjusted to reflect amount of timber taken out in established Forest Service wilderness study areas that overlap SEACC or Udall proposals.

From this table it's simple to project what the impacts would be using the above assumptions but predicting the total effect is not possible until the land management plan is complete. If we assume the 820 MMBF/year potential yield as the top line, establishment of all the SEACC areas or similar land with an equivalent amount of timber as wilderness, would reduce the current program harvest on the Tongass National Forest 25 MMBF/year. This could be replaced by anticipated harvest on the Native Lands but we cannot quantify this at this time because we do not know what their harvest level or rate will be. They have given every indication that they intend to harvest lots of timber and could easily provide a sustained yield in excess of 50 MMBF/year. It can be said with certainty that should the SEACC or Udall areas become wilderness, the potential growth of the timber industry from Tongass National Forest timber would be reduced by the respective amounts shown in the above table assuming the assumptions are correct.

Focusing in on the Ketchikan Area itself, we can make these projections. Here again we are assuming the same assumptions as stated above, but this time itemizing only the proposed wilderness withdrawals within the Ketchikan Area administrative unit, formerly known as the "South Tongass":

Proposal	Standard & special (MMBF/yr.)	Marginal (MMBF/yr.)	Programed yield (MMBF/yr.)	Jobs
SEACC	10,666	6,602	58.5	602
Udall	3,721	3,015	31.6	325

The Ketchikan Area programmed harvest has been estimated to be 270 MMBF/year after State and native selections. All of the timber shown in the above chart is in the Ketchikan Area programmed harvest. Should the SEACC areas all become wilderness, the Ketchikan Area programmed harvest would be reduced from 270 to 211 MMBF/year and 602 timber related jobs would be affected. Should the Udall area become wilderness, the programmed harvest would be reduced to 238 MMBF and 325 timber related jobs would be affected. The major impact would be on woods' workers who would have to move from the Ketchikan Area to the Sitka or Juneau area. The above analysis has been an oversimplification of a complex problem that, as I have repeated many times through this letter, cannot be accurately assessed until the Tongass Land Management Plan is much further along than it is today.

I have deliberately dwelled at length on the timber supply as related to wilderness and jobs because it is the one resource that we can quantify and predict consequences of various proposals. I believe that minerals should also be mentioned as a factor to consider. Southeast Alaska is heavily mineralized and known likely developable deposits should be identified prior to completion of the Tongass Land Management Plan.

The U.S. Borax discovery is in one of the Udall proposed withdrawals. Designation as wilderness could eliminate 500 potential jobs plus the support jobs.

A mineral survey is required on all wilderness study areas before they can legally become wilderness based on the current law. This is part of the reason no new wilderness areas have been established on the Tongass. Only one area (Granite Fiords) has had a mineral survey. The report is still in preparation and we have yet to receive it, even though field work has been completed for over two years now. The other reason we have not progressed in getting wilderness established on our current study areas is because we have not received financing to do the required studies. We have asked for money to study Granite Fiords for the last three fiscal years, but have not received any funds as yet to do the study.

While it may sound like it, I have not meant for this letter to be an anti-wilderness dissertation. There are many invaluable benefits to be derived from wilderness, such as watershed, fishery, wildlife, and many recreation opportunities not to mention scientific aspects. With each passing year, particularly in Southeast Alaska, the nation's potential wilderness supply continues to shrink. That is why the RPA program has called for a moderate increase in wilderness and why the Resource Allocation Direction for the Tongass National Forest Draft EIS calls for an increase of wilderness study areas from a current 12 percent to about 20 percent.

Thank you for inviting me to comment at such length. I look forward to the next two years because this is when we will have drawn the lines on the map with the initial land allocations for the Tongass. The Forest Service appreciates your interest and hope that you will actively participate throughout this major and far-reaching planning effort.

Sincerely,

J. S. WATSON,
Forest Supervisor.

HANDICAPPED DEMAND STRONG 504 REGULATIONS

Mr. HUMPHREY. Mr. President, passage of the Rehabilitation Act of 1973 was a landmark event for the handicapped. Section 504 of that bill prohibits discrimination against the disabled in federally funded programs.

I was proud to participate in this legislative achievement, in this statement of our Nation's faith in equality of opportunity.

All of us who voted for this bill understood that it was a sweeping and even a revolutionary commitment. Often, it may be difficult and inconvenient to comply. But it is a commitment.

For several years now, the Department of Health, Education, and Welfare writing the regulations to implement this has been struggling with the task of writing the regulations to implement this section. There are some of us who doubted at times the vigor of its struggle.

The Rehabilitation Act of 1973 is the civil rights declaration of the handicapped. It was greeted with great hope and satisfaction by Americans who have had the distress of physical or mental handicaps compounded by thoughtless or callous discrimination. These Americans have identified 504 with access to vital public services, such as education, health care, and transportation; they consider it their charter for fair employment in jobs for which they qualify. In short, it is a key to, and a symbol of, their entry as full participants in the mainstream of national life.

Unfortunately, as the weeks and months and years pass, the patience and anticipation of the handicapped have turned to disappointment and disillusion. They have also turned to militant determination, as our new Secretary can testify.

The embattled regulations were inherited, drafted but unsigned, by Secretary Joseph Califano. Regardless of his commitment, and he has expressed that commitment vigorously, the new Secretary could not be expected to sign regulations until he has a thorough understanding of their content and implications.

At the direction of Secretary Califano, one more review was undertaken but with a clear recognition of the need to deal promptly and judiciously with an overdue commitment.

Many of my handicapped constituents are contacting me in some anxiety. I try to reassure them. I am personally confident that our new Secretary will issue the long-awaited implementing regulations for section 504 as soon as he possibly can.

It may be that some of the regulations will prove cumbersome. It may be that some will require later revision. But let us begin with optimism. I believe that we can summon the resources, the confidence and the determination to achieve our objectives.

The 504 regulations are the culmination of the labor of a competent and dedicated staff guided by exhaustive public consultation. The purpose of the regulations is not nor should it be to anticipate every problem that will arise. The regulations must reflect in a clear and uncompromising manner their objective: to secure and assure equal rights for the handicapped.

Mr. President, this statement has no other purpose but to reiterate my strong support for the wisdom of Congress in passing this law, my admiration for the handicapped who have spoken up for their rights in the finest American tradition, and my encouragement to our new Secretary of Health, Education, and Welfare, who will have the responsibility of enforcing a law that can help make the 1970s a historic era in this country's continuing march toward human freedom and dignity.

SOVIET STRATEGIC CAPABILITIES AND OBJECTIVES

Mr. LAXALT. Mr. President, some skeptics maintain that our younger generation has abdicated its leadership responsibilities. Allegedly, it has turned on, tuned in, and dropped out. But, I have never believed this for a minute. In my judgment, the emerging generation of young leaders is brighter, more articulate, and better prepared than any I have previously been privileged to encounter.

What is more, I am delighted to find

that I have a particularly impressive young leader on my own staff. Mr. Richard Moore has prepared for my use as lucid and inciteful an analysis of Soviet strategic capabilities and objectives as I have ever seen. Because this work is so impressive, I ask unanimous consent that it be printed in the RECORD so that I might share it with my colleagues.

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

SOVIET STRATEGIC CAPABILITIES AND OBJECTIVES

Among the more crucial tasks faced by Congress is to decide on the size and shape of the defense budget. It is, of course, a different exercise than deciding on the budgets of other Departments. The differences arise in that Congress must determine not only what are our objectives but also what are the objectives of our adversaries and to what extent, if at all, are they compatible. Furthermore, some judgment must be made about how our adversaries may use the military to achieve their goals.

Some observers tell us that this kind of thinking is purely reactive, that it fuels the arms race. They advise that we must look to other concerns. These include the desire to divert military spending to social programs, the prospect of cooperative international ventures, the increase in global military spending, and the attitudes of the lesser powers. However valid these concerns may be, our first priority must be to look at the capabilities and the intentions of our adversaries.

A primary source of information about what the Soviet Union wants is obviously the Soviets themselves. I submit that in listening to what they say, we will find a commitment to expansion and aggression, coupled with an ultimate reliance on military solutions to political problems. In answer to those observers who say we should not react, I offer one simple proposition—if someone tells you he is planning to put you out of business, then you would be advised to listen, and perhaps, to be prepared.

What are the minimal objectives of our own defense posture. In my view, they are: (1) to protect our way of life; (2) to maintain our global position and our alliances; (3) to permit self-determination by nonaligned countries; and (4) to prevent the outbreak of war, both nuclear and conventional. The first question is, are these objectives shared by the Soviet Union? I would suggest that if we take the clouds of detente from our eyes, we will find that the Soviet Union does not, with one possible exception, share any of these objectives.

FUTURE OF CAPITALISM

With respect to the first, the words of Leonid Brezhnev at the 25th Congress of the Communist Party this past year are most instructive. "Detente does not in the slightest way abolish and cannot abolish the laws of class struggle. Capitalism is a society without a future." In plain English, this means that a primary objective of the Soviet Union, that is, before they taste the milk and honey of Communist society, is the destruction of our way of life.

BALANCE OF POWER

How do the Soviets regard the balance of power and the nations which form the respective alliances? The Soviet foreign policy journal New Times asserted but a few days after the signing of the Helsinki Declaration in 1975:

"It is increasingly clear that there are two kinds of status quo which must not be confused or substituted one for the other. The territorial status quo is one thing, and the socio-political another. The first has a bearing on relations between states, the second on relationships within each given state, between its classes, parties, and individual citizens. . . . Neither (the general) reduction of international tension nor the principle of the inviolability of the territorial status quo adopted by the Helsinki Conference can prohibit any people from changing of the social and political state of affairs within their own country."

High sounding words, but what do they mean? With respect to Soviet alliances, their actions have crystalized the meaning of the words. In the summer of 1968, the Free World learned that the Soviets would not tolerate any undoing of the Warsaw Pact; it was and continues to be their definition of the status quo. At the same time, the people of Czechoslovakia learned that "changing the social and political state of affairs within their own country" was a task best left to Soviet tanks.

Our alliances and the status of the member countries are an entirely different matter for the Soviets. In recent years, they have tirelessly repeated the theme of "an unprecedented economic and social crisis in the Western world," thereby creating the conditions for "the build-up of a revolutionary wave."

Evidently, a major Soviet objective is the detachment of Western Europe from dependence on the United States, and its replacement by dependence on the Soviet Union. A. I. Sobolev, a high ranking Soviet Central Committee specialist in world communist affairs, explained one means of accomplishing this. "In certain countries (Italy and France) the might of the democratic [i.e., communist-led] forces has reached such a level that they are already directly pushing forward the task of winning power."

One of our severest criticisms of the detente policy should be the failure to make the Russians agree about the rules of the balance of power in Europe. I believe that they continue to abide by that time-honored Soviet maxim, "what's mine is mine and what's yours is negotiable."

Of still greater concern must be the Soviet military decisions which support their view of the balance of power. Over the past ten years, Soviet conventional forces facing NATO's Central Region alone have been increased by 130,000 men while NATO conventional power has remained basically unchanged. During the same period, the number of Soviet tanks has jumped by 40% while artillery strength has increased by between 50% and 100%. The danger lies in that the imbalance of forces may invite the Soviet Union to initiate a potentially devastating invasion with only a few days warning.

SELF-DETERMINATION

How do the Soviets view the principle of self-determination by nonaligned countries? Soviet President Podgorny made this abundantly clear when he stressed that with respect to southern Africa, "the close alliance of the freedom-loving countries and peoples offers opportunities to combine all forms of struggle, involving military and political forms."

Some Western observers have noted that military struggle is at odds with the notion that detente means, among other things, the easing of tensions and the preservation of peace. Not so says Soviet Premier Kosygin,

"If someone tries to find a contradiction between this position of ours and the policy peaceful coexistence, then in answer to this we can only reaffirm that the course toward peaceful coexistence and the relaxation of tension would lose its meaning unless the peace-loving forces gave a firm rebuff to the intrigues of the aggressor and the attempts of the imperialists and the forces forming blocs with them, i.e., China, to prevent the peoples from waging a struggle for national liberation and social progress."

Essentially, the Premier tells us that the road to peace is paved with one-sided wars. To test the truth of this statement, we need only look at the prodigious flow of Soviet arms and munitions directly, or through its intermediaries, to such places as Angola, Zaire, and Mozambique.

To this point the conclusion is obvious; Soviet objectives are inimical to our own. More importantly, Soviet words are backed by Soviet guns. We are left, then, with the possibility that they may share our abhorrence of nuclear war.

STRAGEGIC DOCTRINE

The predominant view in the U.S. is that the threat of nuclear holocaust renders nuclear war "unthinkable." The doctrine of nuclear superiority has been similarily designated as "unthinkable." Instead, our strategic doctrine is that of mutual assured destruction. The idea is that one side will not attack when the other can absorb a first strike and still have surviving strategic forces adequate to inflict destruction which the attacker would consider intolerable. The question is, do the Soviets in their heart of hearts accept the doctrine, and if not, what do they consider to be a "tolerable" loss?

The November 1975 issue of Communist of the Armed Forces carried a most revealing article. This exposition of standard Soviet positions on war in the nuclear age is as clear and concise as it is chilling:

"The premise of Marxism-Leninism on war as a continuation of policy by military means remains true in an atmosphere of fundamental changes in military matters. The attempt of certain bourgeois ideologists to prove that nuclear missile weapons lead war outside the framework of policy and that nuclear war moves beyond the control of policy, ceases to be an instrument of policy, and does not constitute its continuation is theoretically incorrect and politically reactionary. . . . The description of the correlation between war and policy is fully valid for the use of weapons of mass destruction."

When we discard the rhetoric, we learn that the use of nuclear weapons is an acceptable extension of policy.

While it is important that we follow the evolving Soviet interpretation of the ideology of Marxism-Leninism, it is imperative that we understand Soviet strategy. I draw this distinction because, for the Soviets, Marxism-Leninism is a rubbery instrument which can be reshaped to fit current needs. Soviet strategy, on the other hand, while flexible in a tactical sense, is less yielding in terms of achieving its objectives. We must ask ourselves, is the strategy of the Soviet Union the same as our own.

As mentioned above, our strategy has been based on the doctrine of mutual assured destruction, the premise being that war must be avoided. In practice, this has meant that we have developed and deployed weapons systems necessary only to deter the Soviets from launching a first strike. And, I believe, that an examination of our military spending during the past decade bears this out.

There are those who argue that the Soviets have mirrored our actions out of a deep-rooted sense of insecurity and not out of a drive for nuclear superiority. This action-reaction cycle, they claim, has repeated itself on numerous occasions leaving us with the image of two superpowers aping each other into eventual nuclear oblivion. That argument rests on the assumption that the Soviets also accept the doctrine of mutual assured destruction and its underpinning that war must be avoided.

It is the considered opinion of other leading strategic thinkers, an opinion which I am inclined to share, that the Soviets do not adhere to the doctrine nor do they accept its basis. Rather, it appears that their strategy is predicated on war-winning, not war avoidance. Furthermore, I believe that examining the record of the last decade proves the point. If this is the case, then we face, in the words of General George Keegan, the

recently retired chief of Air Force intelligence, "the gestation of global conflict."

Incidentally, the Carter Administration may also share some misgivings in this regard, although no apprehension is reflected in the proposed budget cuts. Nevertheless, it is heartening that the Administration has begun to reexamine the strategic assumptions underlying American military policy. The National Security Council is currently conducting a study, under the direction of Dr. Smuel P. Huntington, of the validity of the doctrine of mutual assured destruction as well as other concerns. But, as benefical as this exercise may prove to be, such a far-reaching and long-term reassessment is likely to have little effect on current and short-term decisions.

While it is alarming that the Soviets find far ideologically and strategically acceptable, it is absolutely heartstopping that they may find nuclear war winnable and their losses tolerable.

Soviet Civil Defense planners claim that a death rate of between 5% and 8% might be sustained from a U.S. nucelar strike—a casualty rate of only 7.5 to 12 million out of an urban population of 151 million. This low rate owes to extensive civil defense spending estimated in excess of $1 billion since 1972 in the form of shelter construction, essential supplies stock piling, personnel training, equipment construction and dispersion and extensive practical and moral-psychological preparation of the people. Lastly, recall that the Soviets themselves loudly proclaim that some 20 million Soviet citizens died in the "Great Patriotic War", otherwise known as World War II in which the U.S. "incidentally" participated.

I am not a doomsayer, I do not think that the Soviet Union wants nuclear holocaust, although they may well risk it. I do believe, however, it is essential that we recognize the vast differences in ends, and means to ends, which separate us from the Soviet Union. Foremost among these is that the Soviets believe in and abide by the proposition that political gains can be secured through military advances.

I would now like to discuss in more detail what kinds of advances the Soviets have made and to consider these in comparison with our defense capabilities.

SOVIET DEFENSE SPENDING

Admittedly, Western efforts to assess the level and burden of Soviet defense spending are seriously hampered by major differences in accounting methods, the artificial value of the ruble, and the lack of information and reliable data. However, CIA estimates of Soviet defense spending in the 1963–1973 period put the growth rate at about 3%, compared to about 1% for the United States. Last year, the CIA concluded that defense efforts absorb 11% to 13% of the Soviet Union's Gross National Product. The portion of the U.S. product absorbed by defense efforts has declined from 10% in 1955 to about 5.5% today. A CIA study released in early 1977 concluded that Soviet military expenditures in 1976 were at least one-third higher that those of the U.S. Moreover, the Joint Chiefs of Staff recently testified that they now share the judgment that Soviet programs are aimed at strategic superiority and that if current trends continue, the Russians will soon reach their goal.

At every level, there is evidence of rapid Soviet modernization, of qualitative improvement of numerical reinforcement, and—vital for the future—of expansion of military research and development. Current estimates are that the Soviets spend 25% more on military research and development than does the U.S. On the other hand, excellent intelligence informs American planners about what the Russians have, are testing, and could acquire.

One of the more spectacular Soviet developments has been the expansion of the Navy. The Soviet Union, historically a land power, has built a fleet capable of contesting control of the sea with the U.S., a sea power. The Russian submarine force is triple that of the United States. The USSR has introduced eight new submarine designs in the past decade and are currently topping the U.S. in the production of attack submarines by 3 to 1. Soviet missile carrying submarines can now threaten the U.S. from positions west of Greenland. The Soviets maintain a large northern fleet at Murmansk including 175 submarines, 90 of them nuclear-powered. The Soviets have also penetrated the Mediterranean, the Middle East, and Africa. Jane's Fighting Ship's reports that the Soviet Navy's growing strength and worldwide deployment appear designed for offensive purposes.

With Soviet military investment growing at a more rapid rate than that of the U.S., they are seizing the technological lead or closing the gap in most classes of weapons.

Some recent annual production figures for key weapons provide telling evidence:

	United States	*Soviets*
Helicopters	506	1,100
Tactical aircraft	575	950
Tanks	156	1,400
Artillery pieces	156	1,400
Armored personnel carriers	1,410	3,700
Long-range bombers	none	15
Nuclear-powered ballistic missile submarines	none	6

Just since the SALT I (Strategic Arms Limitation Talks) agreement in 1972, technology has brought the Soviets an assortment of new devices. These include a range of new missiles—the SS–18, with unprecedented explosive power, can destroy any known fixed target; the new SS–20, likely to be deployed aboard a mobile launcher, may defy satellite vertification—the new Backfire bomber, and MIRV (Multiple Independently Targetable Reentry Vehicle) multiple warheads. Although the Soviets have overtaken the U.S. with respect to almost every strategic weapon, the U.S. continues to maintain a lead in accuracy, in warheads on target, and an advantage in number of warheads.

Indeed, overall Soviet gains have been dramatic. In terms of the strategic nuclear balance, the U.S. has gone from a monopoly in nuclear forces in the late 1940's to a clear superiority in the 1960's to what is now described as rough tactical and strategic equivalence. It is against this background that the Congress must decide on the level and make-up of the defense budget for FY 1978. Can we allow Soviet capabilities to continue expanding and U.S. capabilities to retrench—as they have over the past decade—without inviting an imbalance and ultimately, a crisis. The answer, must be a resounding no. Affirmative decisions must be made on the following weapons systems.

B–1 Bomber: The B–1 is scheduled to replace the B–52 which has been in service for nearly 20 years. The B–1 would have far greater speed than the B–52, much better ability to elude radar detection, and it carries a bigger bomb load.

A lower cost alternative to the B–1 being considered is equipping lower performance planes (a modified Boeing 747 cargo plane or B–52's equipped with larger engines) with the cruise missile. (The cruise missile is a potentially highly accurate, long-range projectile, capable of carrying either nuclear or non-nuclear warheads. U.S. operational commitments for the missile—whether either sea-launched, air-launched, or both—have not been made.) These available aircraft, loaded with the new cruise missile could stand off from hostile borders which the B–1 has been designed to penetrate.

Meanwhile, the Soviets are deploying their new Backfire medium-range bomber which can achieve long-range capability if it is refueled in mid-air. In my opinion, former Secretary of Defense Rumsfeld was correct in warning that unless the B–1 bomber and other strategic deterrents are built, the Soviet Union would get so far ahead militarily that the U.S. would lose influence around the world.

MX Missile: I do not believe that we can afford the risk of delaying the production of this advanced ballistic missile until fiscal year 1979 as the 1978 budget proposes. The MX missile, a mobile missile (probably running on underground rail tracks) would be ten times more potent than the Minuteman it is designed to replace. With the termination of the Minuteman III production line in 1977 and the delay of MX missile production, the Western World will not have a strategic missile production line in operation in fiscal year 1978. One factor in the decision to delay production of the MX was the alleged need for a gesture to the Soviets for the forthcoming SALT II negotiations.

Trident Submarine: Trident is a long-term program for modernization and replacement of Polaris and Poseidon nuclear ballistic missile submarines. The Trident program includes a third generation nuclear-powered submarine and two new ballastic missiles (Trident I, 4,000 mile range, and Trident III, 6,000 mile range). The Trident, the world's largest submarine, will travel faster, dive deeper, run quieter and be able to stay at sea 40% longer than the Polaris or Poseidon.

It will have greater firepower, 24 missiles instead of 16, and it should be less detectable, less vulnerable and less dependent on foreign bases. Current production schedules call for a ship building rate of three Trident submarines every two years with the first Trident to become operational in fiscal 1979 when the oldest of the present ballistic-missile-firing submarines will be 20 years old. The Soviet Union has already deployed two new classes of ballistic-missile-firing submarines (Delta I's and Delta II's). Each are armed with the SS–N–8 (4200 mile range) ballistic missile. The Soviets are currently testing the SS–N–18 sea-launched ballistic missile equipped with MIRV's, which are reported to have a greater range than the SS–N–8.

Our nation is at a crossroads of history and the Congress will play a vital role in deciding what direction we will take.

With the exception of not wishing to run too great a risk of nuclear war, the Soviet Union rejects all that we stand for. However, while the Soviets have made rapid gains on us, they have not yet gained clear military superiority over us. Congress has the responsibility to provide and maintain an essential deterrent, including adequate conventional forces which remain the best insurance against the need to use nuclear weapons.

We must be vitally concerned about the Soviet build-ups during the past decade which has seen them achieve rough military parity with the United States. The financial burden of this awesome build-up has been at the expense of an economy chronically short of housing and consumer goods, plagued by agricultural shortage, and with an economic base half the size of our own, yet outspending the U.S. in the military sector by about one-third. We cannot afford to allow the Soviets to gain absolute superiority over this country and to experiment with added military might, and clearly that is inevitable unless we exercise our authority to alter the trend.

I submit that the risk to the security and welfare of this Nation and of the free world demands that we retain a "defense capability second to none".

TESTIMONY ON THE YOUTH EMPLOYMENT AND TRAINING ACT

Mr. HUMPHREY. Mr. President, on Wednesday, April 20, I had the welcome opportunity to testify on the problem of youth unemployment before the Subcommittee on Employment, Poverty, and Migratory Labor of the Senate Committee on Human Resources. Wednesday's was the first of 3 days of hearings on the Youth Employment and Training Act of 1977, which was submitted by the administration on April 6 and which I was very pleased to cosponsor.

The administration's bill marks an excellent first step—and I emphasize, first step—toward a comprehensive solution to the problem of high youth unemployment. Under the administration's proposal, $1.5 billion will be authorized for the next 18 months to create three new youth job programs and provide jobs for 200,000 young people. This is an excellent start, and I support it.

But, as I pointed out in my testimony, there are ways the administration's bill can be improved. With almost 3.4 million young people unemployed, 200,000 jobs is only a drop in the bucket. I urged the committee to increase the funding level for the programs in the bill. On the same day as the Youth Employment and Training Act was introduced, Senator JAVITS and I submitted an amendment—No. 184—that would provide $1 billion this year and $2.5 billion in fiscal 1978 for the programs in the bill. This amendment reflects the recommendation made by the Human Resources Committee to the Budget Committee for youth programs in fiscal 1978.

Congress was presented with an ample source of funds for youth jobs last week when President Carter withdrew his proposal for a rebate on 1976 income taxes and the investment tax credit. I supported the President on this decision because I think the money could be better used for direct job creation programs, and I urged the Committee to devote part of this new funding source to youth programs.

I also made suggestions to the committee concerning other possible improvements in the administration's bill during my testimony. Mr. President, I ask unanimous consent that my prepared statement be printed in the RECORD.

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

STATEMENT BY SENATOR HUBERT H. HUMPHREY

Mr. Chairman, I appreciate the opportunity to testify on the Youth Employment and Training Act of 1977, and I congratulate you and the members of the Human Resources Committee for your swift action on this measure.

The bill is an excellent first step toward a comprehensive solution to the complex and disturbing problem of high unemployment among our nation's young people. It was developed in a very heartening cooperative process that brought President Carter and Labor Secretary Ray Marshall together with concerned members of the Senate—you and I, Senator Javits, Senator Jackson, Senator Randolph, Senator Stafford, and others—and the bill submitted by the Administration shows their attention to our concerns.

Now, more than ever, our young people need the help that will be provided by this bill. All across the country, unemployment has dealt a devastating blow to the hopes and aspirations of our youth.

In March, the unemployment rate among teenagers 16 to 19 years old was 18.8 percent, compared to 5.1 percent among adults 25 years old and over. Among black teenagers, the unemployment rate was 40.1 percent and, in many of our central cities, disadvantaged youth have been experiencing an unemployment rate that exceeds 60 percent.

There are 3.4 million young Americans today under the age of 25 who want to work, who are knocking on doors that remain closed to them. These young people are ready, willing and eager to work, but there are no jobs for them.

These young people need help, they need it in large doses, and they need it now. This Committee has just been given an opportunity to provide that help. Last week, President Carter presented us with an additional source of funds for youth jobs when he withdrew his proposal for a rebate on 1976 income taxes and the investment tax credit. I support the President's action on this because I think the money could be better used for direct job creation programs. Let's devote a significant part of it to youth jobs.

Here is a place where the Human Resources Committee could make a significant improvement on the President's proposal, and could do it swiftly. On the same day as the Youth Employment and Training Act was introduced, Senator Javits and I submitted an amendment—No. 184—that would provide $1 billion this year and $2.5 billion in fiscal 1978 for the programs in the bill. This Committee has already made a similar recommendation to the Budget Committee. I urge you to stick to your guns on this figure and fight for additional money for our young people, now that the elimination of the rebate and investment tax credit has made the added money available.

Any additional money we put into youth employment programs will be an excellent investment in the future of this country, because the personal, social and economic costs of youth unemployment are enormous.

If we do not move swiftly to provide jobs for our youth, we may well end up in the 1980's and 1990's not only with a youth unemployment problem, but with a whole generation of middle-age Americans who have little or no job skills and who will need total rehabilitation to become productive and self-supporting workers.

In addition, youth unemployment is a major source of crime. In 1973, the last year for which we have comprehensive figures, seventy-five percent of arrests for serious crimes involved youth under the age of 25. Youth made up 75 percent of those arrested for arson and for robbery, and 85 percent of those arrested for vandalism, for burglary and for auto theft.

The most direct and rapid way to alleviate youth unemployment is through specially-targeted youth employment programs, such as those in the Youth Employment and Training Act. Because of the structural nature of the youth unemployment problem, economic recovery alone will not be sufficient.

What needs to be done?

First, we must create a significant number of jobs that are specifically targeted at youth, and these jobs must be useful and productive.

We should put a large percentage of the 3.4 million youth who are unemployed to work on projects that provide a useful public service. There is work to be done, and plenty of it. We have 70 million homes that need to be weatherized. We have thousands of miles of railbed that need to be rebuilt, homes throughout the nation that need repainting and refurbishing, school buildings that are deteriorating, forests that need replanting, children and elderly that need care, and countless special local needs that our idle young people could fulfill, and fulfill well.

It is a national tragedy and a national shame that our youth are wasting their time and energies when there is much work to do.

Second, the jobs must provide some useful training.

Much of this should focus on basic job skills. Young people need to know how to get to work on time each morning, how to follow directions, how to punch a time clock. These are the most basic job skills, and they can't be learned sitting at home or on a street corner.

In addition, more specific skills should also be taught—construction skills, mechanical skills, bookkeeping skills—but they should be taught as part of the job.

Third, we should provide both full-time and part-time jobs, in both the public and private sectors. Young people who are out of school need full-time work, and we should provide it in abundance. But we shouldn't forget that many youth who are in school also need work just as desperately to earn the money to stay in school or to contribute to family incomes.

Finally, young people need good job counseling, good job information, and good job placement services.

Youth unemployment in this country is a national disaster. The bill we are considering today is an excellent start toward alleviating the problem. The young people in this country are very lucky to have a President and a Congress that are on their side.

The programs provided in this bill will go a long way toward fulfilling the labor market needs of our unemployed youth. The jobs created will be useful and productive, and they will provide good training in basic work skills. But there are some improvements this Committee should consider to make this proposal into the comprehensive youth employment program our young people deserve.

First, as I mentioned at the start of my testimony, the funding level should be increased. In his message to Congress on youth unemployment, President Carter called for spending $1.5 billion on these programs through the end of next year, to create about 200,000 new youth jobs. Now, this is only a drop in the bucket when there are 3.4 million youth unemployed. I think this Committee would be very wise to increase the funding for youth programs, especially now that the President has withdrawn his proposal for a tax rebate and investment tax credit. Senator Javits' and my amendment—number 184—authorizes $1 billion for this year and $2.5 billion for next year. In light of the severity of youth unemployment today, this figure is far more appropriate than the earlier amount.

Second, there are two programs in our Comprehensive Youth Employment Act that are unfortunately missing from the President's Youth Employment and Training Act.

First, there is a Work-Experience for In-School Youth program that would expand our work-study and on-the-job training programs for youth who are enrolled in a secondary school program. More than 1 million of our unemployed youth are in school and looking for part-time work, many to raise the money to stay in school. The President's bill is targeted only at out-of-school youth and overlooks the desperate need of many youth who have made the decision to stay in school and finish their educations. An unfortunate side effect of the President's decision to target jobs on out-of-school youth is that it provides an incentive for youth to drop out of school in order to qualify for a

job created by this proposal. This would be a terrible mistake.

Now, I know that Senators Randolph and Stafford's proposal gives high school credit to youth who participate in their program. But we need to go much further and develop a measure that integrates work experience and career exploration with a young person's educational program. In our amendment, Senator Javits and I have taken the work experience program from our bill and adapted it to the framework of the President's bill. Under this, the CETA prime sponsors and the local educational agencies would jointly prepare an in-school program, and 15 percent of each prime sponsor's allocation would have to go to it.

Second, our bill includes an Occupational Information and Career Guidance proposal that would place trained job counselors in our nation's high schools and junior colleges. We would establish a national entry job level data bank that would be connected to computer terminals in high schools and neighborhood youth centers. And we would set up a program to train new job counselors and upgrade existing counseling services. Senator Javits and I have tried to carry some of this over to the President's bill in our amendment, by allocating $3 to $5 million to the National Occupation Information Coordinating Committee which Congress created last year under the Vocational Education Act. I hope you will add this provision to the final bill.

In addition, now that the withdrawal of the rebate and investment tax credit has freed up some resources, I hope you will also consider our proposal to place trained counselors right in the high schools and junior colleges so that they will be readily available to youth while they are searching for their first jobs and making career plans. This is not in the amendment Senator Javits and I proposed, but it should be very easy to include.

Mr. Chairman, I want to finish up by pointing out that a youth employment program will be one of the most popular and widely-supported actions that this Congress could take. On January 19, I put a Gallup Poll in the Congressional Record showing that 85 percent of those polled favored enactment of a youth employment program. According to the Gallup Poll, "few issues in polling history have received such overwhelming support by the American public." We have a mandate from the American people to move ahead swiftly on the bill before us, and I congratulate you for doing just that.

JUST LEAVE US ALONE—AND NO HANDOUTS, PLEASE

Mr. GOLDWATER. Mr. President, Government regulation is burdensome and downright destructive to American business as a whole. But the weight it places upon small business is so heavy that we may be witnessing the last stages of small independent enterprises.

Mr. President, the small businesses of this country are trying to send one overriding message to the Government—just leave us alone—and it is becoming louder and more urgent with every passing day.

A recent article outlining the problems of one segment of small business in this country appeared in the April issue of the publication, "Hardware Retailing," and I ask unanimous consent that this article, written by Bill Mashaw, be printed in the RECORD.

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

IT SEEMS TO ME—JUST LEAVE US ALONE—AND NO HAND-OUTS, PLEASE!

(By Bill Mashaw)

It's high time someone with so-called social consciousness recognized the truly forgotten people in our economic system. I'm talking about the hundreds of thousands of really small businesses—retailing, wholesaling, manufacturing and other service establishments—who make up the collective backbone of America's private enterprise system.

This is the segment of the business world which seldom creates any problems for government; but, being part of the total business community, is painted with the same brush of regulation and condemned for everything that big business does in its coldest, crudest and most callous moments. The small businesses of America aren't even distant cousins to the corporate giants like Lockheed, General Motors, Gulf Oil, and the like.

Putting matters into focus, when was the last time you heard of Main Street merchants like hardware and home center retailers asking anything of their government other than to be left alone? Hard to recall, isn't it?

So, the special treatment we want is essentially one of avoiding increased costs and aggravation imposed by governmental interference.

Not one time in the last 25 years has the National Retail Hardware Association in representing our industry asked our Congress for something special for our businesses. Many, many times, we've asked only to be left alone—merely not to be hit by new regulations, obviously and admittedly unnecessary insofar as small businesses are concerned.

Proudly, we've never asked for a hand-out. Yet, do you ever remember anyone in a state capital or in Washington thinking of the problems of small business people when tough economic times arise? Currently, the disastrous droughts in the West and the severe winter of 1977 in the East are examples.

The unemployed rush for unemployment benefits. The farming industry comes asking for disaster relief and increased price supports. Other elements of the populace seek to be included in disaster relief provisions. Meanwhile, the owners of family businesses tough it out. When the profits aren't there, when there is record cold and shortages of fuel, and he is meeting payrolls out of personal savings, he simply toughs it out. The bankruptcy courts are the small businessman's ultimate resource. No governmental subsidy or assistance—and he doesn't want any. He merely wants just to be left alone.

Yet, without compensation or consideration, other than fines imposed for noncompliance, the nation's small businesses are forced to collect, record and report federal and state income taxes for themselves and their employees. They collect, record, report, as well as pay, half the burden of Social Security taxes for millions of employees. They keep the records and comply with federal and state wage-hour regulations. They meet the costs and aggravation of OSHA, credit regulations, firearm and ammunition record-keeping and regulations, new warranty regulations and other impositions which have precious little relationship to business' forgotten segment of our citizenry and our economy.

Our message to government continues to be: "Please leave us alone. Don't strangle us. Let us take our chances in a free market system—please recognize us for what we are and not what we are not. Simply give us equal protection from unnecessary governmental interference. And no hand-outs, please!"

It's our hope that every person employed in governmental, legislative and executive positions will receive this massage from our business people everywhere.

THE FULL EMPLOYMENT AND BALANCED GROWTH ACT; SOLUTION FOR INNER CITY PROBLEMS

Mr. HUMPHREY. Mr. President, our inner city urban areas are entering their second decade as unofficial national disaster areas.

They have remained that way—with staggering rates of unemployment as high as 60 percent for teenagers, unsafe and unhealthy housing, and criminal activity on a massive scale—since the late 1960's at least. They have remained that way despite a list of assistance programs rivaling the Sears Roebuck catalog in volume, despite libraries of reports and recommendations, despite miles of television film minutely detailing riots and the destruction of entire neighborhoods by arson. The problems exist largely because of our ineffectual collective exercise in handwringing accompanied by a congressional chorus of concern.

COMPOUNDING THE PROBLEM

These problems are further compounded by national housing and transportation programs which encourage abandonment of the cities by both business and the middleclass for a plant and a tract house in the suburbs. Thus the tax base of the center city is diminished while the demand for services from those who are without resources continues unabated or actually increases.

To be sure, the efforts of dedicated organizations and concerned minority groups have kept hope alive by waging a determined struggle that has achieved some progress. But in an overall sense, our center cities are going to hold the depressing distinction, along with much of rural America, of remaining underdeveloped areas as long as the Nation fails to develop and implement comprehensive, long-range economic policies and programs.

In point of fact, the core areas of our large cities will remain this way as long as Congress and the administration fail to enact and implement the Full Employment and Balanced Growth Act of 1977 which Representative AUGUSTUS HAWKINS and I have introduced in the House and Senate with 79 cosponsors. It is the only legislation before Congress which provides an effective program to achieve a stable, prosperous economy for all sectors of the Nation's population.

ISOLATED PROGRAMS

Our present Federal approach to the challenge of redeveloping and revitalizing our inner cities consists of an array of programs that have little if any relationship to each other or, equally important, to the needs of the Nation's economy as a whole. We provide public housing where there are no jobs. We establish minuscule job training programs that allow only token numbers of the formerly unemployed to become productive members of society. We demolish block after city block in the name of urban renewal and create rolling waves of dispossessed immigrants who exchange one address for another but remain in despair and bitter frustration. We continue the existence of welfare programs while acknowledging that the result is continued idleness and crime.

And when the economy once again

bottoms out and begins to improve, we read the lowered rate of national unemployment and forget the level of joblessness, the level of degradation and anger of those in the inner city. Nothing much has changed for them. They continue to see themselves as people without a future, consigned to a wasteland where the only change is for the worse.

These conditions stand as a constant contradiction of our social standards and the American ideal of a continually improving life for ourselves and our children. Our society can never be made whole until the disadvantaged of our inner cities and elsewhere are equipped to utilize the opportunities for advancement that most of the rest of us take for granted.

THE FIRST ORDER OF BUSINESS

Mr. President, the first order of business for this Congress is to establish the framework and the procedures that will enable the Government of our Nation to end the needless boom-and-bust swings of our economy and place it on a steady, expanding course. We simply have got to begin to create and sustain an economic platform that will provide everyone willing, able, and seeking work the opportunity for meaningful employment at decent wages.

In answer to these needs, the Full Employment and Balanced Growth Act requires the administration and Congress to develop and initiate long and short range comprehensive fiscal and monetary policies and programs which will allow the Nation's commerce and industry to use their full capacity to meet the demand for goods and services. This is the bed rock upon which any sound effort to reach a full employment economy must be based. Through careful use of general tax and spending programs in tune with monetary policies affecting the availability and cost of credit we can give business the climate by which it can reduce unemployment from its present intolerable nationwide level of between 7 and 8 percent to about 4 percent within 4 years. The history of the past decade when unemployment was held at levels of close to 4 percent is convincing evidence that this goal for private sector achievement is possible.

TARGETING THE PROBLEM

Special programs, targeted at chronically depressed urban and rural areas, can be provided under authority of the bill. These include establishing an alternative source of funds, such as creation of a national development bank, to extend below market loans to small business and State and local governments, tax credit incentives for business investments, and countercyclical grants to State and local governments to provide employment opportunities and to maintain adequate levels of service.

Finally, when it is absolutely necessary to fulfill the legislation's promise of meaningful work opportunities for those seeking it, inventories of federally funded "last resort" jobs held to the lower levels of skill and pay, could be utilized on a temporary basis in depressed urban and rural areas. Such employment opportunities would be designed to avoid competition with private sector labor demands and could not be made available unless the President determined that the need to do so exists and reported his findings to Congress. The "last resort" jobs program could not be implemented until 2 years after enactment.

MISPLACED ALARM

Some critics of the Full Employment and Balanced Growth Act have expressed alarm over the cost of the federally funded aspects of programs that would be utilized under this legislation. I would remind them that unemployment compensation payments totaled $20 billion in 1975 alone and that many States exhausted their unemployment fund reserves and had to borrow from the Federal Government last year to sustain this program. I would remind them that every 1 percentage point increase in the unemployment rate costs the Federal Government $14 billion a year in lost tax revenue and costs State and local governments more than $6 billion, a situation that forced many States and local governments into wholesale layoffs of employees. I would also remind them that the bill requires that to the extent it is reasonably possible to do so, people would be taken off the welfare and unemployment compensation program lists and given job opportunities. In this way funds that would otherwise be expended to sustain them in idleness will instead be used for productive purposes benefiting the entire economy.

Mr. President, the Full Employment and Balanced Growth Act provides the only viable solution to the economic and social problems that riddle the inner city areas of the Nation. It does this because it requires the administration and Congress, with full input from State and local governments, to develop and implement policies and programs to guide the entire economy on an ongoing basis and reach and sustain the employment and anti-inflation goals of the bill. The problems of the cities are not viewed separately and in isolation from one another because they cannot be solved in this way. Rather it provides the comprehensive, workable approach to urban, and particularly inner city problems, within the context of meeting the Nation's overall economic requirements. This is the only way we are going to make lasting headway in revitalizing and redeveloping core city areas.

QUESTIONS ABOUT U.S. POLICY TOWARD CHINA

Mr. GOLDWATER. Mr. President, on several occasions I have discussed in the Senate and elsewhere the great prospect for extending the independence and freedoms of the Chinese people, as practiced in the Republic of China on Taiwan—that is presented by President Jimmy Carter's statements on human rights and morality in foreign policy. If our foreign policy is to be influenced by the recognition of human rights in other countries or if a fundamental aim of our foreign policy is the advancement of these human rights, then it is clear that our Government must remain staunch in its commitment to the independence and security of the Republic of China.

For there is no comparison between the two situations of the Communist regime on the mainland of China and the democratic form of government in the Republic of China. There is a broad extension of freedom and individual liberty within the Republic of China, including the rapid advancement of the economic welfare of the Chinese people living on Taiwan, while in the case of the Communist rulers of the mainland, there is a total denial of the entire spectrum of human rights, from the cruel suppression of religion to the widespread use of slave labor camps as a means of supposedly reforming political prisoners.

Thus, it is quite evident that the only way President Jimmy Carter could fulfill the great moral standards he has articulated for the Nation, in the context of U.S. policy toward China, is to maintain and strengthen the ties our Government and country has with the free Chinese people of the Republic.

Mr. President, this same hope has been aroused among the free Chinese. They have made the same analysis of President Carter's announced principles as I have described. However, some of them are becoming concerned at developments which appear inconsistent with adherence to the principle of morality, as regards our actions toward the Republic of China compared with our moves toward Communist China.

Some of these concerns have been clearly expressed by a distinguished Chinese jurist of international law, Dr. Tu Heng-Chih in a recent article he wrote for the magazine, The Asian Outlook, a public forum on the affairs of Asia. Dr. Tu is dean of the College of Arts at Tung Hai University in Taichung, Republic of China.

So that my colleagues may share from the insight of an internationally educated and prominent scholar of the Republic of China regarding U.S. policy toward China, I ask unanimous consent that the article be printed in the RECORD.

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

[From Asian Outlook, vol. 12, No. 3, March 1977]

IS THIS THE NEW U.S. POLICY TOWARD CHINA?

(By Tu Heng-Chih)

In his inaugural speech delivered on January 20 and other speeches on international affairs, the 39th President of the United States, Jimmy Carter, mentioned the supreme principles guilding U.S. foreign policy, but did not give substantial views on any specific issues or areas. A preliminary picture of the policy toward China to be taken by the new U.S. administration, however, may be gained from the talks given by the new U.S. Secretary of State, Cyrus Vance.

Recalling a little earlier, we may understand from the speeches given by President Carter during his election campaigns that the China policy of the Democrats, in principle, would follow the line of the Republicans. Viewing from the fact that President Carter, before and after his inauguration, has continued to emphasize the principle of morality and the importance of public opin-

ion, we have long expected that he would give some new interpretations to the "normalization" of relations with the Chinese Communists, or even some revisions. But unfortunately, following his meeting with Huang Chen, head of Peiping's liaison office in Washington, on January 8, which was arranged by the outgoing Secretary of State Henry Kissinger, President Carter told the press he would take the "Shanghai Communique" as the basis to continue the effort of "normalization." Taking the opportunity of inaugurating a new President, the U.S. government should have reasons to discard the "Communique;" but now it was unconditionally accepted, really making us very disappointed.

TO START DISCUSSION FROM A TESTIMONY

Following this, Secretary Vance gave a clear indication on the U.S. policy toward China in a testimony made in the Senate on January 10 when he was answering an interpellation on his appointment. First, he declared that he believed the U.S. policy toward Peiping would follow the mutually-agreed guiding principles contained in the "Shanghai Communique" and that the U.S. objective was the pursuit of "normalization." On the so-called "Taiwan question," he said the United States, in the "pace" and "mode" of seeking "normalization" of relations with Peiping, would consider the security of people in Taiwan. In the determination of the "pace" and "mode," he added, more thinking and study would be required and this was referred to national security organs for careful handling. When Senator Percy asked what did he think if the present political upheaval on the Chinese mainland would delay the "normalization" with the United States, Vance answered that there were no signs of such a delay at present and that the Chinese Communists stated they would adhere to the principles agreed upon in the "Shanghai Communique" which were announced before the death of Mao Tse-tung.

In the testimony given by Vance, the part worrying us the most, in addition to that on "Shanghai Communique," was the statement that on "Taiwan question," what he cared was only the "security" of people in Taiwan. This departed quite a lot from the principle mentioned by the Democratic platform six months ago and raised by Carter in his television debate three months before. In the Democratic platform, it was stated that the U.S. relations with the Chinese Communists should continue to develop for the early "normalization" on the basis of a peaceful settlement, including a peaceful resolution of the future of Taiwan. This clearly told us that before a peaceful resolution is obtained, the status quo of Taiwan should be maintained. In other words, as long as the status quo of Taiwan was kept, legal U.S. relations with the Republic of China, including diplomatic and treaty relations, should remain unchanged.

In the television debate three months ago, Carter said: "I would never let that friendship with the People's Republic of China stand in the way of the preservation of the independence and freedom of the people of Taiwan." The "independence" and "freedom" referred also were an admission of a political status. Separately speaking, independence referred to the independence of the Republic of China, and freedom referred to the full freedom enjoyed by the people in Republic of China under a democratic political system. The references indicated that the political status should not be changed because of the "normalization" of relations with Peiping.

But of the "security," as mentioned by Secretary Vance, the significance apparently was much narrower in sense. It seemed that he was to say that after "normalizing" relations with Peiping, the United States would continue to safeguard the security of Taiwan, disallowing it to be endangered by the use of force on the part of Chinese Communists under any excuse. This was tantamount to reiterating the statement made by President Harry Truman in 1950 when he ordered the Seventh Fleet to keep the neutralization of Taiwan Straits. As long as this was purely a military arrangement, it would not cover the political system and external relations of the Republic of China as mentioned above. In other words, the respect of the Republic of China's legal international position and the safeguard of the diplomatic and treaty relationship with the Republic of China were not the factors necessarily to be considered in the process of "normalization" with Peiping.

As to the question of "peace," the answer given by Secretary Vance to Senator Percy also puzzled us. Vance did not deny that on the Chinese mainland today there was a political upheaval. He, however, said that this would not delay the process of "normalization" because the principle held by the Chinese Communists remained unchanged. Actually, the emphasis of Senator Percy's question was on the side of the United States, or that viewing the political upheaval on Chinese mainland, would the U.S. delay the effort for "normalization"? To this question, it seemed that Vance deliberately evaded to give an answer. Under a normal situation for the recognition of a new regime, the basic yardstick usually is the actual controlling power of that regime.

The situation of Chinese mainland today was so chaotic that it should fully testify that the Peiping regime does not have an effective control power. Facing such a fact, the U.S. government should not only delay the effort of "normalization" but also base on it to make a new and overall review of its policy toward the Chinese Communists.

MY SUGGESTIONS TO U.S. GOVERNMENT

From the above analysis, we know there are many troublesome questions in the China policy of the new U.S. government. But facing this new government, we are not pessimistic because from President Carter down, responsible officials of all levels have a determination to get rid of the old and to seek the new. This is true in internal affairs, also in diplomacy. For this reason, I think this is the time that people in our country shall make an active effort. Here I wish to make three suggestions to the new U.S. government:

First, since directly affected by the U.S. "normalization" with Peping is the relationship between Washington and Taipei, I sug- U.S. relations with the Republic of China, legal, including diplomatic and treaty relations, should remain unchanged.
apparently did not have enough sense of such an international responsibility. As President Carter has guaranteed that on the withdrawal of U.S. forces from Korea, the United States will first consult South Korea and the related nation of Japan, I hope he can take the same attitude in the policy toward China.

It is noted that in the "Shanghai Communique" there is a phrase "all Chinese on either side of the Taiwan Straits." By this phrase, it is understood that the U.S. government at least has recognized that the Republic of China, located east of the Taiwan Straits, has some voice on any issue about China. Therefore, the Republic of China not only should be consulted but also reserves the right of giving final approval or refusal. Also, as Secretary Vance said that "mode" is related to the security of Taiwan, the government of the Republic of China on Taiwan of course should have the largest voice; otherwise, if the "security of people in Taiwan" were decided by the Chinese Communists, that would be very ridiculous.

Second, talking about the pure military "security," we all know that the true protection will come from the strengthening of defense by Taiwan itself. The strengthening will involve a lot of factors, such as how to develop the national defense industry to keep the modernization of armament; how to raise the educational level of citizens for the strengthening of combating capability; and how to improve transportation and communication networks to meet the military requirement. In short, the security of a nation depends on its overall national strength. Furthermore, of the eagerness of the Chinese Communists to establish normal diplomatic relationship with the United States, one apparent reason is the hope to acquire U.S. strategic materials or even weapons. While this acquirement may be interpreted as for the boycott against Soviet Russia, it actually threatens the security of Taiwan as well. Therefore, if the security of Taiwan is to be safe-guarded, consideration should be given to this possible development. If the United States does not offer assistance or provide facilities in this respect, but consider the security of Taiwan only in the pace and mode of "normalization" with Peiping, this will be very naive.

Third, any effective restraint over the Chinese Communists must come from force. If the direct use of force is not to be taken immediately, at least there must be a treaty stipulating that force may be used if necessary. After U.S. announcement to keep the neutralization of Taiwan Straits in 1950, the government authorities of the Republic of China and the United States, for fear that the announcement by President Truman was not strong enough to deter the aggression of the Chinese communists, signed the Sino-American mutual defense treaty in 1954. If the United States wants to jointly shoulder up the responsibility of safeguarding the security of Taiwan with the Republic of China, I don't think there is any better way, except the faithful fulfillment of the mutual defense treaty, because this treaty can never be replaced by a promise obtained from the Chinese Communists, for it is always unreliable. There has been an argument in the United States that since the Chinese Communists in fact have no ability to invade Taiwan, there will be no problem if the mutual defense treaty is discarded. To this argument, I would like to ask: Since the United States in fact may not be necessary to take military action based on the treaty, why should this treaty not be maintained to show the U.S. determination to safeguard world peace?

Finally, I would like to quote a paragraph from President Carter's inaugural speech as the conclusion of this article. He said: "To be true to ourselves, we must be true to others. We will not behave in foreign places so as to violate our rules and standards here at home, for we know that the trust which our nation earns is essential to its strength." This is just the same as what our philosophers have said: "Do not do to others what you don't want to be done to you." I sincerely hope that in deciding and implementing the policy toward China, the new U.S. government can also consider the interest and future of Chinese people.

MR. FESTIVAL IS CITY'S IDEA MAN—A CETA SUCCESS STORY

Mr. HUMPHREY. Mr. President, I want to call the attention of my colleagues to a CETA success story. Two years ago, the South St. Paul public school system was forced to cut back on its teaching staff for budget reasons. One of the teachers laid off was Mr. Darrol Bussler. Fortunately for the city of South

St. Paul, there were CETA funds available for the city to hire him in the community schools program, where he eventually became director. In his capacity, Mr. Bussler has sparked a new fire of civic participation and pride in South St. Paul through the creation of community-oriented festivals.

When we passed CETA—the Comprehensive Employment and Training Act of 1973—and added title VI to provide public service jobs, we knew we would create new jobs and put unemployed people back to work. But little did we realize how important this program could be in adding to the quality of life in cities and towns around this country.

This CETA success story was spelled out in a Tuesday, April 12, story in the Dispatch, and I ask unanimous consent that it be printed in the RECORD along with a letter to me from Mr. David Metzen, assistant superintendent of the South St. Paul public schools:

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

APRIL 13, 1977.

The Honorable HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: This letter is to share with you a very positive experience the South St. Paul Schools had wih a C.E.T.A. project.

Attached you will find an article about our Community Schools Director, Mr. Darrol Bussler. Two years ago he was laid off from our school staff as a teacher, and through the C.E.T.A. program we were able to hire him as a member of community schools, and eventually he became the director.

I think this example speaks very well for the concept of C.E.T.A. and how well it can work.

Thank you for this fine legislation. The South St. Paul Schools are very grateful.

Sincerely,

DAVID R. METZEN,
Assistant Superintendent.

MR. FESTIVAL IS CITY'S IDEA MAN

(By Nancy Livingston)

You could call him "Mr. Celebration," "Mr. Festival" or "Mr. Enthusiasm."

His real name is Darrol Bussler, and he's the idea man behind many new community activities that are perking up South St. Paul's community spirit.

Not since the "Hook Em Cow Days" festivals in the 1950's has South St. Paul enjoyed such a revival of community-oriented festivals. In the past two years, Bussler has created and produced Christmas in South St. Paul Community Theater, Chapel Monday and Good Friday's Ecumenical Services.

Bussler also helped South St. Paul Bicentennial Commission Chairman Margaret Fairhurst produce an innovative light and sound show on the bluffs of the Mississippi River last fall.

There's no denying it. The man has a flair for creativity and a fertile brain where ideas just keep hatching one after another.

With these gifts, Bussler, 37, is uniquely suited for his job as community services director for the South St. Paul Public Schools. Said Bussler last week, "South St. Paul is so unlike what I would expect in a suburb.

"There's a homeness here, a sense of belonging that I grew up with and that I always thought was so important."

Bussler was born and raised on a farm in tiny Brownton, Minn., 70 miles west of the Twin Cities near Hutchinson. He attended a one-room school for six years that boasted a total student population of 12. "It was like an open classroom," he said. "We learned to live with and respect people of various age levels."

His teacher at the Brownton elementary school was strongly involved with her students, and Bussler said she used to plan and put on Christmas programs and purchase gifts for each student using her own money.

"There was a total family involvement in that school," he said. "We had spring picnics, Halloween gatherings. That's where I learned the importance of a sense of community."

Bussler said he looks at family and community the same way. "Community is just a bigger family," he said. "I believe in family meetings—calling a halt to work and just enjoying each other, talking to each other."

Bussler majored in speech, theater and English education at Gustavus Adolphus College and after graduation, obtained his first teaching job in 1964 at Simley High School in Inver Grove Heights.

"I was a lousy teacher at that time," he said. "I wasn't asking myself the really important questions dealing with education, like what really should be happening between teacher and student? Is subject matter the most important thing? What else can a teacher do for a student?"

Unsatisfied, Bussler quit and went to graduate school at the University of Colorado. There, he said, "I learned to think because I had to. I couldn't rely on all the securities."

A year later he was back in Minnesota teaching in Glencoe. A fellow teacher there, he said, "taught me what teaching was all about. He told me to get off my pedestal and stop being God. He told me to be a real person to kids."

After a three-year stint in Glencoe, he returned to Colorado to finish his master's degree and then came back to Minnesota to lead a completely different life. He was a free-lance teacher for the University of Minnesota extension division, sang with the Edgewater Eight nightclub group and also sang with the Sheiks Sextet at the old Sheiks Cafe in Minneapolis.

Nightclub work was enjoyable, he said, but it eventually wore thin. He remembers going to work one dreary, rainy night and seeing a drunk lying in a gutter in an alley. Fifteen minutes later he was watching the be-furred and be-jeweled women patrons of the nightclub beyond the footlights.

The contrast between the two scenes, he said, made him realize that he "could probably be a better citizen by not being on stage."

Shortly thereafter he quit and went to work as the director of theater for South St. Paul schools. He started a dance class, a course in children's literature and was given the opportunity to do a lot of interdisciplinary work. He even taught a human relations course in the home economics department.

When the South St. Paul School Board was forced to cut back staff, Bussler said he missed the first cut, but was part of the "second reduction" in 1975. That's when he started working with the community services department.

"Right now," said Bussler, "there's no place in the world that I would rather be. I am allowed the challenge of being creative. I have the freedom to dream."

Christmas in South St. Paul was his first major project in his job with community services. "I wanted to do something that was not a typical Christmas program. I wanted to make it far more creative than a series of memorized pieces by children."

He decided to use the talents of people of all ages, and use many art forms. He first approached the city's ministerial association be cause, he said, "church is important to South St. Paul. It is a very vital institution."

After receiving the support of the ministers, he also got the local retail association and the civic arts commission behind the project. The resulting program presented on Dec. 17, 1975, had the support of the entire community and it involved dance, music, visual arts and theater. It was, by all accounts, a resounding success.

"That was the beginning of the feeling that things could be done in South St. Paul," said Bussler. "I heard a lot of people say that they never knew there was so much talent here."

Kaposia Days, a summer celebration, was thought up by Bussler and Bob Verkennes, president of the South St. Paul Jaycees. Again, Bussler said, it was a matter of bringing together all the city's organizations and "doing a lot of legwork."

The first Kaposia Days was held last July 2, 3 and 4 and it will be repeated this summer. A barbecue will be added to this year's list of Kaposia Days activities.

"I see my role," said Bussler, "as saying South St. Paul Schools are interested in the community. I think you need someone to do that, and I think I can do it."

QUEEN ISABELLA DAY

Mr. WILLIAMS. Mr. President, April 22, 1977, marked the 526th anniversary of the birth of Queen Isabella I of Spain, a day commemorated in 40 States across the United States, including my own State of New Jersey. It was largely because of the foresight and perception of Queen Isabella that Christopher Columbus was able to undertake his remarkable voyage to the New World. This commemoration also serves to remind us of the important role that women have played, and will continue to play, in the evolution of our Nation's history.

Mr. President, on April 22, 1977, the Governor of New Jersey issued a proclamation declaring Queen Isabella Day in New Jersey. I ask unanimous consent that this proclamation be printed in the RECORD.

There being no objection, the proclamation is ordered to be printed in the RECORD, as follows:

STATE OF NEW JERSEY—PROCLAMATION

Whereas, the enthusiasm and support of a single ruler led to the discovery of America and the resounding effect this discovery had upon the history of the world; and

Whereas, this great ruler, Queen Isabella of Castile, wife of Ferdinand of Aragon, was the sole backer of Christopher Columbus, whose proposed expedition to the New World was contrary to the 15th century concept of the world; and

Whereas, the shrewd intuition of Queen Isabella, as well as the financial support and risk taken by Her Majesty on behalf of Spain, was responsible for uncovering the unknown riches of the Western Hemisphere; and

Whereas, the history of America has direct linkage to the birth of Queen Isabella on April 22, 1451;

Now, therefore, I, Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim April 22, 1977, as "Queen Isabella Day," in New Jersey, in honor of the great Spanish Queen whose daring vision prompted laying the foundation for contemporary American societies.

WILL FULL EMPLOYMENT CAUSE INFLATION?

Mr. HUMPHREY. Mr. President, there has been no more enduring economic myth in recent times than that full employment will exacerbate inflation.

Well, I do not believe it. The evidence does not show it, commonsense denies it, and compassion demands that we discover how to employ our citizens without raising their cost of living.

The Full Employment and Balanced Growth Act of 1977 (S. 50), despite all misapprehensions to the contrary, is designed to promote both full employment and reasonable price stability. In a brilliant and perceptive discussion of this issue, Dr. Charles C. Killingsworth, professor of economics, labor and industrial relations at Michigan State University, totally debunks application of the fallacious Phillips curve to S. 50. His analysis is contained in an article entitled, "Will Full Employment Cause Inflation?" in the January/February, 1977 issue of Social Policy.

Dr. Killingsworth covers broad ground articulately, succinctly, and convincingly. He points out that the Humphrey/Hawkins bill calls for microstructural approaches to improving the labor market. What this means is the use of human power to train and inform workers to make them more suited to available, profitable jobs in the private sector. It is an effort we have never seriously pursued before, and as Dr. Killingsworth observes, our piecemeal projects provide little basis to generalize about the usefulness of a comprehensive human power program. In fact, the best evidence we do have, from at home and abroad, is that human power programs more than pay off through the reduction of structural unemployment.

The point is, Dr. Killingsworth explains, that full employment attained through fitting people to needed jobs is simply not inflationary, unlike temporarily high employment reached exclusively through stimulating the economy. With this I wholeheartedly agree. And what is more, the Humphrey/Hawkins bill explicitly endorses this notion.

Dr. Killingsworth explores another area which interests me greatly, and should concern all Members of Congress. It is a question Ray Marshall discussed at length during his confirmation hearings as Secretary of Labor. And that is, which is more effective in job creation: a tax cut, or targeted public service employment? It is especially appropriate to seek an understanding of this as both options are before Congress currently. Dr. Killingsworth cites favorably the Congressional Budget Office determination that public service employment creates five to eight times as many jobs per dollar spent as tax cuts. Now that the need for quick stimulus appears less urgent, the more deliberate policy of direct job creation should receive more consideration.

Mr. President, Dr. Killingsworth addresses at some length another fallacious argument against the full employment bill. Some have contended that the last resort job reservoir included in the legislation, which hopefully will not have to be implemented, risks seducing workers away from current employment in State and local government or entails the application by other governments of Federal funds in place of expenditures they would have made anyway. But Dr. Killingsworth points out how weak the evidence is on this matter. In addition, there are proven policies to restrict new jobs to those who are genuinely unable to find work. And finally, suppose there is some such effect. What it implies is that State and local taxpayers will get tax breaks, and the money will reenter local economies already geographically targeted for their high unemployment rates. This is a healthy consequence.

Dr. Killingsworth concludes on a note to which I subscribe with relish. "Improvement," he says, "is not possible if the program is never even started. The Humphrey/Hawkins bill sets an ambitious—some would say a daring—goal. But large achievements seldom come from small ambitions." To that, I say "Amen."

Mr. President, for the benefit of my colleagues who will be shortly considering the Full Employment and Balanced Growth Act, I ask unanimous consent that Dr. Killingsworth's article be printed in its entirely in the RECORD.

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

WILL FULL EMPLOYMENT CAUSE INFLATION?

(By Charles C. Killingsworth) *

The persistence of extremely high levels of unemployment after months of recovery from the recent recession has stimulated new interest in proposals for a stronger and more effective effort by the federal government to achieve full employment. The Humphrey-Hawkins Full Employment Bill, at first widely regarded as little more than a political gesture, a year ago was considered quite likely to pass both houses of Congress, in revised form, by the close of the 94th Congress. Now its prospects are clouded, and the reason is a series of strongly worded attacks on the alleged inflationary potential of this proposal—or indeed any proposal for reducing the reported unemployment rate as low as 3 or 4 percent. These attacks have come from respected economists, some of whom wear the liberal label and some of whom are called conservative. Congress is necessarily and properly concerned with inflation as well as unemployment. The repeated assertions that full employment (at least as defined in Humphrey-Hawkins) would certainly cause ruinous inflation—perhaps as high as a 15 percent annual rate—have greatly reduced the momentum and support that the effort to guarantee full employment once seemed to have.

The thesis of this article is that the predictions of disastrous inflation as a result of 3 or 4 percent unemployment lack support either in past experience or analysis. Such predictions rest, either implicitly or explicitly, on a controversial doctrine generally known as the "Phillips curve," which holds that low unemployment rates cause high inflation rates, and vice versa. To the extent that the Phillips curve doctrine rests upon analysis of past experience, that past experience is fundamentally different from the approach to full employment that is proposed in the Humphrey-Hawkins bill. In the past, generally speaking, low unemployment rates have (arguably) resulted from the generalized pressure of aggregate demand. Usually, at least a part of the pressure of aggregate demand has been produced by fiscal and monetary policy. It is the reaction to that approach to full employment—general stimulation of aggregate demand—which the Phillips curve formulation purports to measure.

But our past experience does not include any period of low unemployment rates induced primarily, or even substantially, by the kinds of focused demand and supply improvement programs that are envisaged by the Humphrey-Hawkins bill. There are persuasive reasons for believing that these specific kinds of programs would be much less inflationary than the generalized stimulation of aggregate demand which has been our primary, and nearly exclusive, weapon against excessive unemployment in recent decades.

Most or perhaps all of the economists who have made the alarming predictions of disastrous inflation as a result of full employment have assumed, either explicitly or implicitly, that full employment would be achieved primarily by generalized stimulation of aggregate demand. If we grant the validity of that assumption, then possibly the warning is justified. I say "possibly" because the Phillips curve analysis is not universally accepted, even by mainstream economists. But a judgment about the effect of the Humphrey-Hawkins bill on inflation need not await a resolution of the Phillips curve controversy, which may be a long time in coming. Those who apply the Phillips curve analsyis to the Humphrey-Hawkins bill have misread that bill and have misunderstood the nature of the labor market problems to which it is addressed.

There is a role for fiscal policy in the Humphrey-Hawkins scheme. Even those economists who are most alarmed about inflation grant that our unemployment rate of nearly 8 percent could be reduced significantly without adding to inflationary pressures. Most of the inflation warnings place the danger zone in the range of 5 to 6 percent unemployment. Hence, many economists see some room for further stimulation of aggregate demand, and the Humphrey-Hawkins bill explicitly states that fiscal policy measures must be an important part of full employment policy. Since 1960, however, fiscal policy has come to be almost synonymous with tax cutting. I believe that this orientation of fiscal policy has led to unfortunate consequences and that the time has come to redirect fiscal policy. The Humphrey-Hawkins bill provides the vehicle for such a redirection, although the details are not spelled out in the bill.

PUBLIC SERVICE JOBS VERSUS TAX CUTTING

Humphrey-Hawkins explicitly provides for a major role for public service employment (PSE) in full employment policy. The bill also provides for increased emphasis on other labor market measures, such as training, relocation, placement, and so on. It should be obvious that an expenditure of $10 billion (for example) on such programs with no offsetting tax or other budget changes should provide at least as much of an addition to aggregate demand as a tax cut of $10 billion. But the impact of these two approaches to demand stimulation would be quite different. An understanding of the differences is a key to the current analysis of the potential impact of Humphrey-Hawkins on inflation.

In the first place, expenditures on PSE are

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*Charles C. Killingsworth is university professor of economics and labor and industrial relations, Michigan State University, and chairman of the National Council on Employment Policy. This article was first presented at hearings before the U.S. House Committee on the Budget, Task Force on Economic Projections, July 27, 1976.

much more cost-effective than tax cuts of equal magnitude in reducing unemployment. The Congressional Budget Office has prepared impact estimates of these two approaches to unemployment reduction.[1] The findings of this study imply that the net cost per job created by tax cuts after 24 months is in the range of $17,000 to $21,000. The findings also imply a net cost per PSE job after 24 months in the range of $2,600 to $3,500. In other words, dollars spent on a PSE program produce five to eight times as many jobs as an equal number of dollars, dedicated to tax cutting. This is a fact of fundamental importance to the correct evaluation of the Humphrey-Hawkins proposals. Even if one allows for a substantial margin of error in the Congressional Budget Office estimates, the superior cost-effectiveness of the PSE program compared with tax cutting is large and obvious. The lower cost per job means that many more jobs can be created with much less inflationary pressure by means of the PSE program than by tax cutting.

In the second place, the purchasing power effects of a tax cut are generally diffused throughout the economy, and its effect in terms of job creation is indirect and somewhat attenuated. When consumers and businesses find that they have to pay less money in taxes, they will spend more on goods and services. Some of this increased demand will be met by increasing hours of work for those already employed, some may be met by increasing productivity. Only part of the increased demand will be met by the creation of new jobs. And the new jobs that are created will not necessarily fit the skills and geographical distribution of the unemployed labor force.

In sharp contrast, the job-creation effect of the PSE program is direct and focused. (The "substitution" argument will be dealt with shortly.) Virtually all of the dollars in the PSE program are earmarked for payrolls. Eligibility requirements can be shaped in such a way as to insure that the hiring is concentrated among labor force groups and geographical areas where the unemployment rates are highest.

The PSE program is sometimes criticized on the ground that it enlarges government payrolls rather than private employment, but the charge is something less than half-true. It ignores the "multiplier effect" of adding people to payrolls, whether public or private. Those added to payrolls spend their earnings, and most of the spending is for goods and services produced in the private sector. To the extent that goods and services are produced in the geographical areas where they are purchased, this spending of PSE earnings helps further to relieve localized unemployment problems. Hence, the PSE program can be sharply focused on particular groups and areas, and to some extent, the secondary spending resulting from PSE hiring will also be focused where unused capacity is likely to be greatest. In time, of course, the effects of PSE spending will be generally diffused through the economy, and a point generally overlooked is that most of the jobs *indirectly* created by the PSE program will be in the private sector.

ANSWERING THE "SUBSTITUTION" ARGUMENT

The PSE program has recently been subjected to strong criticism on the ground that its effectiveness is greatly diminished by the so-called substitution effect. The charge is that money allocated to state and local governments for new hires under the PSE program will actually be used to avoid layoffs of present employees or to staff programs that would otherwise have been undertaken with state and local funding. Members of the Council of Economic Advisers (CEA) have repeatedly argued that "after three years only one or two new jobs remain out of 10 supposedly created originally."[2] This assertion is said to be supported by several studies of the job-creating effects of the present PSE program. However, the fact is that none of the studies relied upon is based on direct observation of the PSE program. All of them are largely theoretical analyses of state and local expenditure patterns under other kinds of federal grant programs, and the authors assume that the behavior of state and local governments will be the same under the PSE program.

As evidence, the studies on which the CEA and others rely are remarkably weak. One of the most careful and thorough of these studies ends with these words: "Clearly, far more analysis will be required before our numerical estimates can be taken as anything more than preliminary guides in the analysis of the practical problems we have examined."[3] Three of the authors of such studies have publicly conceded their weakness as evidence, saying, "A set of estimates ranging from 40 to 90 percent is hardly a 'smoking gun.'"[4] Despite these obvious weaknesses, these studies are frequently cited as indisputable fact—which is surely a disservice to rational discussion of an important issue in public policy. Furthermore, these critics usually ignore a significant corollary of the substitution hypothesis: if there is substitution, as alleged, the money does not simply vanish; it permits state and local tax reduction, or purchases by state and local units which otherwise would not have been made, and the final effect on aggregate demand is at least as great as from a federal tax cut, an increase in federal spending, or a revenue-sharing program.

A more general answer to the substitution argument is that it is based on the present administrative arrangements of the PSE program, under which the federal government grants funds to state and local units of government with only rather general restrictions on the ways in which the funds may be spent. If substitution can be shown to be a significant problem, several remedies are readily available: the federal government could take over the administration of some or all of the program; provision could be made for emphasis on specific projects which would not be carried out without a PSE program, instead of permitting the hiring of workers for the performance of ongoing functions of state and local governments; and greater emphasis could be placed on grants to nonprofit nongovernmental institutions. All of these would be possible under Humphrey-Hawkins.

The foregoing discussion is not intended to suggest that a PSE program is a panacea for unemployment, or that no problems of significance will ever arise in the administration of this kind of program. Rather, the argument is that increased reliance on PSE would be much less inflationary and more cost-effective than the tax-cutting version of fiscal policy. As I read the Humphrey-Hawkins bill, it contemplates the continued use of conventional fiscal policy tools (including tax cuts) under appropriate circumstances, but it would broaden and shift the emphasis in employment policy to include more reliance on direct job creation, humanpower training, and similar kinds of direct intervention in the labor market to achieve full employment.

Neither is the foregoing discussion intended to suggest that the inflation problem will disappear if the Humphrey-Hawkins bill is enacted. My personal view is that recent inflationary pressures have not originated in the labor market, although some labor market institutions may have contributed, directly or indirectly, to the maintenance of the inflationary spiral. To the extent that inflation has resulted from energy and raw materials shortages, crop failures, and other developments unrelated to the state of the labor market, it will still be with us even if we are able to devise and install a noninflationary full employment policy. I resist the dogma that unemployment and inflation are functionally related entities. Nevertheless, I am willing to concede some merit to the arguments of those who believe that the anti-inflation provisions of the Humphrey-Hawkins bill should be expanded and strengthened. It is my understanding that amendments for that purpose are presently under active consideration.

HUMANPOWER TRAINING—A FULL EMPLOYMENT TOOL

Humanpower training and related labor market programs deserve more extended attention than they can be given in a relatively brief space. Certain observations are essential. It has become fashionable to assert that humanpower training has failed. In two senses this assertion is correct. Humanpower training has never been a large enough program to have any significant effect on the general level of unemployment. Obviously, this is not an inherent shortcoming of this approach to labor market problems. Second, some particular programs have shown disappointing results, especially those directe at the most disadvantaged labor force groups or geographical areas. Neither of these facts justifies the generalization that humanpower training and similar programs cannot contribute to a full employment policy.

In fact, the great majority of the careful studies of humanpower training conclude that the monetary returns (to enrollees and to government) from such programs exceed their costs, sometimes by very wide margins. The number of studies with this kind of conclusion is now an impressive total. Nevertheless, some methodological purists have attacked the validity of these studies. Some of the studies are crude, but many of them, particularly those of more recent vintage, compare not unfavorably with other evaluation studies in the social sciences. Some of the purists seem to ignore the basic fact that investigations in the social sciences can only rarely, if ever, be carried out under conditions as carefully and precisely controlled as in, say, a chemistry laboratory. Some of the critics have concluded that methodological weaknesses in the humanpower training cost-benefit studies compel the conclusion that the truth is exactly the opposite of what the studies report; the critics say that since the studies fail to demonstrate conclusively that benefits exceed costs, we must all conclude that the costs exceed the benefits and, therefore, that the programs have failed. Merely stating that argument, I think, sufficiently exposes its fallacy.

I am fond of quoting the observation of Justice Oliver Wendell Holmes that "certainty is generally illusion." In our daily lives all of us constantly base decisions on reasonable probabilities rather than absolute certainty, and I believe that we must do the same in many areas of public policy, including humanpower training. My conclusion is that the great preponderance of reasonably reliable evidence shows that most humanpower programs improve the earnings and employment potential of their enrollees. I conclude further that we have consistently underutilized this tool in the past, and that the Humphrey-Hawkins design would require greater emphasis on this particular tool as one of the many needed to achieve full employment.

LABOR FORCE COMPOSITION AND FULL EMPLOYMENT

Some of those who question or deny our ability to achieve full employment cite changes in the composition of the labor force in support of their view. George L. Perry of

Footnotes at end of article.

the Brookings Institution was perhaps the first to advance this line of argument,[5] which runs as follows. The relative numbers of young people and women in the labor force have increased greatly in recent years. Because these groups, for various reasons, have persistently high rates of unemployment, their presence in greater numbers makes lower rates of unemployment more difficult to achieve than in earlier years. Perry provided a mathematical demonstration which may be described in simplified terms by saying that he applied the unemployment rates for specific age-sex groups in an earlier year to the same groups for the current year to illustrate the effect of changed age-sex composition. He found a relatively small but significant effect. His technique was followed (with enthusiasm, one surmises) by the Council of Economic Advisers two years after the publication of his original article. By using different years, the CEA was able to show that changing age-sex composition of the labor force has added approximately 0.5 percent to the unemployment rate in recent years. This has become one of the more durable fallacies in labor market discussions.

It is a fallacy because age and sex are only two of the relevant dimensions of the labor force. There are others of at least equal significance, and when they are considered, it is clear that the effect described by Perry is more than offset. Thus, if education and race are added to Perry's formulas, the result is a substantial reduction in the unemployment rate in more recent years resulting from changes in the composition of the labor force.[6] In addition, there were several changes in the Bureau of Labor Statistics—Bureau of the Census definitions of employment and unemployment in 1967 which had the net effect of reducing the reported unemployment rate by about 0.2 percent. Adding together all of these factors, we can conclude that definition changes and changes in the age-sex-race-education composition of the labor force have reduced the unemployment rate in recent years by about 0.7 percent. From this standpoint, and using Perry's reasoning, full employment is now somewhat more easily achieved than it would have been 20 years ago.

WAGES, INFLATION, AND THE WORKING POOR

There is another major aspect to the argument that Humphrey-Hawkins is inflationary which I have not yet addressed. This is the contention that the so-called prevailing wage provisions in the bill would themselves be highly inflationary, entirely apart from the overall effect of the legislation on the unemployment rate. Let me oversimplify a little by saying that the argument is that the wage provisions governing the PSE program would compel the payment of wage rates much higher than those now being paid on large numbers of jobs in the private sector, and that these higher wage rates would create a powerful "suction effect" that would draw into the PSE program a large number of low-paid workers, or would compel the upward adjustment of many wage rates in the private sector.

This line of argument deserves close attention because it poses a question of social policy that is of fundamental importance. It also poses some factual questions, and perhaps it is best to deal with those first. The Humphrey-Hawkins wage rate standard which is likely to be most generally applicable for public bodies provides for "the prevailing rates of pay for persons employed in similar public occupations by the same employer." Hence, the requirement is for equal pay for equal work *within the employing unit*. Charles L Schultze, among others, has asserted that this wage standard "is bound to be highly inflationary."[7] He states that the wage for a lowskill or semiskilled municipal job is "often" far higher than the rate for the same job in private industry. He then predicts a mass exodus of workers from the low-pay jobs in private industry to the "last resort" jobs in the public sector, or a rapid rise in the wage scales for the low-level private industry jobs. Schultze cites median hourly wages for a few occupations in a handful of cities as factual support for his generalizations. I do not think the data presented are conclusive. No doubt what he says is true of *some* occupations in *some* cities, but we need a much broader information base than he provides to make a confident judgment. I do not pretend to know, in advance, what further investigation will reveal. I would be surprised, however, if it turned out that most municipal governments (regardless of size and regardless of geographical area) pay higher wage rates than private industry for comparable jobs.

Let us assume, for the sake of argument, that PSE hourly wage rates would be higher than for some significant percentage of jobs in private industry. The policy question which we must answer is: How much do we want to do for the working poor by means of the full employment program? My respected colleague, Sal Levitan, has criticized the Humphrey-Hawkins bill for doing too little for the working poor; Schultz seems to criticize it for doing too much for them. I think the intention of the bill is not clear, and that we should make a conscious choice. It would not be difficult to find ways and means to exclude most of the working poor from the Humphrey-Hawkins programs, as I will show shortly. However, we could consciously choose to put at least some degree of pressure on the private sector to improve the worst jobs, both in terms of working conditions and wage rates. I doubt that the inflationary impact would be nearly as severe as Schultze fears. Even with a higher hourly rate available, some workers would choose to remain in the lower-paid jobs; one labor market phenomenon that has been documented by many studies is the long-run persistence of large pay differentials in the same labor market for comparable work. Some low-paid jobs in the personal service category would probably remain unfilled—for example, rest room attendants, domestic servants, shoeshiners—and people would simply do more for themselves. Some low-paid workers would be replaced by machines, as has been the case with many kinds of agricultural harvest labor. Perhaps more generally, employers would learn to utilize the formerly low-paid workers more efficiently; one of the lessons of many studies is that when labor is cheap it is often used wastefully, and vice versa. If we choose to follow this kind of social policy, of course the impact would depend partly on the speed of change. If we tried to remake the low-wage labor market in a very short period of time, the strains would be far greater than if we moved more slowly.

On the other hand, if we wished to exclude or drastically limit the participation of the working poor in any PSE program, we could easily find ways to do so. The WPA (Works Progress Administration) program of the 1930s and many job programs of the 1960s limited the hours of work available to enrollees. The hourly rate, of course, is only one of the factors determining earnings; the other is hours worked. We could require equal pay for equal work but provide only 30 or 32 hours of work per week, thus considerably reducing the incentive for the job changing that Schultze and others fear. We could require a substantial period of unemployment to establish eligibility for a PSE job. We could greatly increase the number of PSE jobs in the nonprofit sector, assuming that wage rates there are generally lower than in government. One lesson of the 1960s is that it is not difficult to exclude people from social programs, if that is what we choose to do.

TAKING UP THE CHALLENGE

Let me conclude on a personal note. Many people of my generation were attracted to the study of economics because we had lived through the Great Depression and we knew personally the soul-shrinking agony of endlessly looking for a job that did not exist. Many of us thought that economics had to provide the solution to mass unemployment. The revolutionary ideas of J. M. Keynes strengthened that hope. For a time in the 1940s, and perhaps for a briefer time in the 1960s, we thought that economics had finally solved the problem of achieving full employment and that we could even conquer the ancient curse of poverty. The early 1960s were the golden age of the economist, but the eminence was brief and the fall was rapid. For much of the past decade, economics—once called the dismal science—has become the frightened science. Economic forecasting has become a bad joke, and the influence of the profession on policy making has greatly diminished—except, perhaps, when the advice is, Don't do it. In the animal world a frightened and confused creature often freezes into immobility. And we have had a virtual paralysis in employment policy in recent years, partly because almost every proposal has been greeted by cries of *Inflation!* from our frightened economists.

I refuse to believe that this nation has lost its adaptability and its capacity to learn from experience. As even its authors recognize, the Humphrey-Hawkins bill is not perfect. If it is adopted, experience will reveal unsuspected problems that will need correction. But consider what happened under the Manpower Development and Training Act. Congress monitored that legislation closely. Major improvements in the law were enacted in every session of Congress, and the whole system was fundamentally revised after a dozen years of experience with the passage of the Comprehensive Employment and Training Act. But improvement is not possible if the program is never even started. The Humphrey-Hawkins bill sets an ambitious—some would say a daring—goal. But large achievements seldom come from small ambitions. We have learned much about the difficulties of achieving full employment in the past decade. The Humphrey-Hawkins bill builds upon that experience and calls upon us to renew our faith that full employment is attainable. If we reject the challenge without even trying, we insure bitterness and misery in millions of lives, and we edge closer to the fortress society. If we try and succeed, we will have less crime in the streets, less ignorance, less disease, less madness, more simple justice, more strength as a nation, and more security for all of us.

FOOTNOTES

[1] Congressional Budget Office, *Temporary Measures to Stimulate Employment: An Evaluation of Some Alternatives* (Washington: Government Printing Office, 1975), Summary Table 1.

[2] Testimony of Paul W. MacAvoy to Joint Economic Committee, reported in *New York Times*, January 29, 1976. See also a letter to the Editor by Mr. MacAvoy, *ibid.*, March 10, 1976.

[3] Orley Ashenfelter and Ronald Ehrenberg, "The Demand for Labor in the Public Sector," in *Labor in the Public and Nonprofit Sectors*, ed. D. S. Hamermesh (Princeton, N.J.: Princeton University Press, 1975).

[4] Letter to the Editor, *New York Times*, March 26, 1976, signed by George E. Johnson, Orley Ashenfelter, and Ronald Ehrenberg.

[5] In "Changing Labor Markets and Infla-

tion," *Brookings Papers on Economic Activity*, March 1960, pp. 411–441.

[6] See Sonia Conly, "Education and Labor Market Tightness," *Monthly Labor Review*, October 1974, pp. 51–53.

[7] Testimony before U.S. Senate Subcommittee on Unemployment, Poverty and Migratory Labor, May 14, 1976 (mimeographed), p. 8.

THE FARM CRUNCH: THE NATIONAL ECONOMY CANNOT TOLERATE DEPRESSION CONDITIONS IN AGRICULTURE

Mr. MELCHER. Mr. President, some time ago I suggested to President Jimmy Carter that getting some money into the pockets of farmers and ranchers would do as much or more for the national economy than anything else that could be done.

Unhappily, the President's response was to recommend grain price support levels which will assure that wheat growers will all go broke, and as their product moves into the feed market, it will pull the rest of the grain growers down with them.

I ask unanimous consent today to have printed in the RECORD a column by the well-known economist, Eliot Janeway, which appeared in the Sunday, April 24. issue of the Washington Star, warning that it was the depression in agriculture, ignored by the Coolidge and Hoover regimes, which brought on the Great Depression of the thirties, and that farmers and ranchers are today in a double squeeze that again threatens the whole economy.

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

(See exhibit No. 1)

Mr. MELCHER. Mr. President, Janeway warns:

> The main lesson bequeathed by the dire experience of the late 1920's and early 1930's is that boom conditions in the industrial economy, and in the stock market, will not be sustained if depression conditions are tolerated in the farm economy.
>
> This lesson, if pondered and acted on, will prevent the clear and present danger of a repeat performance of the last Depression.

Janeway tells of Eugene Meyer's incessant warnings against letting the farm economy collapse and says:

> It was Meyer's far-sighted counsel to lay the foundations of recovery in the domestic farm economy that Hoover ignored and Roosevelt followed. Carter's ability to survive is likely to hinge on his instinct to commit himself to the same priority.

At this moment in history, Mr. Carter has indicated no such instinct in regard to the historic economic events of the late twenties. It is my hope that that lesson need not be learned again by us in the late seventies. It is also my hope that somehow Janeway's column will be brought to his attention and, if it is not, that enough of my colleagues in the Congress will have read it that they will insist on a farm bill that will prevent a continued agricultural depression.

EXHIBIT 1

FARM CRUNCH RESULTS FROM DOUBLE PINCH

(By Eliot Janeway)

Santayana's famous warning, that those who refuse to study history will be condemned to relive its failures, applies with particular force to the credit crunch now pinching the Farm Belt.

At first blush, it seems a historical first; after all, it is the direct result of the cost inflation which has been galloping across the economic terrain ever since OPEC's declaration of economic war on its commercial customers, its financial custodians, its technological benefactors, and, last but not least, its impoverished neighbors in the Third World.

The Farm Belt credit crunch, however, is the result of a double pinch. Inflation of costs is accounting for only half the damage; deflation of incomes for the other half. This one-two punch from cost inflation and income deflation takes a crueler toll of its victims than the familiar rhetoric of "stagflation" would suggest.

Such are the workings of progress that stagflation has evolved from a bold and sardonic concept to a cliche, which understates the problem of the Farm Belt, because it assumes the failure of productivity and incomes to rise.

The dealers in cliches who take stagflation for granted have not yet caught up with the fact that stagflation would be a lesser evil to settle for, because it would describe a state of affairs in which incomes were still rising, although costs were rising faster.

In the Farm Belt today, however, incomes are falling while costs are not merely rising, but rising faster than ever.

The only exception is the cost of money. Increasingly, farm borrowers able to pay interest are becoming scarce. The two special conditions which always come into play during a bankruptcy crisis are developing.

Commercial banks are giving their good borrowers whose loans are in bad shape lower rates and longer payouts. They're giving their bad borrowers moratoria—a term forgotten since the Depression—even on interest, let alone principal.

The concept of a moratorium on debt was last aired during the early 1930s—more precisely, during the preliminaries to the Great Depression, which was touched off by the argument over how to get out from under the unmanageable burden of war debt.

Foreign government borrowers first agitated for a moratorium, then domestic farm borrowers imposed it. Finally, foreign government borrowers, led by Hitler, followed the American Farm Belt borrowers' initiative.

The study in historical contrast is arresting; and it is not reassuring. Post-mortems of the disaster of the '30s all agree on three striking divergences of the Coolidge boom.

In the first place, industrial investment and urban construction not only participated in the boom, but were directly responsible for the records it set. However, the farm depression of the late 1920s was every bit as striking a phenomenon of the Coolidge years. In fact, the measure of the strength of the Coolidge boom was that it asserted its force despite the severity of the farm depression, coating it over without alleviating it.

In the second place, a striking characteristic of the Coolidge boom was the absence of any domestic price inflation to erode its vigor. This meant that the drop in farm incomes took its toll relative to a more or less fixed level of costs levied on farm purchasing power. The devastating crisis which developed in the Farm Belt was, therefore, mitigated because farm costs were fixed relative to the cost of what farmers had to buy.

Nevertheless, the entire system was turned upside-down by the irresistible demand of the farm bloc for parity between farm and industrial purchasing power. The Farm Bloc in Congress gave the Republican party a mule's kick which split it wide open.

The Farm Bloc in Congress is poised to strike again. It's all the more powerful and, for once, all the more righteous, because of the double pinch of falling incomes and rising costs. Never mind that industrial profiteering is not an offset to farm cost inflation.

The relative position of the farm economy is deteriorating much more drastically (as the direct and inescapable result of industrial inflation) than it did on the eve of the crisis of the 1930s.

The third divergence pinched the sensitive debt nerve. On the eve of the crisis in the 1930s, farm debt, along with international debt and stock market margin debt, was inflating dangerously.

Now, providentially, a wealth of liquidity is available, not only to manage the international debt structure, but also to support an altogether new stock market boom unclouded by debt overextension. This divergence, while troublesome, is still encouraging, because it is limited to farm debt.

But the main lesson bequeathed by the dire experience of the late 1920s and early 1930s is that boom conditions in the industrial economy, and in the stock market, will not be sustained if depression conditions are tolerated in the farm economy. This lesson, if pondered and acted on, will prevent the clear and present danger of a repeat performance of the last Depression.

At that time, the one statesmanlike voice that was heard, but heeded too late, was that of the late, great Eugene Meyer, the most practical financier of his day, and, therefore, the most frustrated.

He was the prophetic dissenter of the Hoover years, when he served as chairman of the Federal Reserve Board. He saw clearly, and warned incessantly, that if a farm depression were allowed to develop, it would pull the props out from under a top-heavy debt structure in the industrial economy and in the stock market.

It was Meyer's far-sighted counsel to lay the foundations of recovery in the domestic farm economy that Hoover ignored and Roosevelt followed. Carter's ability to survive is likely to hinge on his instinct to commit himself to the same priority.

Meanwhile, it is reassuring to report that the Burns Board has been quick to check the severity of the present farm credit crunch. Great credit is due Steve Gardner, the unobstrusive but very effective vice chairman of the board (a graduate banker himself) for his diligence and practicality in confirming the facts and figures of the crisis conditions with which the Farm Belt bankers are now coping.

Another forgotten lesson rooted in the history of the Federal Reserve System is emerging from the expedient which the system is adopting. It is rising to its responsibilities by pumping drafts of emergency credit into Farm Belt districts, without prejudice to its over-all stance of moderation.

There's no danger of nationwide inflation in the Fed's prompt response to the emergency need to counteract regional deflation in the Farm Belt.

It is important to recall, however, that the original responsibility given the Federal Reserve by Congress, in the days when the supply of credit was still considered limited, was to provide relief to regions suffering from credit stringency by redirecting surplus liquidity from regions enjoying it.

It is instructive to recall that the initial form taken by the bank failures of the early 1930s was regional. The system as a whole never recovered from the shock administered by the debacle in the Farm Belt, which New York—that is, Wall Street—minimized because it happened to be enjoying a borrowing boom at the time.

The Federal Reserve System has fallen back on its original charter in devising a rationale for coming to the aid of the Farm Belt. It is empowered to provide seasonal credit regionally, but not to try to run the government. In the case of the farm crisis, all it can do is buy time for the executive and legislative branches to go to the under-

lying problem of falling incomes and rising costs. The expedient of playing the immediate crunch as regional and seasonal is only that, and nothing more.

If the business cycle were still operative, serious students of its workings would be alarmed at the fact that the Farm Belt banks have been squeezed out of lending power at the outset of a new crop year.

If all were well in the moneyed world, and the banking system were providing the neat and orderly adjustments expected of it, the Farm Belt banks would be chock-a-block with excess liquidity to begin sending to cities. The fact that they are as tight in April as they normally expect to be in September is a warning even if the farm economy were self-financing on a seasonally self-adjusting basis, as it clearly is not.

The stubborn error of omission which flaws conventional economic thinking, and the conventional government policy-making behind it, envisions the domestic economy in a purely domestic frame of reference, subject to purely domestic cross-tugs of supply and demand.

The American farm economy is the one conspicuous exception. Where the American industrial economy is no more than 10 percent export-dependent, if that, the American farm economy is at least as export-dependent as all the industrial economies in the rest of the world.

It is a useful fiction for conventional thinkers to maintain that pumping credit contra-seasonally into the Farm Belt will buy time and leave it better off by October, presuming the new farm export strategy is not adopted between now and then. If it is not, the seasonal period of reckoning that will arrive at harvest time will find the farm crunch more intolerable than it already is.

Historians of the Hoover debacle remind us that the farm dissidents of that deflationary period in farm income pressed for more than the then puzzling concept of parity with industrial income; they also advocated a strident new approach to crop export marketing.

It would be a mark of progress if our policymakers today were to pick up from where our farm bloc dissenters left off nearly half a century ago, and push for an assertive new farm export program.

The farm credit crunch of 1977 came to a head before Carter devised his crazy-quilt energy program.

If he knows what's good for him, and not intolerable for the rest of the country, his next move will be to offer the Farm Bloc an overriding exemption from his invitation to share the joys of sacrifice.

MAN'S INHUMANITY TO MAN

Mr. BAYH. Mr. President, on April 8, 1975, the House of Representatives passed a resolution designating April 24 as a "National Day of Remembrance of Man's Inhumanity to Man." When I addressed this issue at that time, I believed the resolution would have served as a proper tribute to the memories of the millions of men, women, and children who have been mercilessly massacred by ruthless and tyrannical governments at various times in history. Unfortunately, opposition from the administration at that time prevented us from voting on that important resolution.

Mr. President, my interest in this subject has not diminished. President Carter's renewed commitment to human rights has enhanced our sensitivity to social injustice throughout the world. Therefore, I believe it would be appropriate if we recall the first instance of deliberate genocide in the 20th century—the savage slaughter of the Armenian people by the Ottoman Turkish Empire in 1915. By recalling this tragic event, we may affirm anew our resolve to prevent such brutalities from occurring in the future. We should also recognize the commitment of the Armenian people throughout the world to the cause of justice and human rights and the terrible price they have paid in pursuit of these principles. They have suffered as few other groups in modern history.

Traditionally, Armenian-Americans and their kin throughout the world have observed April 24 as a day of mourning. It was on the night of that day 62 years ago that 200 intellectuals, community leaders, and prominent citizens of the Armenian community were herded into the desert and executed. This event marked the beginning of the Ottoman Empire's systematic plan to exterminate the whole Armenian Christian population within its borders.

Over the next 3 years, 1915–18, 1½ million Armenians were massacred. The entire population was uprooted from their ancestral homeland in what is now the eastern region of Turkey. The able-bodied men were murdered, sometimes in full view of their enslaved families. Then, all the remaining women, children, and elderly were forced to leave their belongings and march to the remote deserts of Der-el-Zor. Along the way, these helpless people were subjected to torture, rape, and slaughter by roving bands of Ottoman soldiers. Any survivors of these brutalities died one by one from exhaustion, starvation, and disease. As Henry Morgenthau, American Ambassador to the Ottoman Empire at the time, commented:

> Whatever crimes the most perverted instincts of the human mind can devise and whatever refinements of persecutions and injustice the most debased imagination can conceive, became the daily misfortunes of this devoted people. I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

Beyond the brutal deportations and heinous murders, the Ottoman Government attempted to obliterate all traces of the 3,000-year-old Armenian civilization. Libraries, churches, and schools were destroyed. Books, paintings, and irreplaceable historical treasures were burned. Every possible attempt was made to wipe out any trace of the Armenian people—who are perhaps the oldest of the civilized races in Western Asia and were the first nation in the world to accept Christianity as its state religion.

Nevertheless, despite the odious crimes of the Ottoman Government, the Armenian people survived. In 1918, through the efforts of President Woodrow Wilson, the boundaries for a free and independent Armenia were established. The little republic was formally recognized by the United States. However, weakened and demoralized by the genocide, the Republic of Armenia fell 2 years later—this time to the Soviet Union. Today, there are tens of thousands of Americans that are of Armenian descent living in the United States, enjoying and upholding the principles of liberty and justice we all cherish so dearly, but the scars of the crimes committed against their ancestors and kin still remain.

Mr. President, the world must never forget the gruesome brutality and injustices suffered by the Armenian people, nor must the world ever forget the other atrocities committed against humanity in this century or any other century. When President Carter addressed the United Nations, he said:

> The search for peace and justice also means respect for human dignity. All the signatories of the United Nations Charter have pledged themselves to observe and to respect basic human rights. Thus, no member of the United Nations can claim that mistreatment of its citizens is solely its own business. Equally, no member can avoid its responsibilities to review and to speak when torture or unwarranted deprivation occurs in any part of the world.

Unfortunately, we cannot remake the past. However, man can use the past to remind him of crimes that must not be repeated in the future. In rededicating ourselves to human rights, we are rightfully pledged to opposing all human atrocities. We must remain vigilant in this pursuit.

SUPPORT FOR WAGE SUPPLEMENTS FOR HANDICAPPED WORKERS

Mr. HUMPHREY. Mr. President, recently, the United Cerebral Palsy Association held its annual conference in Washington. The UCPA delegation from Minnesota provided some very helpful direct testimony on the needs and concerns of the handicapped of my State.

Among their concerns was the continuing problem of disincentives built into our income maintenance programs so that handicapped workers in sheltered workshops not only earn an average far below the minimum wage, but lose other benefits when they increase those earnings.

These comments underline the necessity of introducing work incentives for handicapped persons who are employed on a long-term basis in sheltered workshops. Under present programs, many of these individuals would be better off financially if they did not work at all. They work, because they want to make a contribution and they want to earn their own living. But they also want, as all of us do, to be able to live in reasonable comfort and security. I believe that the wage demonstration program I have proposed as an amendment to the Rehabilitation Act of 1973 will be a tremendous help to this neglected group of underpaid working Americans who have a po-

tential and a strong desire to increase their productivity and their earnings.

I have also received a letter from Mr. August W. Gehrke, assistant commissioner for Vocational Rehabilitation in in Minnesota, in which he reports on an action taken by the advisory committee that meets regularly to provide his office with the consumers' viewpoint. I am pleased to report that this committee, which knows firsthand the problems of the handicapped, voted unanimously in support of my wage supplement proposal.

Mr. President, I ask unanimous consent that Mr. Gehrke's letter be printed in the RECORD.

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

ST. PAUL, MINN.,
April 15, 1977.

Re S. 506, wage supplement bill.
Hon. HUBERT H. HUMPHREY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: The Division of Vocational Rehabilitation Consumer Advisory Committee is an organization of handicapped persons who meet together for the specific purpose of providing DVR with the consumers' perspective on issues affecting Vocational Rehabilitation in Minnesota. The Advisory Committee has membership throughout the state and is made up of individuals recommended by the various consumer organizations. A listing of the committee members and their respective affiliations is included at the conclusion of this letter.

At its April 9 meeting, the Committee reviewed S. 506, your bill on wage supplements for the handicapped, and voted unanimously to go on record as being in support of the bill, and that this information be forwarded to you.

The following are the members of the DVR Consumer Advisory Committee:

Douglas Bahl, Faribault DVR Client.

Sharon Braiedy, Minneapolis, former client, now a DVR Counselor.

Kay Brown, St. Paul, former client, now Client Ombudsman.

Joyce Engstrom, Minneapolis, Little People of America.

Sharon Hardy, Golden Valley, Speak Up.

Robert Lundell, New Hope (Chairman), Handi-Action.

Jeremiah McShane, Minneapolis, North Country Chapter of National Paraplegia Foundation.

Lloyd Moe, Duluth, Minn. Assn. of the Deaf.

Ruth Moore, Duluth, Disabled Students Committee, U. of M. at Duluth.

Clifford Poetz, Minneapolis, Minn. Assn. of Retarded Citizens.

Richard Ramberg, Minneapolis, Minnesota State Council for the Handicapped.

Scott Rostron, Coon Rapids, United Handicapped Federation.

Lois Weber, Mankato, former client, now a DVR Secretary.

James Steiner, St. Cloud, former client, now Program Director at Opportunity Training Center, St. Cloud.

Thank you for your continuing interest and support for programs for the nation's handicapped.

Sincerely,

AUGUST W. GEHRKE,
Assistant Commissioner for Vocational Rehabilitation.

THE RECENT FEDERAL PAY INCREASE—A COMMENT

Mr. ROBERT C. BYRD. Mr. President, article I of the U.S. Constitution provides that "the Senators and Representatives shall receive a compensation for their services, to be ascertained by law."

The subject of congressional pay was one of considerable discussion at the Constitutional Convention in 1787. In the years that have followed, the subject of an increase in pay for Members of Congress has always been a sure-fire target for public criticism. Sensitivity to such criticism is manifestly evident from the fact that, during the 188 years from the 1st Congress in 1789 to the 95th Congress in 1977, Members of Congress have received only 14 pay raises—three of which were subsequently repealed, and another of which was temporarily reduced during the Depression. Therefore, there have been only 11 "permanent" salary increases for Members of Congress since the First Congress met in 1789.

On February 20, 1977, a Federal salary increase became effective, in accordance with the 1967 Quadrennial Commission Law. That Federal salary increase included an increase in pay for Members of Congress, effective March 1, 1977, and, as could be expected, congressional critics have had a field day. The congressional pay increase has evoked a storm of protest, but I have not seen or heard one word, written or spoken, attacking the increase in pay for executive or judicial officials which was part of the package that included the pay raise for Members of Congress. Critics of the pay increase have also bitterly castigated Congress for the procedure by which the increase was effectuated, averring that it was put through by some devious artifice "without a vote." A good bit of the criticism has been unfair and, I suspect, is the product of a chronic cynicism on the part of some who seemingly delight in attacking Congress for any reason or, indeed, for no reason at all, and who refuse to apply objective reasoning to any consideration of the subject of a pay increase for Members.

On the other hand, much of the criticism has come from well-meaning citizens and is probably based on a lack of knowledge of the facts necessitating the increase and the procedure by which the increase went into effect. As one who, during a quarter of a century of service in Congress, had never supported a congressional pay increase prior to the February 20 increase, I believe that the public, which pays the bills of Government, is entitled to an understanding of the facts supporting both the "increase" in congressional compensation and the "procedure" by which the increase in salary became effective. First, the procedure.

THE "PROCEDURE"

Prior to 1967, Members of Congress were in the politically intolerable position of having to both set and vote their own salary levels—an obvious conflict of interest situation. The possibility of such a conflict of interest did not escape the attention of the authors of the U.S. Constitution. According to Farrand, in "The Records of the Federal Convention of 1787," revised edition, no less an illustrious sage than James Madison—"father" of the Constitution—observed that, in regard to Members of the Congress, "to leave them to regulate their own wages was an indecent thing, and might in time prove a dangerous one." He thought "wheat or some other article (of which) the average price throughout a reasonable period preceding might be settled in some convenient mode, would form a proper standard." At one stage of the work of the Committee of Detail, the wages of Senators were to be determined as follows:

> At the beginning of every sixth year . . . the supreme judiciary shall cause a special jury of the most respectable merchants and farmers to be summoned to declare what shall have been the averaged value of wheat during the last six years . . . And for the six subsequent years, the Senators shall receive per diem the averaged value of bushels of wheat.

Elbridge Gerry, a delegate to the Convention from Massachusetts, stated the objections which determined him to withhold his name from the Constitution, one of which was "the unlimited power of Congress over their own compensations."

Having Members vote on their own pay increases has always invited political grandstanding, posturing, and demagoguery—both by Members and potential opponents—thus feeding public opposition to congressional pay increases. As a result, congressional salaries have always lagged far behind comparable positions of responsibility in the private sector.

In an effort to avoid the historical salary lag and to remove the conflict-of-interest situation in which Members must set and vote their own salaries, the quadrennial commission law was enacted in 1967, and the Executive Salary Adjustment Act was enacted in 1975. The quadrennial commission is a blue ribbon, private citizens' commission, composed of nine members, which meets every 4 years to recommend pay levels for Members of Congress as well as for other high Government officials in the executive and judicial branches whose pay is tied directly or indirectly to the pay of Congressmen. The commission's recommendations are submitted to the President, who can accept them or change them. The President then may submit the recommendations to Congress.

In January, the President submitted pay recommendations to Congress. Under the then existing law, unless either the House or Senate disapproved within come effective. At that time, Congress 30 days the recommendations would bewas not required by law to take any action, nor could it increase or decrease the proposed pay levels. Under the law, it could only vote to disapprove the President's recommended adjustments.

Neither House disapproved the recommended pay increase and when the 30 days expired on February 20, the increase for Members of Congress became effective on March 1, 1977.

Incidently, subsequently, on March 30, the Senate passed legislation, which has now become law, requiring a congressional vote, up or down, on all future congressional pay raises. This, in effect, reintroduces the problems that the authors of the U.S. Constitution sought to avoid, and the Quadrennial Commission Law of 1967 sought to solve.

Under the Executive Salary Adjustment Act of 1975, Members of Congress, Federal judges, and other high Government officials automatically receive the same government-wide percentage pay increase granted to civil service workers under the Federal Pay Comparability Act of 1970. Under the Federal Pay Comparability Act, the Directors of OMB and Civil Service and an Advisory Committee on Federal Pay recommend adjustments in Federal employee pay scales to keep them comparable to those in the private sector. The President then must issue an Executive order putting the salary recommendations into force by October of each year unless he deems the change inappropriate, in which case he must make an alternative proposal which takes effect automatically unless rejected by either House of Congress. The Senate has already passed a bill rejecting the upcoming October cost-of-living increase for all officials—including Members of Congress—who received the March 1, 1977 increase.

In 1975, congressional salaries went from $42,500 to $44,600—because of the 5-percent increase recommended by President Ford under the Executive Salary Adjustment Act. Under the pay increase which went into effect on March 1 of this year—to which I have already alluded—congressional salaries went to $57,500—an increase of 29 percent—as recommended by the Quadrennial Commission, and as proposed by President Ford and supported by President Carter. Although there was no House vote on the pay increase—none then being required by law—two votes did occur, contrary to widespread misunderstanding, in the Senate. By a vote of 56 to 42, on February 2, a proposal to disapprove the proposed pay increase was tabled. A subsequent proposal to repeal the pay increase was tabled on March 30 in the Senate by a vote of 53 to 41. I supported the President's proposed pay increase for Members of Congress, and, therefore, voted to table the proposal to disapprove the pay increase and I voted to table the subsequent proposal to repeal the pay increase, which had, by then, gone into effect.

In summary, the procedure by which the salary increase went into effect was one which, in 1967, was established and designed to take congressional pay increases "out of politics." That was then the hue and cry. Today, the hue and cry has been reversed. Members of Congress, we are told, "should have to vote" their own pay increases—an obvious conflict of interest, "Catch 22" situation. Even some of the Members have joined in the public clamor—some claiming to deplore the pay raise; others expressing indignation because, in their words, "there should have been a vote." The fact is, as has already been stated, no vote was required under the law which many of these same protesting Members themselves helped to enact in 1967; yet, as I have pointed out, in the Senate, there actually were two votes—indirectly, on tabling motions, but votes, nevertheless.

No Member is forced to accept the pay increase. Any Member who professes opposition to the increase in pay, may—and, indeed, should—simply write a letter to the Treasurer of the United States each month, enclose a check, and return the money.

THE INCREASE

The misnamed "Congressional Pay Increase" was, more accurately a Federal pay increase affecting 2,496 high level positions in all three branches of Government—including Congress—and 20,365 upper-grade Federal employees whose pay is tied to congressional salaries. The 535 Members of Congress actually constitute, then, only 2 percent of the total number of officials covered by the increase, and the $7.8 million cost of the congressional pay increase represented only 7 percent of the total Federal pay increase. Still, the criticism has centered wholly on the Congressional pay hike—described by critics as "whopping" and "lavish".

Actually, the 29-percent increase for Congress was the first since 1969, with the exception of the one 5-percent increase in 1975 which I have referred to earlier. Meanwhile, during that same 8-year period, the cost of living rose 61 percent. Had congressional salaries kept pace with living costs since 1969, a Member's salary would now be $68,000, rather than the current $57,500. In that same period since 1969, the pay for blue collar workers went up 70 percent; civil service employees, 66 percent; business executives, 59 percent; white collar workers, 55 percent; Governors and other State officials, 40 percent; and broadcasters and news reporters, over 80 percent.

Is $57,500 too much to pay your Congressman? Members of Congress may be likened to the board of directors of the world's largest corporation—one with a $500 billion budget and producing ¢2 trillion in goods and services for 215 million people. Yet, 400 top corporate officials in the United States receive annual salaries over $200,000; and 100 receive over $400,000 each. A Member of Congress works, on the average, 10 to 12 hours daily, usually six, and sometimes 7 days a week,—I, myself, work more than 80 hours, every week. Every Member of Congress makes decisions affecting the general welfare of all 215 million Americans. He receives from 5,000 to 20,000 letters, telegrams, and postcards a week dealing with every subject under the Sun, from social security to saccharin, and he is expected to meet and talk with his share of the 4 million constituents who visit the Capitol and congressional office buildings each year.

He listens alike to the sober and the inebriate caller; and he reads the mail of the thoughtful citizen as well as the abusive correspondence from the thoughtless. He makes financial contributions to many worthy causes. He is criticized if he stays in Washington too much and criticized if he is not in Washington to answer all of the rollcalls. He is expected to be able to solve every personal problem—ranging from a constituent's marital difficulties to the restoration of an operator's license for the motorist caught driving while drunk. He suffers the inflation common to all, but, by virtue of his office, is subject to financial demands uncommon to most. Then why does he take the job? The answer: Most Members are dedicated to a career of public service; but increasingly, Members of Congress are choosing not to run for reelection rather than continue to endure the frustration and abuse that go with the job.

Again, is $57,500 too much to pay your Congressman? Actually, when the fire and brimstone are cleared away, the pay increase for Congress costs 7 cents for each of the 113 million tax returns filed annually.

We all know about movie stars and television entertainers who are paid hundreds of thousands of dollars annually. Many sports professionals report annual earnings in excess of $100,000. Is their value to the public greater than that of Members of Congress? Or has our sense of values gone haywire?

I realize that the $57,500 salary of a Member of Congress sounds big—and indeed it is a big salary. However, let us look at the situation of a Member of Congress more closely. On the average, 40 percent of the monthly pay of a Senator is deducted for retirement, health and life insurance, Federal and State income taxes. His Federal income taxes are in a high bracket. For example, in the last 6 years I have paid $92,164.19 in Federal and State income taxes. Many Members have to maintain two residential properties—one in the home State and one in the Washington area. For those Members who do maintain residential properties in their home States—and I do not—the upkeep on the property at home for fire insurance, property taxes, utilities and repair bills is a constant cost, in addition to the cost of maintaining a home or apartment in the Washington area, where real estate costs and real estate taxes are exorbitant.

Moreover, the cost of living in Washington is higher, generally, than the cost of living in many of the areas represented by Members of the House and Senate, and, in addition, there are many financial burdens that go with serving in the Congress. For example, when constituents come to Washington, Members of the House and Senate are often expected to entertain those constituents.

Fortunately, my wife and I were able to send our two daughters to college a good many years ago when the costs of

tuition and books were much less than they are today. But, younger Members of the House and Senate are not so fortunate in this regard.

I mention these things in an attempt to more accurately portray the financial situation that confronts Members of Congress—especially those who are not wealthy. Nevertheless, many Members of Congress would find it difficult, politically to cast a vote for a pay increase for themselves. Speaking for myself, it would have been easier for me to have opposed the President's pay increase for Members of Congress than to have supported it.

The question may be asked, why, after having opposed all previous pay increases during 25 years in Congress, did I support this most recent one? I supported it for the following reasons:

First. The increasingly wide disparity between congressional pay and pay for comparable positions outside Congress had become so great that I felt it was time to take a step in the direction of closing the gap.

Second. It is becoming more and more difficult to attract qualified people to, and retain qualified people in, many high-level and upper-grade positions in the executive and judicial branches in view of the fact that the salaries for those positions are tied, by law, directly or indirectly, to the pay levels of Members of Congress. As a result, because of the salary lag, the Federal Government has been losing some of its best people. I have been advised that in the last 3 years, 4 of the 11 Institute directorships at the National Institutes of Health had become vacant and that 85 out of 87 outside candidates had refused the positions due to the low pay. The Directorship of the Institute of Cancer Research, for example, was vacated because the then Director could not maintain his family on the low pay. So, he left the position in order to take a position that would pay more. The Social Security Administration lost 9 out of 19 of its most senior civil service employees at one time last year, with 30 candidates refusing the job because of the low pay. The legislative branch continuously loses some of its most able support personnel because of higher salaries available to them in the business community. So, the lag in congressional salaries was creating a crisis in other areas of Government.

Third. Increasingly, only the wealthy will be able to serve in Congress unless the salary is made sufficient to sustain men and women of limited financial means from all walks of life.

Fourth. Election to Congress is one of the highest honors that can be bestowed by the people upon any man or woman. But, the honor itself is not always sufficient to attract and retain the best brains and the most capable and dedicated servants. The pay must be commensurate with the high responsibilities that go with the job. As in most everything else, the people get just about what they pay for; and the American people deserve the best in their national legislative branch.

Mr. President, in the final analysis, most Members of Congress are dedicated, hard working and conscientious, and have a high sense of duty. They are often deserving of constructive criticism and they expect to receive it. But they are subjected also to much criticism that is unwarranted and unfair. The recent salary increase is such an instance.

COMMITTEE MEETINGS DURING SENATE SESSION

SUBCOMMITTEE ON SCIENCE TECHNOLOGY AND SPACE

Mr. ROBERT C. BYRD. Mr. President, I have cleared these two requests with the able minority leader.

I ask unanimous consent that the Subcommittee on Science, Technology, and Space of the Commerce Committee be authorized to meet during the afternoon of Wednesday, May 4, 1977, while the Senate is in session.

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

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 28 and April 29.

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

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committees may be authorized to have until midnight tonight to file reports.

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

ORDER FOR RECORD TO REMAIN OPEN UNTIL 6 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senators may have until 6 o'clock p.m. today to submit statements, bills and resolutions, petitions and memorials for the RECORD.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 10:30 a.m., tomorrow. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements therein limited to 5 minutes each.

ORDER FOR NO STATEMENTS TO COME OVER UNDER THE RULE TOMORROW

I ask unanimous consent that no statements come over under the rule.

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

CONSIDERATION OF H.R. 3477 TOMORROW

Mr. ROBERT C. BYRD. At the hour of 11 a.m., the Senate will resume consideration of the bill H.R. 3477. The pending question at that time will be on the amendment by Mr. JAVITS and Mr. DANFORTH, amendment No. 200, as modified. There is a time limitation of 2 hours for debate on that amendment, with the vote to occur, up or down, at the hour of 1 p.m., tomorrow.

Mr. President, it is the hope on the part of the leadership, certainly, that the Senate will complete action on this bill this week. It is anticipated that the Senate will stay in late tomorrow; will come in early on Thursday and will stay in late Thursday; will come in on Friday and stay in late on Friday, in an effort to complete action on the bill.

I think that is about all I can say, except to add that several rollcall votes can be anticipated tomorrow, Thursday, and Friday, on amendments and motions relating to the bill.

There are other matters which could come up, of course. Conference reports are privileged matters and can be brought up at any time and other measures that may be cleared for action may be brought up.

That about sums it up, I think, as far as tomorrow is concerned and the rest of the week.

RECESS TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 10:30 a.m. tomorrow.

The motion was agreed to; and at 4:31 p.m., the Senate recessed until tomorrow, Wednesday, April 27, 1977, at 10:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 26, 1977:

DEPARTMENT OF JUSTICE

Andrew J. Chishom, of South Carolina, to be U.S. Marshal for the district of South Carolina for the term of 4 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.